



MASSACHUSETTS GAMING COMMISSION  
PUBLIC MEETING #187

April 25, 2016  
1:00 p.m.

**Massachusetts Gaming Commission**  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA



Massachusetts Gaming Commission



## NOTICE OF MEETING and AGENDA

**April 25, 2016**

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

**Monday, April 25, 2016**

**1:00 p.m.**

**Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA**

### **PUBLIC MEETING - #187**

1. Call to order
2. Approval of Minutes
  - a. April 14, 2016
3. Administrative Update – Ed Bedrosian, Executive Director
4. Legal Division – Catherine Blue, General Counsel
  - a. Wynn Section 61 Decision – **VOTE**
  - b. Amended Small Business Impact Statement and Final Draft Approval/Promulgation – 205 CMR 116 – Person Required to be Licensed or Qualified – **VOTE**
  - c. Amended Small Business Impact Statement and Final Draft Approval/Promulgation – 205 CMR 134 – Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives and Labor Organizations – **VOTE**
5. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting.

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

4/21/16  
DATE

  
Commissioner Lloyd Macdonald, Secretary

**Date Posted to Website:** April 21, 2016 at 1:00 p.m.



**Massachusetts Gaming Commission**



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## Meeting Minutes

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**Date/Time:** April 14, 2016 – 10:00 a.m.

**Place:** Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, Massachusetts

**Present:** Chairman Stephen P. Crosby  
Commissioner Lloyd Macdonald  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

**Absent:** Commissioner Gayle Cameron

**Time entries are linked to  
corresponding section in  
Commission meeting video**

### **Call to Order**

See transcript page 2

[10:00 a.m.](#) Chairman Crosby called to order the 186<sup>th</sup> Commission meeting.

### **Approval of Minutes**

See transcript pages 2-3

[10:00 a.m.](#) *Commissioner Macdonald moved for the approval of the March 22<sup>nd</sup>, March 24<sup>th</sup>, and March 29<sup>th</sup>, 2016 Commission Meeting minutes subject to any corrections, typographical errors, or other nonmaterial matters. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*

Chairman Crosby noted the absence of Commissioner Cameron.

### **Research and Responsible Gaming**

See transcript pages 3-58

[10:02 a.m.](#) Executive Director Edward Bedrosian, Jr. noted that agenda item number five, vote on key gaming executive license, will be deferred until another day. Executive Director Bedrosian also noted that Executive Director Mark Vander Linden is at a problem gambling conference and he introduced Crime Analyst Christopher Bruce.

[10:03 a.m.](#) Crime Analyst Christopher Bruce, a consultant with the MGC, provided the Commission with a crime report update of the first six months following the opening of Plainridge Park Casino. He provided a summary of his professional background. He reported that he has worked with the state police and the police departments in Plainville and the five surrounding communities to collect incident level data. He stated that Foxboro declined to provide data citing concerns about security and privacy. He also reported on previous research and Plainridge Park Casino findings from three sources – Plainville Police, State Police, and Gaming Enforcement. He noted that it is difficult to obtain comprehensive data for everything that happens at a casino because of multiple agencies responding. Mr. Bruce reported that incidents at Plainridge Park Casino haven't been notably higher than other similar sized facilities. He also reported that the numbers are very low for violent crimes, alcohol, drugs, and property crimes.

Mr. Bruce reported that some incidents in the area have increased but they have nothing to do with the casino, such as custodial kidnappings, prostitution, and robberies in North Attleboro by heroin addicts. He also reported on the factors needed to show a relationship of a crime incident to a casino.

Mr. Bruce reported on incidents that are likely related to the casino which include increases in traffic call complaints regarding disabled vehicles, suspicious vehicles, erratic driving and traffic collisions.

Mr. Bruce reported on incidents that are possibly related to the casino which include credit card fraud and identity theft. He stated that he is not sure that this is casino related. He stated that a review of the data showed no offenders had a relationship to the casino and he will monitor this more closely.

Mr. Bruce reported that there are no incident increases in things expected such as robbery, burglary, thefts, and auto thefts.

Mr. Bruce reported on an increase in drunk driving in North Attleboro, with a concentration on Route 1. He stated that there is a spatial relationship to the casino and will conduct a more thorough study over the summer.

[10:45 a.m.](#) Police Chief James Alfred, with the Plainville Police Department, thanked the Commission for hiring Mr. Bruce. He stated that it is a great opportunity to have a crime analyst work with the smaller police departments. He noted that gift card thefts, coded as credit card fraud, might account for the spike in credit card fraud. He also noted that traffic increases could be related to increased business activity as a result of the economy recovering. He stated that roadway improvements outside of Plainridge Park Casino have made the area safer. He reported that he has two officers assigned to the Gaming Commission unit and he meets regularly with Lieutenant Brian Connors. He also reported that he has not seen any big crime impact at Plainridge Park Casino, in the surrounding neighborhoods, or at the retail establishments.

## **Administration**

See transcript pages 58-61

[10:53 a.m.](#) Executive Director Bedrosian stated that the Commission's deliberation on Region C is scheduled to begin on April 26<sup>th</sup>. He noted that the Commission is accepting public comments on Region C until the close of business on April 19<sup>th</sup>. He went over the draft schedule for the Region C deliberations which will be live-streamed, held in Brockton at the Shaw Center, and will begin at 10:00 a.m. If an additional day for deliberation is needed, it will be held on Friday at the Gaming Commission's office in Boston. He also noted that the Commission will not have a meeting on Thursday April 28<sup>th</sup>.

## **Licensing Division**

See transcript pages 61-68

[10:57 a.m.](#) Director Paul Connelly reported on Plainridge Park Casino's submission of amendments to their gaming beverage license for four licensed areas. The requested amendments change the hours of operation to maximize the timeframe permitted to serve alcoholic beverages - from 8:00 a.m. until 1:00 a.m. The reason for the change is to allow for coverage of special events. He noted that if they move outside the normal hours of operation, they will notify gaming agents in advance of such events.

[11:04 a.m.](#) *Commissioner Stebbins moved that the Commission approve the four amended gaming beverage license applications to the licensed areas of Flutie's Sports Pub, Slacks Oyster House, Mountain Skipper Express, and Dark Horse Bar at Plainridge Park Casino as included in the packet. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*

11:04 a.m. The Commission took a short recess.

11:09 a.m. The meeting resumed.

## **Racing Division**

See transcript pages 69-98

[11:09 a.m.](#) Dr. Alexandra Lightbown, Director of Racing, reported that opening day at Plainridge went smoothly. She also reported that there have been significant improvements to the paddock area.

[11:10 a.m.](#) Steve O'Toole, General Manager at Plainridge Racecourse, reported that there were 40 entries held over from Monday's opening which is good news. He noted that there was some participation from New York and New Jersey and the purses were very good. Commissioner Macdonald inquired about capital improvements and Mr. O'Toole noted the following improvements: 1600 tons of stone dust was applied to the track surface, drainage work is ongoing, and a new video display board will be installed. He also reported that there will be 115 racing days this year and 125 racing days next year.

[11:15 a.m.](#) Executive Director Bedrosian reported that he attended the opening day at Plainridge Racecourse and stated it was well organized, the barn area was very

clean, there is new technology in the judges stand, he observed a few races, and folks seemed to be enjoying themselves.

- [11:16 a.m.](#) Director Lightbown reported on the following racing highlights: there were 40 more races this week than last year; the purses were bigger than the last opening day; there are new people getting licenses; state police have been able to keep up with fingerprinting; live handle was up; track evaluation was conducted with no concerns; and pre-race meetings were held with racing officials, security, judges and drivers to go over procedures and expectations to ensure a smooth operation. She also noted that Attorney Justin Stempeck presented on fantasy sports at the ARCI (Association of Racing Commissioners International) conference in New Orleans. She noted that his presentation was well received.
- [11:20 a.m.](#) Douglas O'Donnell, Senior Financial Analyst, reported on the 2014 reimbursement of unclaimed tickets for the dog and horse tracks. He noted that unclaimed tickets are paid to the Commission and the money is reimbursed to the stabilization fund.
- [11:23 a.m.](#) *Commissioner Zuniga moved that the Commission authorize the reimbursement of unclaimed tickets to the stabilization fund for the dog tracks as outlined in the packet - Wonderland Greyhound Park for \$21,651.19, and Raynham/Taunton Greyhound for \$156,505.69. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*
- Commissioner Zuniga moved that the Commission approve the reimbursement of unclaimed tickets to the purse accounts for the following horse tracks: Sterling Suffolk Downs \$267,353.48, and for Plainridge Racecourse \$136,716.99. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*
- [11:25 a.m.](#) Mr. O'Donnell reported on local aid payments to cities and towns where racing and simulcasting take place. He noted that this is paid quarterly for six months in arrears and Commission approval is needed to distribute funds.
- [11:26 a.m.](#) *Commissioner Stebbins moved that the Commission authorize the local aid quarterly payment of \$210,749.39 to the appropriate cities and towns as listed in the packet. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*
- [11:27 a.m.](#) Mr. O'Donnell reported on a request for consideration from Plainridge Racecourse for capital improvement reimbursement for renovations to the paddock and shipping barns. He stated that he has a letter from an independent architect, Dixon Salo, who has reviewed the project and met with Mr. O'Toole.
- [11:28 a.m.](#) *Commissioner Zuniga moved that the Commission approve the request for consideration from Plainridge Racecourse for its capital improvement trust for the total of \$123,326 for the scope articulated in the packet. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*
- [11:29 a.m.](#) Mr. O'Donnell reported on a second request for consideration from Plainridge Racecourse for the high-definition video tote board. He stated that the architect reviewed and approved the work to be done.



- [11:31 a.m.](#) *Commissioner Zuniga moved that the Commission approve the request for consideration for the Plainridge Racecourse capital improvement trust for the second project outlined in the packet totaling \$188,980 for the scope articulated. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*
- [11:32 a.m.](#) Director Lightbown reported on the special events request from Plainridge Racecourse. She stated that it is standard operating procedure and in addition to their premium free periods.
- [11:35 a.m.](#) *Commissioner Stebbins moved that the Commission approve the request of Plainridge Park Casino's simulcast 15 races listed in their letter dated March 28, 2016 as special events. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*
- [11:35 a.m.](#) General Counsel Catherine Blue reported on draft amendments to racing regulations 205 CMR 3.00 and 205 CMR 4.00. She noted that the amendments pertain to medication and safety changes. She also noted that a public hearing was held and no comments have been received. She stated that Commission approval is needed to send the amendments to the Legislature for a 60 day review.
- [11:36 a.m.](#) *Commissioner Zuniga moved that the Commission approve the amendments included in the packet for regulations 205 CMR 3.00 the Harness Horse Racing regulations, and 205 CMR 4.00 the Rules of Horse Racing, and send to the Legislature. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*
- [11:37 a.m.](#) Commissioner Stebbins congratulated Douglas O'Donnell on his permanent appointment as a Senior Financial Analyst.

### **Legal Division**

See transcript pages 98-112

- [11:38 a.m.](#) General Counsel Blue reported on the amended small business impacts statements and final draft regulations for 205 CMR 133, 205 CMR 152, and 205 CMR 143. She noted that a public hearing was held, few comments were received, and a vote is needed for final promulgation.
- [11:39 a.m.](#) *Commissioner Zuniga moved that the Commission approve the final draft and promulgation for 205 CMR 133, the voluntary self-exclusion regulation as amended in the packet and direct staff to submit to the Secretary of State for final promulgation. Commissioner Zuniga amended the motion to include the amended small business impact statement. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*
- [11:41 a.m.](#) General Counsel Blue reported on amendments to regulation 205 CMR 152 which clarifies the process by which people can be added to the exclusion list. Deputy General Counsel Todd Grossman noted that the amendment also includes a hearing process. There was a discussion pertaining to the burden of proof and standard of review. Commissioner Macdonald stated that he will review this matter.

11:47 a.m. *Commissioner Zuniga moved that the Commission approve the amendments to 205 CMR 152 and the associated amended small business impact statement for the regulation -individuals excluded from a gaming establishment- as presented in the packet, and direct staff to forward to the Secretary of State for final promulgation. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*

11:48 a.m. Deputy General Counsel Grossman presented on 205 CMR 143 – the open communication protocol regulation.

11:51 a.m. *Commissioner Zuniga moved that the Commission approve the final amendments to regulation 205 CMR 143 for gaming devices and electronic gaming equipment as well as the amended small business impact statement as presented in the packet, and direct staff to forward to the Secretary of State for final promulgation. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*

### **Other Business Not Reasonably Anticipated**

See transcript pages 112-113

11:52 a.m. *Having no further business, a motion to adjourn was made by Commissioner Stebbins. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*

### **List of Documents and Other Items Used**

1. Massachusetts Gaming Commission, Notice of Meeting and Agenda dated April 14, 2016
2. Massachusetts Gaming Commission, Draft Meeting Minutes dated March 22, 2016, March 24, 2016, and March 29, 2016
3. Assessing the Impact of Gambling on Public Safety in Massachusetts, Christopher Bruce, dated April 12, 2016, PowerPoint Presentation and Report
4. Massachusetts Gaming Commission, Draft Evaluation Schedule - Category 1/Region C
5. Massachusetts Gaming Commission, Memorandum dated April 11, 2016, regarding Plainridge Park Casino License Amendment with attachments
6. Massachusetts Gaming Commission, Racing Division Memorandum dated April 14, 2016, regarding 2014 Reimbursement of Unclaimed Tickets to Stabilization Fund – Dog Tracks
7. Massachusetts Gaming Commission, Racing Division Memorandum dated April 14, 2016, regarding 2014 Reimbursement of Unclaimed Tickets to Purse Accounts – Horse Tracks
8. Massachusetts Gaming Commission, Racing Division Memorandum dated April 14, 2016, regarding Local Aid Distribution, with attachment
9. Massachusetts Gaming Commission, Racing Division Memorandum dated April 14, 2016, regarding Request for Consideration Plainridge Racecourse Capital Improvement Trust Fund, with attachments (\$123,326.00- Paddock Building/Barn Renovations)
10. Massachusetts Gaming Commission, Racing Division Memorandum dated April 14, 2016, regarding Request for Consideration Plainridge Racecourse Capital Improvement Trust Fund, with attachments (\$188,980.00-Video Display Board)
11. Massachusetts Gaming Commission, Racing Division Memorandum dated April 11, 2016, regarding Plainridge Special Events Request, with attachments
12. Draft 205 CMR 3.00: Harness Horse Racing and 205 CMR 4.00: Rules of Horse Racing
13. Amended Small Business Impact Statements and Final Draft for regulations: 205 CMR 133: Voluntary Self- Exclusion, 205 CMR 152: Individuals Excluded from a Gaming Establishment, and 205 CMR 143: Gaming Devices and Electronic Gaming Equipment

/s/ Catherine Blue  
Catherine Blue, Assistant Secretary



**MASSACHUSETTS GAMING COMMISSION  
SECTION 61 FINDINGS ISSUED  
PURSUANT TO M.G.L. c. 23K AND M.G.L. c. 30, § 61**

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PROJECT NAME: Wynn Boston Harbor (f/k/a Wynn Everett)  
PROJECT LOCATION: 1 Horizon Way in Everett, Massachusetts  
PROJECT PROPONENT: Wynn MA LLC  
EOEEA NUMBER: 15060  
APPROVAL SOUGHT: Category 1 Gaming License

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**MASSACHUSETTS GAMING COMMISSION  
SECTION 61 FINDINGS ISSUED  
PURSUANT TO M.G.L. c. 23K AND M.G.L. c. 30, § 61**

PROJECT NAME: Wynn Boston Harbor (f/k/a Wynn Everett)  
PROJECT LOCATION: 1 Horizon Way in Everett, Massachusetts  
PROJECT PROPONENT: Wynn MA, LLC  
EOEEA NUMBER: 15060  
APPROVAL SOUGHT: Category 1 Gaming License

**I. INTRODUCTION**

Pursuant to the Massachusetts Environmental Policy Act, G.L. c. 30, §§ 61-62I, G.L. c. 23K, § 15(12), 301 CMR 11.12, and 205 CMR 120.02, the Massachusetts Gaming Commission (the “Commission”) finds that, with the implementation of the measures identified in the Project Proponent Wynn, MA LLC’s (“Wynn’s”) Final Environmental Impact Report (“FEIR”) submitted to the Executive Office of Energy and Environmental Affairs (“EOEEA”) on June 30, 2014, the Secretary of EOEEA’s (the “Secretary’s”) Certificate regarding the FEIR dated August 15, 2014 (the “FEIR Certificate”), the Supplemental Final Environmental Impact Report submitted February 17, 2015 (“SFEIR”), the Secretary’s Certificate regarding the SFEIR dated April 3, 2015 (the “SFEIR Certificate”), the Second Supplemental Final Environmental Impact Report (“SSFEIR”) dated July 15, 2015 (the “SSFEIR”), the Secretary’s Certificate dated August 28, 2015 regarding the SSFEIR (the “SSFEIR Certificate”), and including, without limitation those measures summarized below, that all practicable and feasible means and measures have been taken to avoid or minimize potential damage to the environment from Wynn’s proposed category 1 gaming establishment as defined in G.L. c. 23K, § 2 (the “Project” or the “Gaming Establishment”).

**II. PROJECT SITE**

According to the SSFEIR Certificate, the project site known as 1 Horizon Way in Everett, Massachusetts (“Project Site”) is a waterfront parcel totaling approximately 33.9 acres located in Everett adjacent to the Mystic River. Approximately 25.6 acres are upland, surrounded by shoreline and the remnants of marine structures, and approximately 8.3 acres are below the mean high water mark on the Mystic River. The Project Site includes approximately 1,600 linear feet (“lf”) of shoreline along flowed tidelands. A small area of the Project Site is used as a materials storage yard and includes a 5,200 square feet (“sf”) construction trailer/office.

Historic uses of the Project Site include a Monsanto chemical manufacturing facility. The Project Site is classified as a disposal site subject to G.L. c. 21E and the Massachusetts Contingency Plan (“MCP”). The Project Site is contaminated and contains high levels of arsenic and lead in soils and groundwater. Contaminated sediments have also been identified in the area of the Project Site within the Mystic River.

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The Project Site is bordered to the west by the tracks of the Massachusetts Bay Transportation Authority (“MBTA”) Newburyport commuter rail line. The upland portions of the Project Site are bounded by Horizon Way (which intersects with Route 99), and commercial and institutional properties. Most of the soils on the Project Site are disturbed and comprised of fill material. Along the shoreline of the Mystic River is a mix of deteriorated stone seawalls, loose gravel and boulders, and rotted timber piers and pilings. The shallower portions of the shoreline also contain debris and remnants of timber structures.

Access to the Project Site is via Horizon Way, which forms an unsignalized intersection with Broadway (Route 99) in Everett. The Project Site is located in an urban, commercial/industrial area that has suffered from economic disinvestment during the latter part of the twentieth century when manufacturing, import, and fishery activities declined. Surrounding land uses are primarily commercial/retail, with local businesses (e.g., an auto dealership, chain restaurants, and an auto repair shop) and infill residential structures nearby. Proximate uses include Boston Water and Sewer Commission (“BWSC”) and Massachusetts Water Resources Authority (“MWRA”) properties, the MBTA’s Everett Shops maintenance facility (“Everett Shops”) to the north, and the Gateway Center and Gateway Park to the west. The Department of Conservation and Recreation (“DCR”) owns and operates parkways in the vicinity of the Project Site, including Revere Beach Parkway, the Fellsway, and Mystic Valley Parkway. In addition, DCR owns and operates the Mystic River Reservation and the Amelia Earhart dam, a flood control structure located on the Mystic River in the vicinity of the Project Site.

The Project Site is bordered by the Mystic River to the south and an embayment to the east. The embayment is approximately 350 to 500 feet wide from shoreline to shoreline (from the Project Site to the upland east of the embayment containing operations of the MWRA and BWSC). The embayment contains a former channel, reportedly constructed in the mid-1800s. Records indicate the channel to be about 1,000 feet long with a width of 100 feet, and an original draft of 20 feet below the mean low water mark. The channel flares out at the northern end to about 250 feet wide. The channel has since shoaled and the present depth does not exceed 13 feet below the mean low water mark. Waters adjacent to the channel banks are shallower than the central portion of the channel. The eastern side of the embayment is a mud flat with surface grades from the mean low water mark to about three above it. The mud flat contains a variety of debris, including several abandoned timber barges.

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**III. PROJECT DESCRIPTION**

The Project consists of the redevelopment of the 33.9 acre Project Site as a destination resort casino. As described in the SSFEIR Certificate, the Project will include a total of approximately 3,096,700 sf,<sup>1</sup> including, without limitation, the following amenities:

Amenity	Gaming Positions	Rooms	Square Feet
Gaming area	4,580		190,461
Hotel		629	621,774
Retail			52,632
Food and beverage			54,680
Lobbies, lounge, atrium garden and other “front of house” areas			58,548
Back of house facilities			411,058
Spa and gym			15,405
Convention/meeting rooms			37,068

Included within the Project’s total square footage, Wynn proposes to construct a parking structure below the Gaming Establishment (including under the retail portion of the Project). There will be approximately 2,930 on-site self-serve and valet parking spaces for patrons. Employee parking will be accommodated at off-site locations, with 800 off-site parking spaces for employees. Wynn will provide shuttle service for employees to and from the Project Site.

The Project includes remediation and restoration of the Project Site. The proposed shoreline work includes the installation of a vertical steel pile bulkhead, the placement of stone revetments and the installation of pile-supported walkways, the removal of abandoned and deteriorated structures and remnants, salt marsh restoration and re-vegetation of the shoreline. Waterside work includes dredging of approximately 15,000 cubic yards (“cy”) of sediment over approximately 41,480 sf to provide an adequate water depth of six feet below the mean low water mark to accommodate water transportation vessels. Coastal bank and salt marsh

<sup>1</sup> In the SSFEIR itself, the total square footage of the Project has been reduced to 2,933,839± sf primarily because the number of parking spaces has been reduced in the SSFEIR from 3,400 to 2,930. The latter number of parking spaces is reflected in the SSFEIR Certificate.

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restoration is proposed within 69,000 sf area landward of high tide at the southwestern edge of the Project Site.

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Access to the Project Site is proposed via a new boulevard-type driveway located approximately 150 feet north of Horizon Way. It will intersect the west side of Lower Broadway (Route 99) just north of Horizon Way opposite Mystic Street. This access requires the acquisition of land (approximately 1.758 acres) from the MBTA consisting of three non-contiguous parcels that are currently part of Everett Shops as shown on SSFEIR Figure 1-8. Wynn proposes to relocate the current unsignalized entrance driveway to the MBTA maintenance facility to the north on Lower Broadway to the signalized intersection at Beacham Street. A secondary access for deliveries and employees will be provided via a service road that would follow the periphery of the Everett Shops property and connect with Route 99 across from Beacham Street in Everett.

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The proposed Project will include extensive outdoor landscape and open space amenities including a 20 foot wide harborwalk with connections to the extensive public open space network along the Mystic River; overlooks to view restored coastal bank vegetation and salt marsh; a public gathering area with an outdoor park; a pavilion, waterfront features, water transportation and transient vessel docking facilities. Off-site improvements include the construction of a pedestrian connection to the DCR Gateway Park, as well as transportation, pedestrian, and bicycle accommodations.

#### IV. MEPA HISTORY

Wynn filed an Expanded Environmental Notification Form (“EENF”) for the Project on May 31, 2013 and a Draft Environmental Impact Report (“DEIR”) on December 16, 2013. The Secretary issued a certificate approving the DEIR on February 21, 2014. Wynn submitted the FEIR on June 30, 2014. On August 15, 2014, the Secretary issued the FEIR Certificate requiring Wynn to submit an SFEIR limited to traffic and transportation issues and a Response to Comments, but otherwise approving the description of environmental impacts and mitigation measures in the FEIR. Wynn submitted the SFEIR on February 17, 2015.

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On April, 3, 2015, the Secretary issued the SFEIR Certificate requiring Wynn to submit the SSFEIR limited to the following scope:

1. An explanation of and remedy for the premature conveyance of land from MassDOT/MBTA and its acceptance by Wynn prior to the completion of MEPA review.
2. Wynn’s commitment to a specific dollar amount for an annual operating subsidy to the MBTA to support service and capacity improvements on the MBTA Orange Line.
3. Clarification of the SFEIR’s Traffic Impact Assessment and supplemental data and analysis.

4. Revised Draft Section 61 Findings that incorporate commitments associated with the three requirements listed above.
5. Responses to Comments that provide clear specific responses to the issues raised.

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The SFEIR Certificate otherwise approved of the description of environmental impacts and mitigation measures in the SFEIR. It also noted that the Commission has issued a Category 1 gaming license to Wynn, effective November 18, 2014 (the “License”) pursuant to Chapter 194 of the Acts of 2011 and G.L. c. 23K (the “Gaming Act”) and that this License was conditional on completion of the MEPA review process. This conditional License did not constitute Agency Action under MEPA or its implementing regulation (301 CMR 11.02, Agency Action (c)). *See* SSFEIR Certificate, pp.7-8.

According to the SSFEIR (§ 1.3.6 and Appendix B), on April 15, 2015, Wynn and its affiliate, Everett Property, LLC (collectively, the “Wynn Parties”), entered into an escrow agreement with the MBTA (the “Escrow Agreement”) pursuant to which Wynn executed a quitclaim deed to return the portions of the Everett Shops the Secretary had deemed were prematurely conveyed by MassDOT/MBTA. The Wynn Parties and MBTA also executed an agreement terminating an Easement Agreement conveyed by MassDOT/MBTA at that time. The MBTA placed the purchase price paid by the Wynn Parties for the portion of Everett Shops in question (\$6,000,000) in escrow. Specifically, the SSFEIR (§ 1.3.6) provided as follows:

The escrow agreement provides, in pertinent part, that the conveyance of the property shall be deemed to have not taken place unless and until the Secretary of Energy and Environmental Affairs has determined that, for the Project located on the Proponent’s adjacent land that includes work or activities on the MBTA Everett Shops property: (1) no Environmental Impact Report is required; or (2) a single or final Environmental Impact Report is adequate and sixty (60) days have elapsed following publication of notice of the availability of the single or final Environmental Impact Report in the Environmental Monitor in accordance with 301 CMR 11.15(2), provided that the MBTA shall reconsider and confirm or modify the conveyance of the property pursuant to the Deed and any conditions following MEPA review.

Pursuant to the terms of the Escrow Agreement, in the event the MBTA determines that the transaction requires no modifications or conditions or other mitigation, the escrow agent will return the Quitclaim Deed and Termination of Easement Agreement to the Proponent and the money to the MBTA. In the event the MBTA determines that the transaction requires modifications or conditions or other mitigation, the parties are obligated to work in good faith to document such required modifications, conditions or mitigation commitments after which the escrow agreement will return the Quitclaim Deed and Termination of Easement Agreement to Proponent and the money to the MBTA and record any such modifications. In the event that the parties cannot agree to any required modifications, conditions or other mitigation, the escrow agreement will file the Quitclaim Deed and Termination of Easement Agreement and return the money to Proponent.

Pursuant to the terms of the Escrow Agreement, the Proponent has agreed that it shall not commence any pre-construction or construction activities on the MBTA Everett Shops property until such time as the escrow is dissolved.

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On June 1, 2015, Wynn met with representatives from MassDOT, the MEPA Office, EOEEA, the Commission, the City of Everett and the City of Somerville regarding long-term improvements to the Rutherford Avenue corridor. The City of Boston declined to attend this meeting. However, representatives from Wynn and the City of Boston later met on June 10 and June 18, 2015 to discuss improvements to the Rutherford Avenue corridor.

On July 15, 2015, Wynn submitted its SSFEIR for the Project addressing the issues required by the SFEIR Certificate. The SSFEIR included an updated Project description and associated plans, an updated Transportation Impact Analysis, revised mitigation based on additional analysis and comment letters, and provided conceptual plans for proposed improvements. The SSFEIR included a separate chapter summarizing proposed mitigation measures and included draft Section 61 Findings for each State Agency that will issue permits for the Project.

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On August 28, 2015, the Secretary issued the SSFEIR Certificate which concluded that the SSFEIR “submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and with its implementing regulations (301 CMR 11.00).” SSFEIR Certificate, p.1, emphasis in original. The Secretary determined that Wynn adequately addressed the issues required by the SFEIR Certificate and that “[o]utstanding aspects of the Project that require additional analysis can be addressed during local, State and federal permitting, review and approval processes.” *Id.*

In the SSFEIR Certificate, the Secretary noted the measures taken by Wynn and MassDOT/MBTA to “remedy the premature conveyance of the land” under MEPA and that, “[a]s directed [by the Secretary in the SFEIR Certificate], the Proponent has provided separate draft Section 61 Findings for MassDOT (i.e. Vehicular Access Permit) and the MBTA (i.e. Land Transfer).” *Id.*, pp.12-13. The SSFEIR Certificate concluded that the MassDOT and MBTA Section 61 Findings “will be finalized during permitting, any associated modifications to the sale will be recorded, and copies of the Section 61 Findings will be filed with the MEPA Office.” *Id.* p. 13.

The SSFEIR Certificate also noted that Wynn had “made significant commitments to minimize and mitigate traffic impacts,” including “an unprecedented commitment” to mitigate impacts on the MBTA’s Orange Line operations in the form of an approximately \$7.4 million subsidy over a 15-year period. As also noted in the SSFEIR Certificate, both MassDOT and the Metropolitan Area Planning Council (“MAPC”) reviewed Wynn’s traffic analysis and mitigation plans and determined, consistent with their review protocols, that those plans would be effective to mitigate the Project’s impacts on existing transportation infrastructure. The Secretary also found the methodology for the transportation analysis in Wynn’s EIR submittals was “consistent with that which was required of each of the Casino proposals [in the Commonwealth], including MGM Springfield (EEA #15033); Project First Light (EEA #15159), and the proposed Mohegan Sun project in Revere (EEA #15006).” SSFEIR Certificate, p. 7.

V. **PROJECT IMPACTS**

The Project’s potential environmental impacts are associated with the creation of 19.42 acres of impervious surfaces, alteration of wetland resource areas, 311,830 gallons per day (“GPD”) of water use, generation of 283,482 GPD of wastewater, and dredging of 15,000 cy of sediments over an area of approximately 41,480 sf.

The Project will generate approximately 31,844 new (unadjusted) average daily vehicle trips (“adt”) and 37,916 new (unadjusted) adt on a Saturday. When adjusted for mode share, the Project is estimated to generate approximately 20,130 adt on a Friday and 23,982 adt on a Saturday.

Wynn’s proposed acquisition of portions of the Everett Shops property from the MBTA for the Project and the construction of the Project’s access are expected to require the relocation of the Everett Shops’ main gatehouse to the north opposite Beacham Street. As shown on SSFEIR Figure 1-15, Wynn proposes that a 10-foot wide, 60-foot long layover area be added to the Everett Shops driveway’s eastbound approach to allow a larger vehicle to wait while another enters Everett Shops as part of this relocation. Wynn also proposes new loading docks be added to Everett Shops as part of the relocation. As explained in the SSFEIR, the proposed relocation of this main access is not expected to negatively affect maneuverability for MBTA vehicles at Everett Shops.

According to the SSFEIR, the MBTA has obtained an independent appraisal of the impact of Wynn’s proposed purchase on the value of the three Everett Shops parcels. That appraisal concluded that “the sale of these parcels will not have a negative impact on the use of the larger property by the MBTA. In fact, the sale of the parcels will facilitate construction of a new traffic light controlled intersection with Broadway which will facilitate better access to the remaining MBTA property.” SSFEIR, pp.1-7.

According to the SSFEIR, the amount of additional ridership the Project is expected to add to the MBTA’s Orange Line would not, on its own, cause the Orange Line to operate beyond the MBTA’s Service Delivery Policy capacity standards for most time periods and locations. Assuming no further improvements to Orange Line service and operations prior to 2023, if the Project is built and becomes operational, Orange Line service is expected to be beyond the MBTA’s Service Delivery Policy capacity standards for four hours a week, including three weekday non-peak hours in which the Orange Line service is currently not in compliance with the Service Delivery Policy and a fourth hour on Saturday (12-1 p.m.) in which service would be in non-compliance with the Service Delivery Policy by less than one additional passenger per train.

The Project is subject to MEPA review and required the preparation of a Mandatory EIR pursuant to 301 CMR 11.03(1)(a)(2), 11.03(3)(a)(5), 11.03(6)(a)(6) and 11.03(6)(a)(7) because it requires State Agency Actions and it will create 10 or more acres of impervious area, create a new non-water dependent use occupying one or more acres of waterways or tidelands, generate 3,000 or more new adt on roadways providing access to a single location, and provide 1,000 or

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more new parking spaces at a single location. The Project is also subject to the EOEEA Greenhouse Gas (“GHG”) Emissions Policy and Protocol dated May 5, 2010.

As described in the FEIR Certificate, Wynn analyzed potential historic and archaeological resources as part of the FEIR and determined that the Project will not adversely impact any historic resources on or in the vicinity of the Project Site. There are also no archaeological resources that will be impacted by the Project due to the fact that the majority of the land portion of the Project Site is fill and has been substantially disturbed. In its comment letter on the DEIR, the Massachusetts Historical Commission (“MHC”) determined that the Project would have “no adverse effect” on historic resources in the vicinity of the project.

The Project is not subject to the enhanced analysis provisions of the EOEEA Environmental Justice Policy (the “EJ Policy”). Although the Project is located in and adjacent to communities with designated environmental justice populations, it does not exceed the MEPA thresholds for solid waste or air quality that trigger a requirement for enhanced analysis under the EJ Policy. The EOEEA has also not required Wynn to conduct any further analysis under Executive Order No. 552 on Environmental Justice (November 20, 2014). Nonetheless, the Commission finds that the proposed Project will make significant positive environmental justice contributions to the host community of Everett and the surrounding area. These positive contributions include without limitation the rehabilitation and revitalization of a contaminated former chemical manufacturing site and its abutting riverfront, the creation of open space amenities including a 20 foot wide harborwalk with connections to the extensive public open space network along the Mystic River, the use of environmentally-sensitive design in all aspects of the Project as described below, and the creation of significant numbers of new jobs arising out of and related to the construction and operation of the proposed facility. The Commission finds that these jobs will directly and substantially benefit disadvantaged persons in the local community.

**VI. REQUIRED GOVERNMENTAL PERMITS AND APPROVALS**

According to the SSFEIR Certificate the Project is expected to require the following permits and approvals or review by the following federal, state, and local agencies, in addition to the License from the Gaming Commission:

Agency	Permit(s)
MassDOT	Vehicular Access Permit (Category III); Non-vehicular Access Permit; Traffic Signal Regulation
MassDOT, Rail and Transit Division/MBTA	Land Disposition and Easement Agreements; Agreements and approvals necessary to construct improvements and to operate within MBTA transit stations and agreements and approvals necessary to relocate bus stops; funding to support Orange Line capacity; and improvements to MBTA stations.

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Agency	Permit(s)
MassDCR	Construction and Access Permit
MWRA	8M Permit
MassDEP	Chapter 91 Waterways License; Chapter 91 Dredging Permit; Notification of Construction/Demolition; Air Plan Approval or Environmental Results Program Certification; Section 401 Water Quality Certification; and Asbestos Removal Permit (if required).
City of Everett Conservation Commission (or a Superseding Order of Conditions (SOC) from MassDEP if the local Order is appealed) <sup>2</sup>	Order of Conditions
City of Boston Transportation Department & Public Improvements Commission	Approval for Off-Site Roadway Improvements
U.S. Army Corps of Engineers (“ACOE”)	Section 404 Clean Water Act Permit and Section 10 Permit
Federal Aviation Administration	Determination of No Hazard to Air Navigation <sup>3</sup>
U.S. Environmental Protection Agency	National Pollutant Discharge Elimination System (“NPDES”) Construction General Permit

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The Project may also require approval for modification to I-93 and other portions of the National Highway System from the Federal Highway Administration. If so, the Project may be subject to review pursuant to the National Environmental Policy Act) and the National Historic Preservation Act. The Project may also require Federal Consistency Review by Coastal Zone Management. It also requires review by the Massachusetts Port Authority (“Massport”) for certain mitigation measures proposed on Massport property.

**VII. EXECUTED MITIGATION AGREEMENTS**

Pursuant to G.L. c. 23K §§15(8) - (10), Wynn entered into the following mitigation agreements (each individually a “Mitigation Agreement” and collectively the “Mitigation Agreements”):

<sup>2</sup> Depending on the extent of dredging or remediation work, an Order of Conditions from the Boston Conservation Commission may be required as well.

<sup>3</sup> The SSFEIR Certificate also references air space review by the Massachusetts Aeronautics Commission which may take place as part of the FAA’s review.



1. The Host Community Agreement with the City of Everett dated April 19, 2013 (approved by local referendum pursuant to G.L. c. 23K, § 15(13), on June 22, 2013);
2. Surrounding Community Agreements with the following municipalities:
  - a. The City of Boston (“Boston”), dated January 27, 2016;<sup>4</sup>
  - b. The City of Cambridge (“Cambridge”), dated April 22, 2014;
  - c. The City of Chelsea (“Chelsea”), dated June 9, 2014<sup>5</sup>
  - d. The City of Malden (“Malden”), dated November 12, 2013;
  - e. The City of Medford (Medford”), dated April 11, 2014; and
  - f. The City of Somerville (“Somerville”), dated June 12, 2014.<sup>6</sup>
3. Neighboring Communities Agreements with the following municipalities:
  - a. The City of Lynn (“Lynn”), dated January 28, 2014; and
  - b. The City of Melrose (“Melrose”), dated January 28, 2014;
4. The Impacted Live Entertainment Venues Agreement including with the Massachusetts Performing Arts Coalition, dated January 20, 2014; and

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<sup>4</sup> By written decision dated May 15, 2014, the Commission determined that the “Wynn gaming establishment is located solely in Everett. Accordingly, by definition, the City of Boston is not a host community to that project.” On May 15, 2014, the Commission voted to formally deem the City of Boston a surrounding community to the Wynn Project (May 15, 2014 Tr. 123-124). After Boston declined to participate in the Commission’s binding arbitration process under 205 CMR 125.01, the Commission voted on August 7, 2014, to “deem the city of Boston to have waived its surrounding community status with respect to the application for a Category 1 casino license filed by Wynn MA, LLC.” (August 7, 2014 Tr. 195-96). Subsequently, Boston and Wynn executed and submitted to the Commission the Surrounding Community Agreement dated as of January 27, 2016. On February 4, 2016, the Commission voted to accept the Surrounding Community Agreement, to reinstate Boston as a surrounding community to Wynn’s proposed Category 1 Gaming Establishment in Everett, and to determine that the terms of the Surrounding Community Agreement will replace Sections 3 and 4 of the conditions in Wynn’s conditional License related to Boston. *See* Vote Regarding Litigation Release and Surrounding Community Agreement dated February 4, 2016.

<sup>5</sup> Pursuant to 205 CMR 125.01(6)(c), Wynn participated in binding arbitration with Chelsea. The Arbitrator issued a Report and Final Arbitration Award dated June 9, 2014, selecting Wynn’s Best and Final Offer (“BAFO”) to Chelsea and thereby specifying its terms as the surrounding community agreement between Wynn and Chelsea. The provisions of Wynn’s BAFO to Chelsea attached to the Report and Final Arbitration Award dated June 9, 2014, were incorporated by reference as conditions in the conditional License.

<sup>6</sup> Pursuant to 205 CMR 125.01(6)(c), Wynn also participated in binding arbitration with Somerville. An Arbitration panel issued a Report and Final Arbitration Award dated June 9, 2014, selecting Wynn’s BAFO and thereby specifying its terms as the surrounding community agreement between Wynn and Somerville. Wynn and Somerville subsequently executed the Surrounding Community Agreement referenced in the text.

5. The Massachusetts State Lottery effective as of September 5, 2014.

Subject to the caveats listed below regarding the MEPA Section 61 Conditions, the Commission incorporates by reference the provisions of each of the above Mitigation Agreements into these Section 61 Findings as conditions to be included in the License for the Gaming Establishment issued pursuant to 205 CMR 120.02. Nothing in these Section 61 Findings shall prevent the reopening of any Mitigation Agreement pursuant to its terms or pursuant to 205 CMR 127.00; provided, however, that in the event any Mitigation Agreement is reopened, the Commission in its discretion expressly reserves the right to modify or amend these Section 61 Findings and the conditions set forth in the License to continue to ensure that all feasible measures are taken to avoid or minimize impacts of the Project and damage to the environment.

## VIII. MEPA SECTION 61 FINDINGS AND CONDITIONS

### A. Scope of Commission Section 61 Findings

In the Secretary's Certificate on the SSFEIR, the Secretary noted that "the subject matter of the [the Commission's] Agency Action is sufficiently broad ... such that it is functionally equivalent to broad scope jurisdiction" because "the Gaming License ... addresses a broad range of environmental issues - sustainability, energy efficiency, renewable energy, and traffic- and extends to mitigation of environmental impacts on host and surrounding communities." The Secretary also concluded that while MEPA jurisdiction is limited to the subject matter of required or potentially required permits "the subject matter of the Gaming License confers broad scope jurisdiction and extends to all aspects of the project that may cause Damage to the Environment, as defined in the MEPA regulations."

As a result, the Commission's Section 61 Findings include detailed conditions to mitigate this broad range of environmental issues, incorporate the Mitigation Agreements to further mitigate environmental impacts on host and surrounding communities, and incorporate Section 61 Findings of other State Agencies to comprehensively address these issues as set forth below.

### B. Enhanced Public Participation in Commission Section 61 Findings

In the SSFEIR Certificate (pp. 3-4), the Secretary required "enhanced public review during ... development of [the Commission] 61 Findings." The Commission has complied and will comply with these enhanced requirements as follows:

1. In these Section 61 Findings, the Commission has considered and revised as appropriate, the draft Section 61 Findings included in the SSFEIR.
2. In these Section 61 Findings, the Commission has included and included by reference the Section 61 Findings from all other State Agencies including, but not limited to, MassDOT's Section 61 Findings. See below.
3. In preparing these Section 61 Findings, the Commission engaged Green International and City Point Partners as consultants, whose representative made a public presentation at the Commission's open meeting on March 22, 2016 at 1:00 PM and who

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have provided recommendations regarding additional conditions that should be added to the Commission’s draft and Final Section 61 Findings.

4. The Commission posted a March 17, 2016 preview draft of the Section 61 Findings and the consultants' report on the MGC website on March 18, 2016; posted the Commission’s draft of the Section 61 Findings on the MGC website after the meeting on March 22, 2016; and solicited written comments on the draft Section 61 Findings on or before April 11, 2016 at 4:00 PM.
5. On March 29, 2016, at 5:00 PM MGC held a public hearing on the draft Section 61 Findings at the Boston Convention and Exhibition Center, 415 Summer Street, Boston.
6. These Section 61 Findings incorporate consideration of public comments received at the Commission’s public hearing on March 29, 2016, and prior to the close of public comments on April 11, 2016. .
7. Upon the completion of the above process, the Commission will incorporate its Final Section 61 Findings into the Gaming License and the Commission will file the Final Section 61 Findings with the MEPA Office.
8. The Commission will conduct a regular quarterly review concerning compliance with the Commission’s Final Section 61 Findings and the conditions of the Gaming License.

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**C. Mitigation Measures in Section 61 Findings of Other State Agencies**

In the Secretary’s Certificate on the SSFEIR, the Secretary instructed that the Commission’s “Section 61 Findings shall include or include by reference the Section 61 Findings from all other State Agencies including, but not limited to, MassDOT’s Section 61 Findings.” To date, the following State Agencies have issued draft or final Section 61 Findings for the Project:

Agency		Date	Env. Monitor
MWRA		1/12/16	1/20/16
Massport		1/21/16	2/10/16
MassDEP		1/22/16	
MassDOT, MBTA and DCR <sup>7</sup>		4/6/16	4/7/16

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Subject to the limitations listed below regarding the MEPA Section 61 Conditions, the Commission incorporates these Section 61 Findings by other State Agencies (and any final Section 61 Findings by these other State Agencies pursuant thereto) into the Commission’s Section 61 Findings. Wynn shall comply with the detailed mitigation measures provided by the

<sup>7</sup> These combined Section 61 Findings are referred to herein as the “MassDOT/MBTA/DCR Section 61 Findings.”

final Section 61 Findings issued by each other State Agency with jurisdiction to take Agency Action with respect to the Project including, without limitation, MassDEP, MassDOT, MBTA, MassDCR, Massport and MWRA. Wynn shall also comply with all applicable and lawful terms and conditions of any final federal, state, or local permit or approval required for the Project.<sup>8</sup>

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#### **D. Limitations Regarding MEPA Section 61 Conditions**

The Commission in its discretion expressly reserves the right to take, and nothing herein shall prevent the Commission from taking, further action with respect to these Section 61 Findings, the License for the Gaming Establishment, and/or any conditions contained in these Section 61 Findings or the License for the Gaming Establishment, pursuant to 205 CMR 127 or otherwise. Without limitation, to continue to ensure that all feasible measures are taken to avoid or minimize impacts of the Project and damage to the environment the Commission in its discretion expressly reserves the right to modify or amend its Section 61 Findings as a result of any Section 61 Findings or final Agency Action issued or finalized by other Agencies after the Commission's Section 61 Findings. If the terms of (a) any other Agency's Section 61 Findings or final Agency Action, (b) any other governmental permit or approval, (c) any denial of any other governmental permit or approval, (d) any process required to obtain such permit or approval, or (e) any provision of any of the Mitigation Agreements listed above, conflict with the Commission's Section 61 Findings or the mitigation measures set forth below, or render such mitigation measures infeasible or impossible, Wynn shall notify the Commission of that conflict for resolution by the Commission pursuant to G.L. c. 23K and 205 CMR 120.01 and 120.02. Pursuant to G.L. c. 23K, § 10(c), the Commission reserves its rights to determine which infrastructure improvements onsite and around the vicinity of the Gaming Establishment, including projects to account for traffic mitigation as determined by the Commission, shall be completed before the Gaming Establishment shall be approved for opening.

#### **E. Mitigation Measures for the Project under the FEIR, SFEIR, and SSFEIR**

Wynn shall comply with the following detailed measures to mitigate the Project's impacts specified in (a) the FEIR and the FEIR Certificate, (b) the SFEIR and the SFEIR Certificate, and (c) the SSFEIR and the SSFEIR Certificate including, without limitation, the mitigation measures described in the following sections of the FEIR, SFEIR, and SSFEIR:

- (1) Measures described in SFEIR Chapter 3, and SFEIR Tables 3-2: Proposed DEP Mitigation Measures by Wynn MA<sub>2</sub> LLC, 3-3: Proposed DCR Mitigation Measures by Wynn MA<sub>2</sub> LLC, and 3-4: Summary of Proposed Mitigation Measures by Wynn MA<sub>2</sub> LLC;

<sup>8</sup> By complying with the Secretary's SSFEIR Certificate and by incorporating and requiring compliance with the final Section 61 Findings by other State Agencies (and their resulting final permits and approvals), the Commission neither assumes control over nor takes responsibility for matters that, by statute and regulations, are committed to the jurisdiction, control and expertise of other State Agencies. However, the Commission does exercise its own discretion and authority under the Gaming Act and MEPA and their respective regulations to issue its own Section 61 Findings and to incorporate its final Section 61 Findings into the Gaming License.

- (2) Measures to mitigate impacts on wetlands, waterways and water quality set forth in FEIR Chapter 3, FEIR Section 13.4.1, and FEIR Tables 13-1 and 13-3, Proposed Wetlands, Waterways and Water Quality Mitigation Measures;
- (3) Measures to mitigate air quality impacts set forth in FEIR Chapter 5, FEIR Section 13.4.5, and FEIR Tables 13-1 and 13-3;
- (4) The transportation demand management (“TDM”) program strategies for patrons and employees as noted in FEIR Chapter 4;
- (5) Measures to mitigate greenhouse gas impacts and promote sustainable development set forth in FEIR Chapter 6, FEIR Section 13.4.6, and FEIR Tables 13-1 and 13-3, Greenhouse Gas Emission Mitigation Measures;
- (6) Measures to mitigate storm water impacts set forth in FEIR Chapter 7, FEIR Section 13.4.4, and FEIR Tables 13-1 and 13-3, Stormwater Mitigation Measures;
- (7) Measures to mitigate impacts on water supply set forth in FEIR Chapter 8, FEIR Section 13.4.2, and FEIR Table 13-1, Proposed Water Use Mitigation Measures;
- (8) Measures to mitigate wastewater impacts set forth in FEIR Chapter 9, FEIR Section 13.4.3, and FEIR Tables 13-1 and 13-3, Proposed Wastewater and Sewer Mitigation Measures;
- (9) Measures to mitigate solid and hazardous wastes impacts set forth in FEIR Chapter 10 and FEIR Section 13.4.7 (Brownfields Remediation);
- (10) Measures to mitigate impacts on historic and archaeological resources set forth in FEIR Chapter 11;
- (11) Measures to mitigate construction-related impacts set forth in FEIR Chapters 12 and 13;
- (12) Measures to mitigate impacts on open space set forth in FEIR Chapter 2.3.8 and FEIR Section Table 13-4; and
- (13) Measures identified in SSFEIR Chapter 4.

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In addition, Wynn shall comply with all measures to mitigate transportation impacts set forth in FEIR Chapter 4, FEIR Section 13.3, FEIR Tables 13-2 and 13-4, Table of Proposed Transportation Mitigation Measures, SFEIR Chapter 3 and SFEIR Table 3-1: Proposed Transportation Mitigation Measures by Wynn MA, LLC, and SSFEIR Chapter 4 as supplemented and amended in the SFEIR, SSFEIR and FEIR, SFEIR and SSFEIR Certificates,

and shall comply with any additional conditions that the Commission imposes in the License pursuant to 205 CMR 120.02(1)(a).

With respect to the foregoing requirements, in the event of a conflict regarding a particular mitigation measure described in the FEIR, the Secretary's FEIR Certificate, the SFEIR, the Secretary's SFEIR Certificate, the SSFEIR and/or the Secretary's SSFEIR Certificate, the mitigation measure described in the later document in the MEPA process shall control.

**F. Project-Specific Mitigation Measures and Off-Site Improvements**

The environmental review process culminating in the SSFEIR and the SSFEIR Certificate, and the Section 61 Findings issued by the other State Agencies listed above require detailed and specific mitigation measures and off-site improvements to avoid or minimize the impacts of the Project and damage to the environment within the scope of MEPA and its implementing regulations.<sup>9</sup> The Commission incorporates by reference the mitigation measures specified by the Section 61 Findings of these State Agencies having expertise in their respective areas of subject matter jurisdiction. The Commission also incorporates by reference Mitigation Agreements listed above which mitigate other impacts on the host and surrounding communities from the development and operation of a gaming establishment within the scope of the Gaming Act and its implementing regulations. Without limitation, the Commission incorporates by reference the acknowledgement and agreement of the City of Boston in § 1.2 of the Boston SCA regarding mitigation of the transportation impacts of the Project.<sup>10</sup> The Commission finds pursuant to G.L. c. 30, § 61 and 301 CMR 11.12(5), and based on the results of the MEPA process that, subject to the mitigation measures imposed as conditions by the Commission's Section 61 Findings herein, all feasible measures have been taken to avoid or minimize impacts of the Project and damage to the environment.

Specifically and without limitation, as conditions of the Commission's Section 61 Findings, the Commission hereby requires that Wynn shall implement, and shall be fully responsible for the costs of implementing, the following mitigation measures according to the following schedule:

<sup>9</sup> See, e.g., MassDOT/MBTA/DCR Section 61 Findings (§§ V and VII), MWRA Section 61 Findings (at page 5), Massport Section 61 Findings (¶ B), and DEP Section 61 Findings (DEP's Written Determination and Draft Special Conditions on Waterways Application, page 7, and Combined 401 Water Quality Certification, page 5).

<sup>10</sup> Section 1.2 of the Boston SCA stipulates that, while the Project will result in additional vehicular traffic that may burden the transportation infrastructure in Boston, particularly in the Sullivan Square area in the neighborhood of Charlestown, Boston acknowledges and agrees that "Wynn's mitigation under the Massachusetts Environmental Policy Act ('MEPA') and its payments to Boston under this [Surrounding Community] Agreement will mitigate any transportation impacts of the Project" and that "such mitigation will adequately mitigate all such impacts."

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<b>1. EVERETT MITIGATION</b>		
	<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b>	
Revere Beach Parkway (Route 16)/Mystic View Road/Santilli Highway/Route 99 Connector Improvements  (Santilli Circle)	<ul style="list-style-type: none"> <li>• Modify the approach from Frontage Road into the rotary to allow for two formal lanes.</li> <li>• Widen circle at Santilli Highway approach to allow for three travel lanes.</li> <li>• Provide improved pedestrian and bicycle connection from Frontage Road to Mystic View Road.</li> <li>• Reconfigure channelizing island on south side of rotary near Mystic View Road.</li> <li>• Provide traffic signal improvements at the signalized locations around the traffic circle.</li> <li>• Provide landscaping improvements to the center of the circle.</li> <li>• Provide new guide signage and pavement markings.<sup>11</sup></li> </ul> <p>These <u>geometric and traffic signal</u> improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Santilli Circle Conceptual Improvement Plan (Figure 2-24A, B, C, and D)” included in the SFEIR, <u>as revised in accordance with the revised conceptual plans entitled, “Proposed Modifications to SSFEIR 2023 Build Condition at Santilli Circle &amp; Santilli Highway (Figure 1 &amp; 2)” included in a</u></p>	Prior to opening.

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 <#>Incorporate RSA recommendations into final design where feasible.<sup>12</sup>¶

<sup>11</sup> The SSFEIR Certificate indicated that Wynn will perform a Road Safety Audit (“RSA”) during 25% design to identify safety improvements to be implemented as mitigation where feasible, incorporate RSA recommendations into final design where feasible, and coordinate with MassDOT to identify funding source for implementation of RSA recommendations. Since that time, as set forth below, Wynn has conducted the RSA and recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of Wynn. These Section 61 Findings require that Wynn fund the approved road safety improvements resulting from the RSA recommendations as and to the extent set forth in MassDOT/MBTA/DCR Section 61 Findings. See below.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p><u>Technical Memorandum dated March 3, 2016 to be reviewed and approved by MassDOT</u>, with such refinements thereto as are approved by MassDOT through the 100 percent design submission.</p> <p><u>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (“RSA”) at Santilli Circle due to its inclusion in a- Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at Santilli Circle, the Proponent shall incorporate in the conceptual design plans for Santilli Circle all the potential safety enhancements with “low” and/or “medium” costs and with “short-term” and/or “mid-term” timeframes as listed in the RSA Report in Table 3: Potential Safety Enhancement Summary--Santilli Circle.</u></p>	
<p>Revere Beach Parkway (Route 16)/Broadway/Main Street  (Sweetser Circle)</p>	<ul style="list-style-type: none"> <li>• Reconstruct circle and approaches to function as a two-lane modern roundabout.</li> <li>• Reconfigure the existing Broadway (Route 99) northbound approach to allow for three travel lanes providing free flow access to Route 16 eastbound.</li> <li>• Provide shared use path on northwest side of rotary to improve bicycle access.</li> <li>• Install new signage to provide direction to bicyclists on how to navigate the rotary safely.</li> <li>• Provide landscaping and improvements on the north side of the circle.</li> <li>• Maintain pedestrian signal across Route 16 eastbound exit from rotary.</li> </ul> <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Sweetser Circle Conceptual Improvement Plan (Figure 2-25A, B, and C)” included in the SFEIR, with such refinements thereto as are approved by MassDOT through the 100 percent design submission.</p> <p><u>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (RSA) at Sweetser Circle</u></p>	<p>Prior to opening.</p>

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p><u>due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at Sweetser Circle, the Proponent shall incorporate in the conceptual design plans for Sweetser Circle all the potential safety enhancements with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes as listed in the RSA Report in Table 4: Potential Safety Enhancement Summary--Sweetser Circle.</u></p>	
<ul style="list-style-type: none"> <li>• Route 99 (Broadway)/ Horizon Way (Site Driveway)</li> <li>• Route 99 (Broadway)/ Lynde Street</li> <li>• Route 99 (Broadway)/ Thorndike Street</li> <li>• Bow Street/Mystic Street</li> <li>• Bow Street/Lynde Street</li> <li>• Bow Street/Thorndike Street</li> <li>• Beacham Street/Robin Street</li> <li>• Route 99 (Broadway)/ Bowdoin Street</li> <li>• Route 99 (Broadway)/ Beacham Street intersection (service driveway)</li> </ul>	<ul style="list-style-type: none"> <li>• Construction of the site driveway and signalization of the Route 99 (Broadway)/Horizon Way intersection.</li> <li>• Reconstruct Lower Broadway as a 4-lane boulevard with turn lanes at major intersections.</li> <li>• Upgrade/replace/install traffic control signals.</li> <li>• Reconstruct or construct sidewalks and bicycle lanes where required.</li> <li>• Install street trees and lighting.</li> <li>• Improve and provide access MBTA bus stops along Lower Broadway.</li> <li>• Installation of technology along Broadway/Alford Street (Route 99), near project entrance, to allow for signal prioritization.</li> </ul> <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled "Lower Broadway/ Alford Street (Route 99) Improvement Plan (Figures 2-12A, B, and C)" and refinements thereto through the 100 percent design.<sup>13</sup></p> <p><u>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit ("RSA") along this corridor due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The</u></p>	<p>Prior to opening.</p>

<sup>13</sup> As these various intersections are not under MassDOT jurisdiction, the determination of appropriate mitigation measures (if necessary) and the determination appropriate design and construction details will be made between Wynn and Everett as stated in the MassDOT/MBTA/DCR Section 61 Findings.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p><u>RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10,2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at the intersections along this corridor, the Proponent shall incorporate in the conceptual design plans for the corridor all the potential safety enhancements with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes as listed in the RSA Report in Table 3: Potential Safety Enhancement Summary-Lower Broadway.</u></p>	
Broadway/Norwood Street/Chelsea Street <sup>14</sup>	<p>Optimize traffic signal timing, phasing and coordination.</p> <p><u>This intersection is not under MassDOT jurisdiction. The determination of appropriate design and construction details at this intersection should be made between Wynn and the City of Everett.</u></p>	Prior to opening.
Lower Broadway Truck Route	<ul style="list-style-type: none"> <li>• Upgrade Robin Street and Dexter Street to serve as a truck route.</li> <li>• Provide full depth reconstruction of the existing roadway to accommodate heavy vehicles.</li> <li>• Reconstruct Robin Street and Dexter Street to include heavy-duty pavement, corner radii improvements, sidewalk reconstruction (where present), drainage system modifications (minor), signs and pavement markings.</li> </ul>	Prior to opening.
Ferry Street/Broadway (Route 99) <sup>15</sup>	Retime and optimize traffic signal.	Prior to opening.
Intersections not under MassDOT jurisdiction	<p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersections are not under MassDOT jurisdiction. If necessary, the determination of any appropriate mitigation measures <u>and/or design and construction details</u> at these intersections should be made between Wynn and Everett.</p>	Prior to opening.

<sup>14</sup> See prior footnote.

<sup>15</sup> See prior footnote.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Route 99 (Broadway)/2<sup>nd</sup> Street/Corey Street Intersection</li> <li>• Route 99 (Broadway)/Mansfield Street/Church Street Intersection</li> <li>• Route 99 (Broadway)/High Street/Hancock Street Intersection</li> <li>• Route 99 (Broadway)/McKinley Street/Cameron Street/Lynn Street Intersection</li> <li>• Tileston Street/Oakes Street/Main Street Intersection</li> <li>• Waters Avenue/Linden Street/Main Street Intersection</li> <li>• Peirce Avenue/Bellingham Avenue/Main Street Intersection</li> </ul>	
Other Intersections	<p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at the following locations that Wynn could be required to implement:</p> <ul style="list-style-type: none"> <li>• Route 16 (Revere Beach Parkway)/Garvey Street/2nd Street Intersection</li> <li>• Route 16 (Revere Beach Parkway)/Spring Street Intersection</li> <li>• Route 16 (Revere Beach Parkway)/South Ferry Street Intersection</li> <li>• Route 16 (Revere Beach Parkway) Vine Street Intersection</li> <li>• Route 16 (Revere Beach Parkway) Vale Street Intersection</li> <li>• Route 16 (Revere Beach Parkway)/Everett Avenue Intersection</li> </ul>	N/A
<b>2. MEDFORD MITIGATION</b>		
	<p><b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b></p>	
Mystic Valley Parkway (Route 16)/Fellsway (Route 28)/Middlesex Avenue (Wellington Circle)	<ul style="list-style-type: none"> <li>• Upgrade/replace traffic signal equipment/signs/pavement markings.</li> <li>• Optimize traffic signal timing, phasing and coordination.</li> <li>• Widen Route 28 northbound to provide an additional left turn lane.</li> <li>• Widen Route 16 westbound to provide an additional through lane in the middle of the intersection.</li> <li>• Reconstruct non-compliant sidewalks and accessible ramps around the intersection to improve pedestrian access.</li> </ul>	Prior to opening.

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	<ul style="list-style-type: none"> <li>• Provide landscape improvements.</li> </ul> <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Wellington Circle Conceptual Improvement Plan (Figure 2-67A, B, and C)” included in the SFEIR, with such refinements thereto as are approved by MassDOT through the 100 percent design submission.</p> <p><u>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (RSA) at this intersection due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at this intersection the Proponent shall incorporate in the conceptual design plans for this intersection all the potential safety enhancements with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes as listed in Table 4: Potential Safety Enhancement Summary-Wellington Circle.</u></p>	
<p>Mystic Valley Parkway (Route 16)/Mystic Avenue (Route 38)</p>	<ul style="list-style-type: none"> <li>• Implement traffic Signal retiming and optimization.</li> <li>• Implement ADA Improvements.</li> </ul> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, <u>prior to any site occupancy, the Proponent (Wynn) will implement these improvements at this intersection in accordance to conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</u></p> <p><u>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent has conducted a Road Safety Audit (RSA) at this intersection due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and</u></p>	<p>Prior to opening.</p>

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p><u>future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at this intersection, the Proponent shall incorporate in the conceptual design plans for this intersection all the potential safety enhancements as listed in the RSA Report in Table 4: Potential Safety Enhancement Summary-Mystic Valley Parkway/Route 16/Connector Road and Mystic Valley Parkway/Route 38/Harvard Street.<sup>16</sup></u></p>	
<p>Mystic Valley Parkway (Route 16)/Route 16 Southbound Connector</p>	<ul style="list-style-type: none"> <li>• <u>Implement traffic Signal retiming and optimization.</u></li> <li>• <u>Implement ADA Improvements.</u></li> </ul> <p><u>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, prior to any site occupancy, the Proponent (Wynn) will implement these improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</u></p> <p><u>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent has conducted a Road Safety Audit (RSA) at this intersection due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at this intersection, the Proponent shall incorporate in the conceptual design plans for this intersection all the potential safety enhancements as listed in the RSA Report in Table 4:</u></p>	<p>Prior to opening.</p>

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**Deleted:** <#>Perform RSA at this intersection.¶ Coordinate with MassDOT to implement recommended safety improvements.  
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<sup>16</sup> The Commission's Section 61 Findings incorporate MassDOT/MBTA/DCR Section 61 Findings with respect to the RSA recommendations for this intersection. If the intent of the MassDOT/MBTA/DCR Section 61 Findings is to describe the safety enhancements for this intersection as those with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes, the Commission's Section 61 Findings would similarly track that requirement.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<a href="#">Potential Safety Enhancement Summary – Mystic Valley Parkway/Route 38/Harvard Street.</a> <sup>17</sup>	
Wellington Circle Study	Provide \$1.5 million to MassDOT toward a transportation study to develop alternatives for a long-term fix of Wellington Circle.	Prior to opening.
Intersections not under MassDOT jurisdiction	As stated in the MassDOT/MBTA/DCR Section 61 Findings, <a href="#">there are no additional feasible means to avoid or minimize the project's traffic impacts at the following locations that the Proponent (Wynn) could be required to implement:</a> <ul style="list-style-type: none"> <li>• Route 28 (Fellsway West)/Fulton Street Intersection</li> <li>• Route 28 (Fellsway West)/Route 60 (Salem Street) Intersection</li> <li>• Route 28 (Fellsway)/Central Avenue/Medford Street Intersection</li> <li>• Route 28 (Fellsway)/Riverside Avenue Intersection</li> </ul>	Prior to opening.
Other Intersections	As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at this location that Wynn could be required to implement: <ul style="list-style-type: none"> <li>• Route 16 (Mystic Valley Parkway)/Locust Street Intersection</li> <li>• Route 16 (Mystic Valley Parkway)/Commercial Street Intersection</li> </ul>	N/A
Other Mitigation under Surrounding Community Agreement	In addition to the MEPA mitigation measures described above, Wynn shall comply with the requirements of the Medford Surrounding Community Agreement (“Medford SCA”). Without limitation, subject to the terms and conditions thereof, Wynn shall pay to Medford the Transportation Hub Payment under Section 1.2 and the annual Public Safety Payment under Section 2.2 thereof.	Ongoing pursuant to schedule set forth in the Medford SCA.
<b>3. MALDEN MITIGATION</b>		
Other Mitigation under Surrounding Community	In addition to the multimodal improvements to MBTA’s Malden Center Station and other MBTA property described below pursuant to MEPA, Wynn shall comply	Ongoing pursuant to schedule set forth in the

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<sup>17</sup> See prior footnote.



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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
Agreement	with the requirements of the Malden Surrounding Community Agreement (“Malden SCA”). Without limitation, subject to the terms and conditions thereof, Wynn shall pay to Malden the Transportation Hub Payment under Section 1.2, the Transitional Roads Payment under Section 2.2, and the Public Safety Payment under Section 3.2 thereof.	Malden SCA
<b>4. BOSTON MITIGATION</b>		
<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings and in the Boston SCA, Wynn shall:</b>		
Sullivan Square Mitigation Program  Main Street/Maffa Way/Cambridge Street/Alford Street Intersection (Sullivan Square)  Alford Street/Main	<ul style="list-style-type: none"> <li>• Optimize signal timing for Maffa Way/Cambridge Street; interconnect and coordinate traffic signals, modify the Main Street approach.<sup>18</sup></li> <li>• Install a traffic signal interconnection conduit system and associated equipment (pull boxes and wiring) from Sullivan Square to Austin Street.</li> <li>• Reconstruct busway between Cambridge Street and Maffa Way.</li> <li>• Reconstruct the southbound approach of Alford Street at Cambridge Street.</li> <li>• Install new traffic signals at Cambridge Street/Spice Street/MBTA Busway and Maffa Way/Busway.<sup>19</sup></li> <li>• Upgrade/replace traffic signal equipment/signs/pavement markings.<sup>20</sup></li> </ul>	Prior to opening, except for Regional Working Group which shall be ongoing.

<sup>18</sup> The SSFEIR Certificate indicates that Wynn will “widen the Main Street approach to provide two lanes.” The Boston SCA indicates that Wynn will “modify the Main Street approach.” These Section 61 Findings anticipate that Wynn and Boston will finalize the modification of the Main Street approach during review by the Boston Transportation Department & Public Improvements Commission.

<sup>19</sup> The Boston SCA further specifies that this mitigation measure also includes “new traffic signals at ... Maffa Way/Beacham Street Extension, and Main Street (west)/Beacham Street.”

<sup>20</sup> The Boston SCA further specifies that this mitigation measure also includes “new signal controllers with adaptive signal control capabilities and new Pan-Tilt-Zoom (PTZ) cameras,” and requires that Wynn “[i]nstall necessary additional loop detection to ensure adaptive signal control capabilities.” For the Cambridge Street/I-93northbound off-ramp, the Boston SCA specifically requires Wynn to “[u]pgrade traffic signals, including new controller with adaptive signal control capabilities and new PTZ camera.”

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<p>Street/Sever Street/Cambridge Street (Sullivan Square)</p> <p>Cambridge Street/Spice Street/Sullivan Square Drive Intersection</p> <p>Maffa Way/Beacham Street Extension Intersection</p> <p>Cambridge Street/I-93northbound off-ramp</p> <p>And Related Intersections</p>	<ul style="list-style-type: none"> <li>• Optimize traffic signal timing, phasing and coordination.</li> <li>• Reconstruct Spice Street.</li> <li>• Reconstruct D Street.<sup>21</sup></li> <li>• Reconstruct sidewalks on west side of rotary between Sullivan Square station and Alford Street Bridge.</li> <li>• Reconstruct sidewalks and upgrade lighting and streetscape in rotary between Cambridge Street and Main Street (east).</li> <li>• Provide bicycle lanes on Cambridge Street.</li> <li>• Reconstruct MBTA lower busway and parking area at Sullivan Square station, including new traffic signal at Maffa Way/station entrance.</li> <li>• Construct BUS ONLY left-turn lane from Main Street into Sullivan Square Station.</li> </ul> <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Sullivan Square Conceptual Improvement Plan (Figure 2-91)” included in the SFEIR and approved by MassDOT. This plan will be refined as the design progresses to the 100 percent level.</p> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Sullivan Square, the Maffa Way/Beacham Street Extension Intersection, the Maffa Way/MBTA Bus Lane Intersection, the D Street/Rutherford Avenue Intersection, and the Spice</p>	

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<sup>21</sup> According to the SSFEIR Certificate, “The railroad right-of-way (ROW) referred to in the SSFEIR as D Street is owned by Massport. Comments from Massport indicate that this ROW is not a public way and proposed improvements would require approval by Massport.” The MassDOT/MBTA/DCR Section 61 Findings state that, “Prior to the issuance of the Vehicular Access Permit for the project, the Proponent will submit to the MassDOT District 4, and District 6 Offices satisfactory documentation to demonstrate that all necessary ROW along D Street has been acquired from the Massachusetts Port Authority (Massport) for the implementation of the mitigation measures detailed in this finding...” In Massport’s Section 61 Findings, Massport has concluded that, subject to its review and approval of detailed plans and specifications to support the request for a license for the construction of the transportation mitigation improvements on Massport’s D Street property, “the Project’s proposed transportation improvements on Massport’s D Street Property are expected to result in no adverse environmental impacts.”

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>Street/D Street Intersection are not under MassDOT jurisdiction. However, because traffic operations at these locations may affect traffic operations at the I-93 Northbound off- Ramp and/or the MBTA bus operations or Sullivan Square Station driveways, Wynn will prepare and submit conceptual and 100 percent plans to MassDOT and MBTA for review and approval (as specified in the MassDOT/MBTA/DCR Section 61 Findings), in consultation with the City of Boston, prior to the construction of these intersections or improvements.</p> <p>Moreover, enhanced transportation planning for long-term transportation improvements that can support sustainable redevelopment and economic growth in and around Sullivan Square will occur through the Regional Working Group required by the SSFEIR Certificate and discussed separately below.</p>	
Dexter Street/Alford Street (Route 99)	<ul style="list-style-type: none"> <li>• Upgrade/replace traffic signal equipment/signs/pavement markings.<sup>22</sup></li> <li>• Optimize traffic signal timing, phasing, and coordination.</li> </ul> <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Lower Broadway/ Alford Street (Route 99) Improvement Plan (Figure 2-12)” and refinements thereto as the design progresses to the 100 percent level.</p>	Prior to opening.
Rutherford Avenue (Route 99)/Route 1 Ramps	<p>Optimize traffic signal timing and phasing.</p> <p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the traffic signal plans are to be submitted to and approved by MassDOT. This plan will be refined as the design progresses to the 100 percent level.</p>	Prior to opening.
Other Intersection not under MassDOT jurisdiction	As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersection is not under MassDOT jurisdiction:	Prior to opening.

<sup>22</sup> The Boston SCA further specifies that this mitigation measures includes “PTZ camera.”

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>Main Street/Beacham Street Intersection.</li> </ul> <p>The determination of appropriate design and construction details of this intersection should be made between the proponent and the City of Boston.</p>	
Other Intersections	<p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at the following locations that Wynn could be required to implement at this time:</p> <ul style="list-style-type: none"> <li>Rutherford Avenue/ Austin Street Intersection.</li> <li>I-93 ramps/Rutherford Avenue/Chelsea Street Intersection (City Square).</li> </ul> <p>Rather, enhanced transportation planning will occur through the Regional Working Group required by the SSFEIR Certificate and discussed separately below.</p>	Per results of Regional Working Group.
Sullivan Square Landscaping	Improve landscaping within the rotary at Sullivan Square and immediately north of the rotary adjacent to Rutherford Avenue.	Prior to opening.
Cooperation and Outreach	<ul style="list-style-type: none"> <li>Continue to work with MassDOT and Boston to refine geometric improvements and optimize traffic operations.</li> <li>Continue discussions with affected property owners impacted by improvements regarding necessary grants of right of way.</li> </ul>	Prior to opening and ongoing.
	<b>In accordance with the SSFEIR Certificate<sup>23</sup> as more particularly specified and conditioned in the Boston SCA, Wynn shall comply with the following conditions:</b>	

<sup>23</sup> In the SSFEIR Certificate, the Secretary noted that under the Reopener Provision of the conditional Gaming License (Section 2 condition 32), “the City of Boston can reopen negotiations for Surrounding Community Status any time prior to opening of the gaming establishment and the MGC has the authority to amend and modify mitigation as appropriate.” Wynn and the City have done so. See Commission’s Vote Regarding Litigation Release and Surrounding Community Agreement dated February 4, 2016.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
Long-term Financial Commitment to Transportation Mitigation for Sullivan Square	<p>Pursuant to and subject to §§ 7.3, 7.4 and 7.5 of the Boston SCA, Wynn shall provide payments of \$2.5 million per year for 10 years into the SSIP Fund toward the Sullivan Square Infrastructure Project, as defined therein.</p> <p>Prior to the Opening Date, pursuant to and subject to § 7.5 of the Boston SCA, Wynn shall negotiate with Boston in good faith an escrow agreement pertaining to the SSIP Fund. If Wynn and Boston do not reach an escrow agreement prior to the Opening Date, Wynn shall report to the Commission on or within 30 days after the Opening Date for action by the Commission as may be necessary with respect thereto.</p>	Annually for 10 years beginning on the first anniversary of the Opening Date.
Long-term Commitment Transportation Demand Management relative to Sullivan Square and Boston	<p>Pursuant to and subject to § 7.1.B of the Boston SCA, Wynn shall monitor traffic and, if there are operational deficiencies at the monitored locations and either (1) the measured traffic volumes for the Project exceed 110% of the projected values; or (2) the distribution of Project-related traffic from the Project Site entrance to the roadway network varies by more than 10% of the trip assignment assumed for the Project, then Wynn shall be responsible for the costs of implementing additional mitigation measures including <u>but not limited to</u> those measures listed in § 7.1.B of the Boston SCA.<sup>24</sup></p> <p>Pursuant to and subject to § 7.1.B of the Boston SCA, Wynn shall engage and pay for an independent organization approved by the Commission to complete the monitoring program.</p> <p><u>Consistent with the MassDOT/MBTA/DCR Section 61 Findings, at</u> least annually on the anniversary of the Opening Date, or on such other schedule as Wynn and Boston may agree, Wynn shall report to the Commission and Boston the results of the monitoring program, any operational deficiencies at the monitored locations</p>	Commences prior to the initial occupancy of the Project and continues for a period of 10 years.

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<sup>24</sup> The terms “projected values” and “measured traffic values” in the first condition should be measured based on Friday and Saturday peak hour trip volumes; and the phrase “more than 10% of the trip assignment assumed for the Project” in the second condition should be understood to mean more than 80.3% of Gaming Establishment traffic travels through Sullivan Square (which represents a variation of 10% from the projected traffic through Sullivan Square).

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>related to metrics (1) and (2) above, and the plan for, schedule for and status of implementing any additional mitigation measures with respect thereto.</p> <p><u>See also Transportation Monitoring Program, in § VIII.F.11 below.</u></p>	
Community Outreach	Pursuant to and subject to § 8.8 of the Boston SCA, Wynn shall engage in community outreach to the Charlestown neighborhood and consult with the neighborhood regarding the progress of the Project including any transportation mitigation or changes in transportation mitigation plans.	Ongoing.
Community Impact Fee <sup>25</sup>	<p>Pursuant to and subject to § 2.1 of the Boston SCA, following the Opening Date and throughout the term of the License for as long as Wynn, or any parent, subsidiary or related entity, owns, controls, or operates a commercial gaming facility at the Project Site, Wynn shall make an annual payment of \$2 million to Boston (the “Community Impact Fee”), subject to escalation pursuant to § 10.16 of the Boston SCA, for the purposes set forth therein.</p> <p>Pursuant to and subject to § 2.2 of the Boston SCA, the Commission has released to Boston at Wynn’s request Wynn’s check in the amount of \$1 million. If that check does not clear because of the passage of time since it was cut, Wynn shall promptly provide a replacement check in that amount to Boston.</p> <p>Pursuant to and subject to § 2.3 of the Boston SCA, the Community Impact Fee shall remain in the exclusive custody and control of Boston, and shall be used and applied at Boston’s sole discretion and determination toward any impact, infrastructure, improvement and/or mitigation measures related to the Project that Boston deems necessary and suitable.</p>	<p>Annually on or before the ninetieth (90th) day following the Opening Date.</p> <p>Completed.</p>

<sup>25</sup> Pursuant to and subject to §§ 2.1-2.3 of the Boston SCA, the Community Impact Fee may be used by the City for transportation mitigation or other purposes. Reference to this Community Impact Fee is included in this section because its potential uses include without limitation funding relative to transportation infrastructure impacts and the Sullivan Square Infrastructure Project (as defined in Section 7.4 of the Boston SCA) related to the Project.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<b>5. REVERE MITIGATION</b>		
	<p><b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b></p>	
Beach Street/Everett Street/Route 1A/Route 16/Route 60 Intersection (Bell Circle)	<ul style="list-style-type: none"> <li>• Upgrade/replace traffic signal equipment/signs/pavement markings.</li> <li>• Optimize traffic signal timing, phasing and coordination.</li> </ul> <p>As and to the extent set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p>	Prior to opening.
<b>6. CHELSEA MITIGATION</b>		
	<p><b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b></p>	
Route 16 (Revere Beach Parkway)/Washington Avenue	<ul style="list-style-type: none"> <li>• Replace traffic signal equipment.</li> <li>• Furnish new signs/pavement markings.</li> <li>• Optimize traffic signal timing, phasing and coordination.</li> </ul> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p>	Prior to opening.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
Route 16 (Revere Beach Parkway)/Everett Avenue <sup>26</sup>	Optimize traffic signal timing, phasing and coordination.	<u>Prior to opening.</u>
Route 16 (Revere Beach Parkway)/Webster Avenue /Garfield Avenue	Optimize traffic signal timing, phasing and coordination. As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at <u>this intersection</u> as applicable in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.	
Intersections not under MassDOT jurisdiction	<u>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersection is not under MassDOT jurisdiction:</u> <ul style="list-style-type: none"> <li>▪ <u>Williams Street/Chestnut Street Intersection.</u></li> </ul> If necessary, the determination of appropriate mitigation measures at this intersection should be made between <u>the Proponent</u> and the City of Chelsea.  <u>As an adjunct to the ongoing monitoring required under these Section 61 Findings, the Commission requests that Wynn investigate whether this location becomes the subject of significant additional cut-through traffic between Logan Airport and the gaming establishment. If it does, the Commission reserves the right to impose additional mitigation requirements on Wynn to address such significant additional cut-through traffic, including, without limitation, replacing traffic signal equipment;</u>	<u>Ongoing.</u>

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<sup>26</sup> The SSFEIR Certificate refers to this intersection in Chelsea and indicates that Wynn has committed to optimize traffic signal timing, phasing and coordination at this intersection. The MassDOT/MBTA/DCR Section 61 Findings (at pages 5-6) refer to this intersection in Chelsea and that Wynn will apply to MassDOT for a Vehicular Access Permit to implement improvements for modifications at this location; however, those Findings (at pages 4 and 16) list this intersection in Everett and indicate that “there are no feasible means to avoid or minimize the project’s traffic impacts at this location that the Proponent could be required to implement.” In public comments dated March 22, 2016, on the Commission’s draft Section 61 Findings, the Chelsea City Manager asked “that Wynn be required, as part of its traffic mitigation, to improve the Route 16/Everett Avenue intersection by means of replacing traffic signal equipment, installing new signage and pavement markings and optimizing traffic signal timing phasing and coordination.” These Final Section 61 Findings require that Wynn optimize traffic signal timing, phasing and coordination at this intersection as and to the extent authorized or required by MassDOT.



SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<u>installing new signage and pavement markings; and/or optimizing traffic signal timing, phasing and coordination. The implementation of any such measures at this intersection should be coordinated between Wynn and the City of Chelsea.</u>	
Other Intersections	As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at this location that Wynn could be required to implement: <ul style="list-style-type: none"> <li>• Route 16 (Revere Beach Parkway)/Union Street Intersection.</li> </ul>	N/A
Other Mitigation under Surrounding Community Agreement Arbitration Award	In addition to the MEPA mitigation measures described above, Wynn shall comply with the conditions in Chelsea Surrounding Community Agreement Arbitration Award in the form of Wynn's BAFO to Chelsea attached to the Report and Final Arbitration Award dated June 9, 2014 (the "BAFO"), including, without limitation the requirements of Section 5 regarding Transportation Impacts. Without limitation, subject to the terms and conditions thereof, Wynn shall make to Chelsea the Transitional Roads Payment pursuant to Section 5.2 thereof and the additional annual mitigation payment under Section 5.3 thereof.	Ongoing pursuant to schedule set forth in the BAFO.
<b>7. SOMERVILLE MITIGATION</b>		
<b>In accordance with the SSFEIR Certificate and (as applicable) as more particularly specified and conditioned in the Somerville Surrounding Community Agreement ("Somerville SCA"), Wynn shall comply without limitation with the following conditions:<sup>28</sup></b>		
Orange Line Subsidy	Wynn will provide an annual Orange Line operating subsidy to the MBTA to support additional passenger capacity on the Orange Line, discussed below, which	See below.

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<sup>28</sup> In Section 1.2 of the Somerville SCA, "The Parties acknowledge and agree that the proximity of the Project to the Assembly Row and Assembly Square developments may result in additional pedestrian and vehicular traffic in Somerville. The projects identified in the provisions in this Agreement regarding infrastructure improvements are intended to mitigate such impacts."

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	will directly benefit (without limitation) the residents, commuters and visitors to and from Assembly Station in Somerville <sup>29</sup> .	
Roadways	<p>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the Project's traffic impacts that the Project Proponent (Wynn) could be required to implement at the following locations:</p> <ul style="list-style-type: none"> <li>• I-93 Ramps/Route 38 (Mystic Avenue) Intersection.</li> <li>• I-93 NB Off-ramp/Route 28 (McGrath Highway) Intersection.</li> <li>• Route 38 (Mystic Avenue)/ Route 28 (McGrath Highway) Intersection.</li> <li>• Broadway/ Route 28 (McGrath Highway) Intersection.<sup>30</sup></li> </ul>	N/A.
Sullivan Square <sup>31</sup>	<p>Wynn will fund and undertake improvements to Sullivan Square in accordance with the SSFEIR Certificate and these Section 61 Findings.</p> <p>Wynn will comply § 5.2 of the Somerville SCA and these Section 61 Findings relative to developing a comprehensive traffic solution for Sullivan Square. See provisions regarding the Regional Working Group required by the SSFEIR Certificate and discussed below in these Section 61 Findings.</p> <p>As an adjunct to the ongoing monitoring required under § 7.1.B of the Boston SCA, the independent organization approved by the Commission should monitor traffic at</p>	<p>Prior to opening.</p> <p>Ongoing.</p> <p>Ongoing.</p>

<sup>29</sup> The Orange Line Subsidy also mitigates impacts relating to other Orange Line stations, such as Sullivan Square, in addition to Assembly Square.

<sup>30</sup> In § 1.2 of the Somerville SCA, Wynn agreed to complete any necessary improvements as determined in accordance with the MEPA process with respect to these intersections. However, as stated in Wynn's Response in the SSFEIR (at page 5-46) to Somerville's Comment 4 on the SFEIR, "[b]ased on the trip generation of the SFEIR, which was developed in consultation with and approved by MassDOT as outlined in their comment letter on the SFEIR, the impacts of the Project at Somerville intersections will be minimal. As determined in the FEIR, mitigation was not required at those intersections."

<sup>31</sup> Sullivan Square is located in Boston, not in Somerville. However, the Somerville SCA discusses mitigation with respect to Sullivan Square. As a result, this table briefly summarizes such mitigation, without in any way suggesting that Somerville has any jurisdiction over or standing with respect to such mitigation.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>the following intersection and, if there are material operational deficiencies at the monitored location caused by the two new signalized intersections associated with the Project’s mitigation measures, should recommend feasible mitigation measures, if any, to mitigate those deficiencies: Intersection of <u>Broadway / Mt. Vernon Street / Alfred A. Lombardi Way.</u></p>	
Wellington Circle <sup>32</sup>	<p>Wynn will fund and undertake improvements to Wellington Circle in accordance with the SSFEIR Certificate and these Section 61 Findings.</p> <p>Wynn will comply § 5.3 of the Somerville SCA and these Section 61 Findings relative to funding a study concerning permanent improvements to Wellington Circle, funding up to 25% or \$1.5 million of the concept design following the study, and cooperating with efforts by the relevant community or communities to seek future funding from the Transportation Infrastructure and Development Fund relative to Wellington Circle.</p>	<p>Prior to opening.</p> <p>Ongoing.</p>
Public Safety Mitigation Payment	<p>Pursuant to § 5.4 of the Somerville SCA, and contingent upon the receipt of a non-appealable License, Wynn will pay to Somerville an annual payment of \$250,000 (plus escalation per Exhibit B of the Somerville SCA) “to enable Somerville to fund staffing and other public safety initiatives related to increased pedestrian and vehicular traffic in Somerville and additional costs, if any, incurred in mutual aid responses to the Project.”</p> <p>Pursuant to § 5.4 of the Somerville SCA and with the specific conditions of these Section 61 Findings, Wynn will take steps to facilitate pedestrian and bicycle access along the Mystic River and Broadway.</p> <p>Pursuant to § 5.4 of the Somerville SCA and with the specific conditions of these Section 61 Findings, Wynn will coordinate signage on the Project to create</p>	<p>Annually per the requirements of the Somerville SCA.</p> <p>Ongoing.</p> <p>Ongoing.</p>

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<sup>32</sup> Wellington Circle is located in Medford, not in Somerville. However, the Somerville SCA discusses mitigation with respect to Wellington Circle. As a result, this table briefly summarizes such mitigation, without in any way suggesting that Somerville has any jurisdiction over or standing with respect to such mitigation.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	continuity for pedestrian and bicycle use of such pathways and will participate in regional efforts to enhance and develop such path ways.	
Water Transportation and Related Measures	<p>Pursuant to § 5.5 of the Somerville SCA and the specific conditions of these Section 61 Findings, and contingent upon the receipt of a non-appealable License, Wynn will pay Somerville an annual payment of \$150,000 (plus escalation per Exhibit B of the Somerville SCA) “to make certain improvements to facilitate water transportation and to fund staffing and other public safety initiatives related to increased use of water transportation.”</p> <p>Pursuant to § 5.5 of the Somerville SCA, Wynn will participate in regional discussions regarding a walk/bike connection across the Mystic River to be built on or in the direct vicinity of the dam structure and will consider, in good faith, contributing, with other neighboring communities and businesses, to the design and construction of a connection.</p>	<p>Annually per the requirements of the Somerville SCA.</p> <p>Ongoing.</p>
Limitation on Satellite Pickup/Drop-off Sites	Pursuant to § 5.6 of the Somerville SCA, except with Somerville's express permission, Wynn will not use any location in Somerville as a satellite pickup/drop-off site to and from the Project for its employees generally; provided, however, Wynn, in coordination with Somerville, may provide transportation for employees who are residents of Somerville. In addition, Wynn will not have stops for so-called “line-runs,” or regularly scheduled bus or shuttle routes, in Somerville, provided that, subject to meeting legal requirements, Wynn will be able to provide transportation to patrons which whom it has established a relationship and will be able to provide transportation home to any patron residing in Somerville.	Ongoing.
Remote Parking	Pursuant to § 5.7 of the Somerville SCA, except with Somerville's express permission, neither Wynn nor any of its affiliates, successors or assigns shall construct a satellite parking or other facility associated with the Project within Somerville.	Ongoing.
TIPS Program	Pursuant to § 5.8 of the Somerville SCA, Wynn will incorporate a training program (e.g., TIPS (Training Intervention Procedures and Services Program)) for alcohol servers and other employees.	Ongoing.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<b>8. CAMBRIDGE MITIGATION</b>	
Intersections	<p>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at this location that the Project Proponent (Wynn) could be required to implement:</p> <ul style="list-style-type: none"> <li>• Route 28 (Monsignor O'Brien Highway)/Edwin H. Land Boulevard/Charlestown Avenue Intersection.</li> </ul> <p>Notwithstanding this finding, Wynn shall comply with the conditions in the Cambridge Surrounding Community Agreement ("Cambridge SCA"), including, without limitation the requirements of § 4 regarding Transportation Impacts. Specifically, to address any adverse impacts with respect to this intersection and contingent upon the acceptance by Wynn of a non-appealable License, Wynn has agreed to pay to Cambridge a onetime payment of \$200,000 to enable Cambridge to study and/or make certain improvements to the identified intersection to address any adverse impacts resulting from the development or operation of the Project.</p>	One time, due (per the requirements of the Cambridge SCA) on or before the ninetieth (90th) day following the acceptance by Wynn of a non-appealable License for the Project.
<b>9.</b>	<b>TRANSPORTATION DEMAND MANAGEMENT STRATEGIES</b>	
	<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section VIII of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b>	
Transportation Demand Management Program	<p>In addition to the Long-term Commitment for Transportation Demand Management relative to Sullivan Square and Boston referenced above, Wynn shall implement the following Transportation Demand Management Program:</p> <ul style="list-style-type: none"> <li>• Pay Membership Fee with a Transportation Management Association.</li> <li>• Employ a designated Transportation Coordinator for the Project to coordinate efforts, monitor success rates, and manage strategic implementation of traffic reduction programs.</li> </ul>	At opening and ongoing.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Provide on-site sale of MBTA passes for employees and for guests of the Project, including on-site Full Service MBTA Fare Vending Machine.</li> <li>• Schedule employee shift beginnings and endings outside specified peak traffic periods.</li> <li>• Implement carpool/vanpool matching programs.</li> <li>• Disseminate promotional materials, including newsletters about TDM program in print at the Project’s on-site Transportation Resource Center, and online.</li> <li>• Provide patron Orange Line Shuttle Service to Wellington and Malden Center stations, 2 locations, 20 Minute Headways, 20 Hrs./day, 30-60 passenger vehicles.</li> <li>• Provide Employee Shuttle Buses 2 Locations, 20 Minute Headways, 24 Hrs./day.</li> <li>• Improve and provide access to MBTA bus stops along Lower Broadway.</li> <li>• Implement improvements to Wellington and Malden Center Stations to accommodate Wynn patron shuttle service at curbside.</li> <li>• Premium Park &amp; Ride Shuttle buses 3 Locations, 90 Minute Headways, 12 Hrs./day.</li> <li>• Provide Neighborhood Shuttle Continuous Loop, 20 Minute Headways, 24 Hrs./day.</li> <li>• Provide for potential future expansion of shuttle service to include service to Logan International Airport, North Station, and South Station and other major transportation hubs through coordination with Everett and the MBTA.</li> <li>• Provide water shuttle service to the Project Site, including associated docks and facilities and the use of customized ferry vessels to support passenger transport between the Project Site and key Boston Harbor sites.</li> <li>• Participate in the MBTA Corporate Pass Program to the extent practical and as allowable pursuant to commercial tenant lease requirements.</li> <li>• Furnish electric vehicle charging stations within the proposed parking garage.</li> <li>• Furnish car sharing services in the garage at the Project Site</li> <li>• Provide preferential parking for car/vanpools and alternatively fueled vehicles.</li> <li>• Provide a “Guaranteed-Ride-Home” in case of emergency to employees that</li> </ul>	

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	commute to the Project by means other than private automobile.	
<b>10. MBTA FACILITY IMPROVEMENTS &amp; LAND TRANSFER MITIGATION</b>		
	<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section VII of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall comply with the following conditions:</b>	
Wellington Station Improvements	<p>Wynn shall make multimodal improvements to MBTA’s Wellington Station including dedicated curb space for the patron shuttles, reconfiguration of the existing parking lot to support the construction of a fourth curb cut north of the existing/taxi/auto pick-up/drop-off area, and reconfiguration of the existing MBTA parking lot to create additional parking spaces.</p> <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Wellington Station Curbside Reconfiguration (Figure 2-13)” included in the SSFEIR, with such refinements thereto as are approved by the MBTA through the 100 percent design submission.</p>	Prior to opening.
Malden Center Station Improvements	<p>Wynn shall make multimodal improvements to MBTA’s Malden Center Station to accommodate shuttle bus service at curbside, associated bus layover space, and construction of a passenger shelter on MBTA property near the corner of the busway and Centre Street.</p> <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Malden Center Station Curbside Reconfiguration (Figure 2-14)” included in the SSFEIR, with such refinements thereto as are approved by the MBTA through the 100 percent design submission.</p>	Prior to opening.
Sullivan Square Bus Station Improvements	Wynn shall make multimodal improvements to at and adjacent to MBTA’s Sullivan Square Station. These improvements include creation of a new circulation pattern including the alteration and reconstruction of the existing busways and the	Prior to opening.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>reconfiguration of the parking field in front of the bus station; provision of a new signalized busway exit to accommodate right-turn movements, opposite the I-93 northbound off-ramp on Cambridge Street; construction of a new signalized entrance to allow buses to circulate into the station from Beacham Street Extension and Main Street; and provision of new bus shelters at the bus berths on the lower busway.</p> <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled "Sullivan Square Bus Station and Parking Reconfiguration (Figure 2-15)" included in the SSFEIR, with such refinements thereto as are approved by the MBTA through the 100 percent design submission.</p>	
Route 99 (Broadway) Transit Corridor Upgrades	<p>Wynn shall make multimodal circulation and accessibility upgrades to the Route 99 Corridor, substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled "Lower Broadway/ Alford Street (Route 99) Improvement Plan (Figure 2-12A, B, and C)" included in the SFEIR, with such refinements thereto as are approved by the MBTA in consultation with the City of Everett through the 100 percent design submission.</p> <p>In connection with these upgrades, Wynn shall provide all necessary equipment for the traffic signals and the MBTA buses that travel this route to support a bus priority system along the Route 99 corridor.</p> <p><u>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit ("RSA") along this corridor due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts along this corridor, the Proponent shall incorporate in the conceptual design plans for the corridor all the potential safety enhancements with "low" and/or "medium"</u></p>	Prior to opening.



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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<u>costs and with “short-term” and/or “mid-term” timeframes as listed in the RSA Report in Table 3: Potential Safety Enhancement Summary- Lower Broadway.</u>	
MBTA Everett Shops Improvements	Subject to the mitigation regarding the conveyance stated below, and subject to review and approval by the MBTA, Wynn shall make improvements to access, construct a new gatehouse, grant an access easement to MBTA for 365 days a year/24 hours a day access, and construct new loading docks at MBTA’s Everett Shops.	Prior to opening.
Mitigation regarding Conveyance of certain of MBTA Everett Shops Land	In accordance with the SSFEIR Certificate, and as stated in the MassDOT/MBTA/DCR Section 61 Findings, Wynn has worked with the MBTA to place into escrow a quitclaim deed to Wynn and payment for 1.758 acres of the MBTA Shops property as shown on an ANR Plan prepared by Feldman Land Surveyors dated January 7, 2014; and, upon issuance of the MassDOT/MBTA/DCR Section 61 Findings, the escrow agent will return the original Quitclaim Deed and Termination of Easement agreement to Wynn, the money to the MBTA; and any modifications will be subsequently recorded.	Escrow to remain in place until issuance of the final MassDOT/MBTA/DCR Section 61 Findings.
Orange Line Subsidy	Wynn shall provide to the MBTA an annual Orange Line operating subsidy to support additional passenger capacity on the Orange Line. The annual operating subsidy shall be calculated and paid in accordance with the MassDOT/MBTA/DCR Section 61 Findings regarding the MBTA Orange Line. The total subsidy is currently estimated at \$7.4 million, including escalation, over the 15 year term of the License.	Annually beginning after opening.
<b>11. OTHER TRANSPORTATION MEASURES</b>		
	<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall comply with the following conditions:</b>	

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<p>Transportation Monitoring Program</p>	<p>Wynn shall engage and pay for an independent organization approved by MassDOT to undertake a comprehensive transportation monitoring program. Monitoring shall commence prior to the initial occupancy of either hotel or gaming components of the Project, whichever occurs first, to establish a baseline, and will continue for a period of 10 years. <u>At least annually</u>, Wynn shall provide a <u>report on the</u> Transportation Monitoring Program to the Commission (with a copy to MassDOT), which will include without limitation a report on the implementation of the TDM program described herein. <u>Wynn shall provide more frequent reports as may be required from time to time by the Commission or MassDOT.</u></p> <p>The scope, locations, methodology, timing and frequency of the transportation monitoring program shall comply with the requirements of the MassDOT/MBTA/DCR Section 61 Findings, and may be adjusted by MassDOT as necessary to ensure that the geographic extent of the data collected is sufficient to measure the impact of the Project and to reflect changes in the transportation system that may occur after the completion of the Project. The transportation monitoring program shall include Roadway Data Collection, <u>Capacity Analyses</u>, Parking Data Collection, Public Transportation Data Collection, and a Travel Mode Analysis, all as specified by the MassDOT/MBTA/DCR Section 61 Findings and adjusted from time to time by MassDOT as necessary.</p> <p><u>Without limitation, this monitoring shall be done at the locations, for the time periods and in accordance with the requirements and methodology specified by MassDOT and the MassDOT/MBTA/DCR Section 61 Findings, and will include the following additional intersections:</u></p> <ul style="list-style-type: none"> <li>• <u>Broadway / Mt. Vernon Street / Alfred A. Lombardi Way (Somerville)</u></li> <li>• <u>Williams Street / Chestnut Street (Chelsea)</u></li> </ul> <p><u>At these additional intersection, Wynn shall conduct peak period manual turning movement counts, vehicle classification, and pedestrian/bicycle counts on a Thursday and Friday between 4:00 PM-6:00 PM and on a Saturday between 2:00 PM-5:00 PM. The Commission may require additional data to be collected if the Commission determines that the submitted data are insufficient.</u></p>	<p>Prior to the initial occupancy (to establish a baseline), and continuing for a period of 10 years.</p>

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>Wynn shall comply with the requirements for both the transportation monitoring program required by the MassDOT/MBTA/DCR Section 61 Findings and with the transportation monitoring program required by § 7.1.B of the Boston SCA as incorporated above in the Commission’s Section 61 Findings and in the License; provided, however, that Wynn shall work cooperatively with MassDOT, DCR, the City of Boston and the Commission to avoid unnecessary duplication of effort or any conflicting requirements.</p> <p><u>The Commission will review the monitoring results to determine whether the mitigation triggers listed in § 7.1.B of the Boston SCA have been exceeded and whether additional data should be collected; and the Commission reserves the right to determine the appropriate mitigation in the event there are any such operational deficiencies or imminent traffic problems associated with traffic to and from the Gaming Establishment, including but not limited to those additional mitigation measures listed in § 7.1.B of the Boston SCA. If the additional mitigation measures involve changes to roadways, intersections, or traffic signals under the jurisdiction of the City of Boston, Wynn shall cooperate with Boston concerning the permitting and implementation of the additional mitigation measures, pursuant to the Boston SCA.</u></p> <p><u>See also Long-term Commitment Transportation Demand Management relative to Sullivan Square and Boston, in § VIII.F.4 above.</u></p>	
Mystic River Pedestrian-Bicycle Bridge Feasibility Study	Wynn shall provide \$250,000 to DCR for planning and engineering services for a possible pedestrian bridge crossing of the Mystic River linking Somerville and Everett.	Prior to opening.
Water Transportation Vessels	Wynn shall: <ul style="list-style-type: none"><li>• Provide dock facilities and customized ferry vessels to support passenger water transportation service between the Project Site and key Boston Harbor landing sites;</li><li>• Provide a touch and go dock for transient boat access to the Project Site;</li></ul>	At opening.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• <u>Consistent with Section 4.5.1.1 of the FEIR, provide water transportation level of service consisting of at least three custom-built, 49-passenger vessels, operating at different frequencies, as listed in the FEIR (subject to adjustment based on customer demand to support Wynn’s overall mode share, and except when impracticable due to weather conditions);</u></li> <li>• <u>Ensure that customized passenger vessels supporting water transportation service to and from the Gaming Establishment are designed and built to be able to pass safely under the Alford Street (Rt-99) Draw Bridge across the Mystic River, mile 1.4, between Boston and Everett, at high tide in the closed position;</u></li> <li>• <u>Implement reasonable restrictions to prohibit or discourage patrons arriving to or departing from the Gaming Establishment in private vessels that would cause the Alford Street (Rt-99) Draw Bridge to open during or affecting peak vehicular transportation hours on Alford Street and in Sullivan Square.</u></li> </ul>	<u>At opening and Ongoing.</u>
Annual Monitoring and Reporting Program	Without limiting the transportation monitoring programs required by the MassDOT/MBTA/DCR Section 61 Findings and by § 7.1.B of the Boston SCA Wynn shall also conduct a post-development traffic monitoring and employee survey program ( <u>including without limitation vehicular, public transit, and ferry service</u> ) in order to evaluate the adequacy of transportation mitigation measures including the TDM program for \$30,000 annually.	At opening and Ongoing.
<b>12. WASTEWATER, WATER USE, AND WETLANDS AND WATERWAYS MEASURES</b>		
	<b>In accordance with the Secretary’s applicable Certificates and MWRA’s, DEP’s and MassDOT/MBTA/DCR’s respective Section 61 Findings, Wynn shall comply with all of the following mitigation measures and conditions:</b>	
Wastewater	<ul style="list-style-type: none"> <li>• Implement or fund sewer system improvements that remove Infiltration and Inflow (“I/I”) equivalent to 4 gallons removed for every gallon of new wastewater generated (currently estimated at 283,489 GPD);</li> <li>• Assist in modifications to regional wastewater infrastructure modifications that will reduce the incidence of combined sewer overflows (“CSOs”) into the</li> </ul>	Prior to opening as to I/I and ongoing as to CSOs.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	Mystic River associated with the Cambridge Sewer Branch, including the installation of grease traps and gas/oil separators.	
Water use	<ul style="list-style-type: none"> <li>• Follow Leadership in Energy and Environmental Design (“LEED”) standards of Gold or higher, and incorporate water conservation measures that are intended to reduce the potable water demand on the MWRA water supply system;</li> <li>• Utilize water-efficient plumbing fixtures, low-flow lavatory faucets and shower heads;</li> <li>• Through rainwater harvesting, grey water reuse and the installation of alternatives to natural turf landscaping, the Project will further reduce water demand and use;</li> <li>• Include extensive indoor and outdoor landscaping;</li> <li>• Utilize timers, soil moisture indicators and rainfall sensors to reduce potable water use on landscaping.</li> </ul>	During construction.
Wetlands, waterways, and water quality certification	<ul style="list-style-type: none"> <li>• Remediate, revegetate and enhance 550 linear feet of existing shoreline with enhanced “living shoreline;”</li> <li>• Remove invasive vegetation and planting of native herbaceous and shrub vegetation along part of existing Coastal Bank and Riverfront Area;<sup>33</sup></li> <li>• Consult with MassDEP to develop specifications for the living shoreline and bank restoration.;</li> <li>• Transform 10,900 +/- SF of disturbed Coastal Beach/Tidal Flats, Coastal Bank, and Riverfront Area to Salt Marsh;</li> <li>• Clean up debris within the Land Under the Ocean, Coastal Beach and Coastal Bank resource areas;</li> <li>• Dredge to remove contaminated sediments from the harbor bottom to provide ample draft for water transportation, recreational vessels and a proposed floating</li> </ul>	During construction and prior to opening.

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<sup>33</sup> The terms “Land Under the Ocean,” “Coastal Beach and Tidal Flats,” “Coastal Bank,” “Land Containing Shellfish,” Salt Marsh,” “Riverfront Area,” and “Land Subject to Coastal Storm Flowage” have the meaning given to them in the Massachusetts Wetlands Protection Act and its regulations, 310 CMR 10.21-10.37. See FEIR § 3.1.1.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>dock;</p> <ul style="list-style-type: none"> <li>• Replace existing bulkhead and construction of new bulkheads within areas of existing degraded Coastal Beach and Coastal Bank areas;</li> <li>• Ensure that the ground floor of the Gaming Establishment will be a facility for public accommodation;</li> <li>• Construct high quality landscaped open space along the edge of the Mystic River and the existing degraded Coastal Bank, Buffer Zone and Riverfront Area, including a harborwalk with high-quality amenities along the edge of the Mystic opening this site to public access and connecting it to Lower Broadway to the east;</li> <li>• Create a Gateway Park Connector multi-use path with benches, lighting, signage, plantings, and other amenities, linking the harborwalk on the Project Site under the MBTA rail line through to the DCR's Gateway Park to the west along the Mystic River, including bicycle and pedestrian connections;<sup>34</sup></li> <li>• Provide a pile-supported pier/walkway, a gangway, and Americans with Disabilities Act-compliant floating water transportation dock designed to support future water transportation service to Downtown Boston and other regional water transportation destinations, as well as transient vessels;</li> <li>• Develop an attractive public destination for water dependent uses along the waterfront, including significant open space, outdoor seating, viewing areas, a gazebo and public docks;</li> <li>• Further consider opportunities to improve shellfish resources at appropriate locations in consultation with the Division of Marine Fisheries ("DMF").<sup>35</sup></li> </ul>	
Public Access	<ul style="list-style-type: none"> <li>• As stated above regarding Other Transportation Measures, provide \$250,000 to DCR for planning and engineering services related to an investigation of a</li> </ul>	Prior to opening.

<sup>34</sup> According to the MassDOT/MBTA/DCR Section 61 Findings, "DCR understands the value of the improvements to DCR's Gateway Park will total \$2,000,000 and will be provided prior to site occupancy."

<sup>35</sup> The Commission notes that this measure it encouraged, but not required by SFEIR Certificate.

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	<p>potential pedestrian bridge crossing of the Mystic River linking Somerville and Everett.</p> <ul style="list-style-type: none"> <li>• Participate in a process to study the feasibility of extending the Northern Strand Community Trail to Everett.</li> <li>• Provide over 190,000 sq. ft. of facilities for public accommodation to provide destinations and activation of the Project Site.</li> <li>• Provide 2 acres more open space than required by G.L. c. 91.</li> </ul>	<p>During construction/prior to opening, and ongoing.</p>
<p>Re-purpose Adjacent Waterfront Real Property</p>	<p>Pursuant to and subject to § 8.6 of the Boston SCA, Wynn shall pay to Boston \$250,000 for the purpose of covering Boston's legal, engineering and other professional services to be incurred by Boston under said § 8.6 in an effort to re-purpose the waterfront real property adjacent to and within the vicinity of the Project Site [i.e. the Boston Water and Sewer Commission's Material Handling Facility] and to return such waterfront real property to public access.</p>	<p>One-time payment prior to opening.</p>
<p>Stormwater</p>	<ul style="list-style-type: none"> <li>• Implement a stormwater management system that will improve the quality of runoff on-site. These measures include: <ul style="list-style-type: none"> <li>○ On-site mitigation measures: <ul style="list-style-type: none"> <li>▪ Two new outfalls will discharge treated stormwater into the Mystic River;</li> <li>▪ Green Roof installation;</li> <li>▪ Best Management Practices ("BMPs") such as pavement sweeping, deep sump catch basins, tree box filters, filtering bioretention areas, four (4) proprietary stormwater separators, and stormwater media filters. These BMPs will be designed to remove at least 80% of the average annual load of Total Suspended Solids; and</li> <li>▪ Catch basins, silt fences, hay bales and crushed stone will be used during construction to prevent sediment removal from entering runoff;</li> </ul> </li> <li>○ Offsite mitigation measure associated with transportation improvements will include bioretention or subsurface infiltration chambers, deep sump catch basins or proprietary stormwater separators.</li> </ul> </li> <li>• Prepare a Stormwater Pollution Prevention Plan (SWPPP) in support of a Notice of Intent (NOI) filing with the EPA for coverage under NPDES Construction</li> </ul>	<p>Prior to opening.</p>

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	General Permit (CGP); <ul style="list-style-type: none"> <li>Incorporate new stormwater management systems in compliance with applicable requirements of State and City of Everett Stormwater Management Standards. The SWPPP and long-term stormwater improvements will provide stormwater mitigation measures to be implemented both during and after construction to improve water quality; and</li> <li>Portions of the Project Site which currently drain into the MBTA 36-inch storm drain under existing conditions will be re-directed to the Project's stormwater management system.</li> </ul>	
<b>13. GREENHOUSE GAS AND AIR QUALITY IMPACTS</b>		
MassDEP Air Plan Approval or Environmental Results Program/Greenhouse Gas Reductions	<ul style="list-style-type: none"> <li>Design the Project buildings to be certifiable under a LEED rating of Gold or higher;</li> <li>Operate utilizing a series of best operating practices consistent with LEED principles to maintain the energy use, water efficiency, atmospheric, materials and resources use, and indoor air quality goals;</li> <li>Comply with the Energy Stretch Code adopted by the City of Everett pursuant to the Green Communities Act of 2008;</li> <li>Provide a self-certification to the MEPA Office regarding compliance with GHG reductions upon completion of construction;<sup>36</sup></li> <li>Provide a lighting plan, <u>approved by the City of Everett</u>, for the Commission's review, <u>and demonstrate to the Commission that the plan is reasonably consistent with the proposed LEED certification</u>;</li> </ul>	During construction and post occupancy.

<sup>36</sup> The MassDOT/MBTA/DCR Section 61 Findings, incorporated herein by reference, provide that the Self Certification shall be (a) signed by an appropriate professional (e.g. engineer, architect, general contractor); (b) attest that Wynn has incorporated into the project all the GHG mitigation measures, or their equivalent, that were committed to in the EIRs to achieve the proposed stationary GHG emission reduction; (c) supported by as-built plans and shall include an update with respect to those measures that are operational in nature (i.e. TDM program, recycling, Energy Star-rated equipment, etc.); and (d) include any changes to these measures from those identified in the EIRs, the schedule for implementation of all measures, and how progress toward achieving these measures will be advanced, if not currently implemented. The Self Certification and all supporting plans and documents shall be provided to the MEPA office (with a copy to the Commission) within three (3) months of the completion of the Project.



SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Commit to a comprehensive list of Energy Efficiency Measures (EEM) that are predicted to reduce CO2 emissions 27.4%.<sup>37</sup> These proposed EE measures include:               <ul style="list-style-type: none"> <li>○ Installing street trees and lighting;</li> <li>○ Cool roofs;</li> <li>○ Central chiller plant with better efficiency than Code;</li> <li>○ Demand Control Ventilation (DCV) for the casino, public entertainment, and retail areas;</li> <li>○ Energy Recovery Ventilation (ERV) to reduce chiller energy use;</li> <li>○ Building envelopes with roof and window insulation better than Code;</li> <li>○ Skylights over the entry atrium and along the retail promenade (daylighting controls will be tied to this extensive system of skylights);</li> <li>○ Lower light power density 20% better than Code;</li> <li>○ Low-energy Electronic Gaming Machines;</li> <li>○ Metal halide lighting for all parking structures;</li> <li>○ High efficiency elevators with regenerative VVVF drives and LED lights;</li> <li>○ Demand Control Exhaust Ventilation (DCEV) with variable frequency drive (VFD) fans for enclosed parking structures;</li> <li>○ Kitchen and restaurant refrigeration energy efficiency design to reduce energy use;</li> <li>○ Energy-STAR appliances;</li> <li>○ Enhanced building commissioning; and</li> <li>○ Occupancy controls for non-occupied or infrequently occupied spaces.</li> </ul> </li> <li>• Install a photo-voltaic system on the podium building roof or other location, and/or purchase from local service providers of green power of annual electric consumption equaling 10% or more of the Project's annual electric consumption;</li> <li>• Improve intersections to reduce vehicle idling and TDM measures to reduce trips will reduce Project-related motor vehicle CO2 emissions by 13.0%. When</li> </ul>	

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<sup>37</sup> The SSFEIR lists two different reduction goals depending on which ASHRAE standards are used. The higher standard is listed here.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>combined, (stationary source plus transportation), the Project's total CO2 emissions reductions are 25.7% percent compared to the Base Case;</p> <ul style="list-style-type: none"><li>• Install cogeneration plan using a nominal 1-MW microturbine, providing approximately 20% of the Project's annual electrical consumption and significant amounts of absorption cooling, heat and hot water. Wynn will consult with MassDEP regarding the system prior to filing a permitting application.</li><li>• Consider additional improvements in energy efficient design and expansion of commitment to renewable energy;<sup>38</sup></li><li>• Consider electronic gaming machine energy use and provide information to EOEEA and the Commission regarding same;<sup>39</sup></li><li>• Plan for and account for the effects of Sea Level Rise by elevating the proposed structures non-service and garage floor elevations to 15 to 16 feet above the 100-year flood level. The Project will also incorporate the following design criteria:<ul style="list-style-type: none"><li>o Parking garages entrances and other openings into below grade spaces will be elevated a minimum of 3.35 feet above the 100-year flood level, or will be sufficiently flood proofed to avoid damage from coastal storms;</li><li>o Critical infrastructure and HVAC equipment will be elevated above projected flood levels;</li></ul></li><li>• Consider additional measures during subsequent design phases, including, but not limited to: rain gardens and swales; protection for service equipment (HVAC, electrical, fuel, water, sewage), installation of back-water flow valves and sump pumps; protection of entrances from snow and ice; enhanced building insulation; cool/green roofing; resilient back-up power and systems; backup power sources for elevators; insulation of refrigeration equipment and elevation of utility hook-ups, mechanical devices, electrical service panel, water heaters,</li></ul>	

<sup>38</sup> The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.

<sup>39</sup> The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	and IT services above potential flood levels.	
<b>14. HAZARDOUS WASTE</b>		
Hazardous Waste Remediation	<ul style="list-style-type: none"> <li>• Remediation of areas of significant soil contamination, including soil removal and soil stabilization, will be initiated by Wynn at the commencement of Project construction and will be substantially completed in the first phase of Site construction (approximately 6 months);</li> <li>• During subsequent construction of the Project elements (casino, hotel, and retail buildings, site roadways and utilities, and waterfront improvements), additional contaminated soil will be removed, and Wynn will manage additional soil excavation and groundwater dewatering in accordance with the MCP;</li> <li>• All Project facilities, including the public harbor walk and other waterfront open space amenities, will be fully suitable for planned recreational and visitor uses;</li> <li>• Any hazardous materials excavated during construction will be managed in accordance with MassDEP guidelines, addressed, and disposed of accordingly, including treatment where applicable;</li> <li>• The parking garage will be waterproofed and designed to resist hydrostatic uplift pressures so that permanent, long term dewatering is not required. Dewatering will be required during construction and will be conducted pursuant to a Remediation General Discharge Permit under the NPDES program; and</li> <li>• Comply with G.L. c. 21E and the MCP in all areas of the Project including construction of the service road and shared entrances.</li> </ul>	Prior to opening/as permitted under MCP.
<b>15. CONSTRUCTION MITIGATION</b>		
Traffic and Transportation	<ul style="list-style-type: none"> <li>• Implement phased starting of trades to off-peak hours, 7:00 a.m. and earlier starts;</li> <li>• Utilize lean building practices to maximize off-site prefabrication;</li> <li>• Develop separate construction staging and traffic management plans for these improvements as part of their respective construction bid documents;</li> <li>• The relocation of utilities to Gateway Center, which include water, electrical and communications, will be coordinated with the foundations of the Project garage;</li> </ul>	During construction.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• On-site parking by construction workers will be minimized. Most personal vehicles will be restricted from parking at or around the construction site so as to reduce the impact to traffic;</li> <li>• Worker parking shall not be allowed on site except for company vehicles required to perform the work;</li> <li>• Off-site locations at which construction workers can park will be provided with shuttle bus services for worker transportation to and from the Project Site;</li> <li>• Due to the proximity of public transit systems, employees will be encouraged to use the MBTA. In addition, Wynn will offer carpooling incentives;</li> <li>• The Project will provide an off-site area at which trucks may be staged. Truck routes will be coordinated before the start of construction, and the Construction Manager will routinely check truck routes to ensure compliance with the approved plan;</li> <li>• The Construction Manager will establish and maintain designated material staging and delivery areas;</li> <li>• Given the existing traffic patterns, right-turns onto and off of the Project Site through the main site entrance are anticipated;</li> <li>• Wheel wash stations will be installed and maintained at construction site exits by the Construction Manager as needed. Street sweeping/vacuuming of all impacted City streets and sidewalks shall be performed by the Construction Manager on an as needed basis;</li> <li>• <u>As set forth in FEIR § 12.2.12, and subject to the reasonable direction of the Police Chief, there</u> will be full-time police detail at the site entrance to facilitate the safe delivery of materials to and from the site with as little disruption to the traffic on Lower Broadway as possible. As needed, police details will control the traffic signals along Lower Broadway to facilitate traffic movements near the Project Site;</li> <li>• Secured fencing and barricades will be used to isolate construction areas on the Project Site from pedestrian and vehicle traffic.</li> </ul>	
Utilities	<ul style="list-style-type: none"> <li>• Existing utility tunnels under the MBTA Commuter Rail are anticipated to be reused to minimize disruption to rail service and operation. The construction of</li> </ul>	During construction.

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SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	utilities servicing the Project primarily will take place on-site; <ul style="list-style-type: none"> <li>• Connections to the water main and sanitary sewer in Broadway will occur during off peak hours; and</li> <li>• The stormwater management system will be functional prior to installing binder course in the service area or entry drive.</li> </ul>	
Air quality	<ul style="list-style-type: none"> <li>• The contractors will implement dust control measures during active construction. The selection of specific dust control measures will be activity dependent, but the following types of control measures will be implemented:               <ul style="list-style-type: none"> <li>○ Road and construction area watering;</li> <li>○ Chemical stabilization;</li> <li>○ Sand fencing</li> <li>○ Wind speed control;</li> <li>○ Perimeter sprinklers;</li> <li>○ Tire washing stations;</li> <li>○ On-site speed controls;</li> <li>○ Covered stockpiles; and</li> <li>○ Street sweeping.</li> </ul> </li> <li>• Additional air quality measures to reduce air emissions will include low-sulfur diesel in construction equipment, retrofit equipment as needed, and prohibiting excessive idling (per 310 CMR 7.11); and</li> <li>• If on-site material crushing activities will take place, appropriate notifications will be made at least 30 days prior to the commencement of such activities to local officials and to MassDEP in accordance with 310 CMR 16.05(3)(e)(6).</li> </ul>	During construction.
Noise and vibration	<ul style="list-style-type: none"> <li>• Instituting a program that includes allowable construction timeframes to ensure compliance with the local requirements;</li> <li>• Locating stationary noise sources, including staging areas, as far a possible from noise-sensitive receptors;</li> <li>• Constructing artificial or using natural barriers to shield construction noise;</li> <li>• Combining noisy operations to occur in the same time period (the total noise level produced will not be substantially greater than the level produced if the operations were performed separately);</li> </ul>	During construction.

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	<ul style="list-style-type: none"><li>• Using properly maintained equipment mufflers and providing enclosures on equipment operating continuously;</li><li>• Turning off idling equipment;</li><li>• Using quieter alternatives for equipment where feasible;</li><li>• Selecting a quieter construction operation and technique where feasible;</li><li>• Monitoring noise levels during the construction period to demonstrate compliance;</li><li>• Conducting baseline noise level monitoring prior to construction and periodic monitoring of noise levels during construction. Noise monitoring shall be conducted at the site perimeter locations and locations near adjacent buildings;</li><li>• Work activities that generate unavoidable excessive noise will be included in the two-week look-ahead schedule submitted by the construction managers;</li><li>• Project specifications will include vibration limits to avoid potential damage to nearby utilities, buildings, and the adjacent rail line; and</li><li>• If necessary to reduce vibration levels, pile locations proximate to sensitive structures will be pre-augured.</li></ul>	
Stormwater and Erosion and Sediment Control	<ul style="list-style-type: none"><li>• Storm water pollution prevention measures will include good housekeeping such as properly storing materials, spill prevention and response plans, and proper storage and disposal of solid wastes;</li><li>• The Construction Manager will be responsible for preventing the tracking of sediments beyond the construction site and for controlling dust by using stabilized construction exits, street sweeping, and watering if necessary;</li><li>• Temporary construction dewatering discharges will be appropriately controlled and discharged in accordance with the NPDES, state, and local dewatering standards;</li><li>• Erosion and sediment risks will be reduced by avoiding prolonged exposure of bare soil, providing temporary and permanent stabilization as soon as practical, controlling storm water runoff, installing sediment and erosion controls, and providing frequent inspections and maintenance;</li><li>• Erosion and sediment controls will be installed prior to any earth disturbing activities;</li></ul>	Prior to and during construction.

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	<ul style="list-style-type: none"> <li>• BMPs must be employed to control storm water flows through the Project Site and avoid the transport of sediments off site and towards surface waters or onto local roads. These may include silt fencing, hay bales, compost filter berms, sediment traps, check dams, diversion swales, sediment basins and/or settling tanks, and drain inlet protections;</li> <li>• Stockpile area(s) will be designated on-site. Stockpiles of off-site fill will be stabilized with temporary seeding and mulching, or provided with a tarp to prevent blowing dust, if the soil will not be used within a 14-day period;</li> <li>• Stockpiles of on-site fill will be covered with polyethylene sheeting to prevent dust migration, and hay bales or silt fence may be placed around the perimeter of the stockpiles to prevent the migration of soils during rain events;</li> <li>• Soil stabilization will be initiated immediately after earth-disturbing activities have permanently or temporarily ceased. Temporary stabilization will be provided as soon as possible, but no later than 14 days after construction activity ceases on any particular area;</li> <li>• Areas at final grade will be provided with permanent plantings or seeding prior to the opening of the Project;</li> <li>• These control measures will be specific to the contractor’s equipment, construction activity, and seasonal variability; and</li> <li>• Inspections will be performed in accordance with the SWPPP to be prepared for the Project. This includes inspection by a qualified individual of storm water controls, stabilization measures, disturbed areas, storage areas, and points of discharge at least every 7 days and within 24 hours of a storm event of ½ inches or greater.</li> </ul>	
Infrastructure Protection	<ul style="list-style-type: none"> <li>• Existing public and private infrastructure located within the public right-of-way will be protected during construction;</li> <li>• Existing infrastructure within easements on the Project Site will be protected or relocated with the coordination of the utility companies prior to the start of construction;</li> <li>• The Construction Manager will notify utility companies and call “Dig Safe” prior to excavation;</li> </ul>	Prior to, during and after construction.

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	<ul style="list-style-type: none"> <li>• The Construction Manager will be required to coordinate all protection measures, temporary supports, and temporary shutdowns of all utilities with the appropriate utility owners and/or agencies;</li> <li>• The Construction Manager will be required to provide adequate notification to the utility owner prior to any work commencing on their utility;</li> <li>• Wynn shall prepare and submit for review by MWRA a construction plan, calculations and an analysis of the MWRA's pipeline (prepared by a professional engineer licensed in the State of Massachusetts), which shall take into consideration the contractor's equipment, including vibration machines that would be used over MWRA's pipeline in instances where the existing roadway surface will be completely excavated away removing the protection of the HS-20 surface loading barrier; and Wynn will be required to upgrade existing water or sewer infrastructure to protect these facilities during and after construction. See MWRA Section 61 Findings (pp. 4-5);</li> <li>• Wynn will conduct additional survey work, test pits and vacuum excavation to precisely identify the locations of utilities and construction monitoring and post construction surveys to ensure the integrity of MWRA infrastructure. See MWRA Section 61 Findings (p. 6);</li> <li>• In the event a utility cannot be maintained in service during switch over to a temporary or permanent system, the Construction Manager will be required to coordinate the shutdown with the utility owners and project abutters to minimize impacts and inconveniences;</li> <li>• Measures for proposed dredging and waterfront infrastructure installations will include providing floating debris barriers and turbidity curtains for water work; and</li> <li>• Measures for dredging would include the use of an environmental style bucket to minimize turbidity, and monitoring turbidity in accordance with federal, state, and local permit approvals.</li> </ul>	
Recycling program	<ul style="list-style-type: none"> <li>• Construction waste material from demolition and new construction will be recycled when possible;</li> <li>• The disposal contract will include specific requirements that will ensure that</li> </ul>	During construction.



SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>construction procedures allow for the sufficient space for the necessary segregation, reprocessing, reuse, and recycling of materials; and</p> <ul style="list-style-type: none"> <li>• For those materials that cannot be recycled, solid waste will be transported in covered trucks to an approved solid waste facility, per MassDEP's Regulations for Solid Waste Facilities, 310 CMR 16.00. This requirement will be specified in the disposal contract.</li> </ul>	
Pest Control and Wildlife	<ul style="list-style-type: none"> <li>• The extermination of rodents will be required prior to demolition, excavation, and foundation installation;</li> <li>• Proposed work within the tidal zone and below MLW will be subject to time of year restrictions from the Massachusetts Division of Marine Fisheries, which are intended to protect migratory fish as they travel up and down river and to protect winter flounder spawning and nursery habitat; and</li> <li>• Channel dredging operations will be conducted only during those times of the year permitted by state and federal agencies, so as to reduce possible adverse impacts to ecological populations within the dredged area.</li> </ul>	Prior to and during construction.
Laundry Effluent	<ul style="list-style-type: none"> <li>• Obtain and comply with the conditions of a sewer discharge permit prior to and while discharging laundry wastewater into the MWRA sewer system. See MWRA Section 61 Findings (pp. 6-7).</li> </ul>	Prior to discharging laundry wastewater into the MWRA sewer system.

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## IX. REGIONAL WORKING GROUP

The SSFEIR Certificate requires Wynn to participate in and provide a proportionate share of funding for a Regional Working Group<sup>40</sup> with MassDOT to assess and develop long-term transportation improvements to support sustainable redevelopment and economic growth in and around Sullivan Square.<sup>41</sup> The Regional Working Group will be led by MassDOT and include, among others, the Executive Office of Housing and Economic Development, MAPC, DCR, Wynn, and the cities of Boston, Everett, and Somerville. See Section VIII of the MassDOT/MBTA/DCR Section 61 Findings entitled “Sullivan Square and Rutherford Avenue Planning Process.” The Commission requires Wynn to participate in the Regional Working Group process as a condition of these Section 61 Findings and of the License. However, as the Secretary has concluded in the SSFEIR Certificate, “the practical, rational and effective approach to addressing broader regional transportation impacts for this project is through enhanced transportation planning processes, not through the prism of this single project.” As a result, the Commission will not require completion of long-term infrastructure improvements implemented as a result of the Regional Working Group process prior to opening of the Gaming Establishment pursuant to G.L. c. 23K. In accordance with these Section 61 Findings, the License will include a reopener pursuant to 205 CMR 120 if it is necessary for the Commission to adjust Wynn’s contribution to either the proportionate share of funding for a Regional Working Group, or the long-term infrastructure improvements to be implemented as a result of the Regional Working Group process, or both.<sup>42</sup>

Finally, Wynn shall use its best efforts to work with the MBTA, MassDOT, and DCR on any future plans to create mass transit opportunities that serve the Gaming Establishment, including

<sup>40</sup> As the Attorney General notes in her public comments dated April 11, 2016, the Regional Working Group was originally named the Sullivan Square Working Group. It changed its name to the Lower Mystic Valley Working Group; however, its primary focus largely remains on Sullivan Square. These Section 61 Findings refer to the group as the Regional Working Group.

<sup>41</sup> Pursuant to § 7.3 of the Boston SCA, Wynn has committed to provide \$250,000 in funding to support the Regional Working Group. As the SSFEIR Certificate requires Wynn to provide a proportionate share of funding for the Regional Working Group, this \$250,000 contribution shall not be deemed to be a cap on Wynn’s contribution if its proportionate share is determined to exceed this amount. Rather, as a condition of these Section 61 Findings, to be incorporated as a condition of the License, Wynn shall contribute \$250,000 or (if larger) its overall proportionate share consistent with the SSFEIR Certificate to the Regional Working Group regardless of whether that overall proportionate share exceeds \$250,000. Any amount due in excess of \$250,000 will be calculated and paid annually unless otherwise specified by the Commission in a reopener pursuant to 205 CMR 120.

<sup>42</sup> Pursuant to §§ 7.1A of the Boston SCA, Wynn shall be fully responsible for the costs of implementing the Mitigation Improvements, defined therein, which are currently estimated to cost Eleven Million Dollars (\$11,000,000). In addition, pursuant to and subject to Section VIII.F.4 of these Final Section 61 Findings and §§ 7.3, 7.4 and 7.5 of the Boston SCA, Wynn is required to make substantial payments toward the Sullivan Square Infrastructure Project and toward the Boston Community Impact Fee. To the extent those payments toward the Mitigation Improvements, Sullivan Square Infrastructure Project and Boston Community Impact Fee are made and used toward long-term transportation mitigation and infrastructure improvements in and around Sullivan Square, those payments shall be counted toward Wynn’s fair proportionate share of the capital costs of the long-term infrastructure improvements to be implemented as a result of the Regional Working Group process.

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without limitation working with the MBTA, MassDOT and DCR on right of way issues. Wynn shall consider making a reasonable contribution as may be determined by the Commission to the cost of implementation of such mass transit opportunities.

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## X. FINDINGS

Pursuant to G.L. c. 30, § 61, and 301 CMR 11.12(5), the Commission finds that all feasible measures have been taken to avoid or minimize impacts of the Project and damage to the environment. Specifically the Commission finds that:

1. Environmental impacts resulting from the proposed Project within the scope of MEPA are those impacts described in the FEIR, SFEIR, and SSFEIR, and the corresponding Secretary's Certificates regarding each.
2. Wynn shall comply with and implement (a) all conditions in the Commission's conditional License for the Project (except those conditions that have been expressly modified and amended by the Commission's action on the Boston SCA), (b) the terms and conditions of the Mitigation Agreements, (c) the mitigation measures described in these Section 61 Findings, and the applicable provisions of the FEIR, the SFEIR, the SSFEIR, and the Secretary's corresponding Certificates regarding the same, (d) the final Section 61 Findings and conditions issued by other State Agencies in their respective final Agency Action on the Project, and (e) all conditions imposed by the Commission in its final Agency Action and final License for the Project pursuant to 205 CMR 120.02(1)(a).
3. Appropriate conditions will be included in any final License issued for the Project pursuant to 301 CMR 11.12(5)(b) and 205 CMR 120 to ensure implementation of the conditions and mitigation measures identified herein.
4. The Commission will establish a schedule for and conduct a regular quarterly review of compliance with the Section 61 Findings and the conditions of the Gaming License.

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Gayle Cameron, Massachusetts Gaming Commission      Date

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Bruce Stebbins, Massachusetts Gaming Commission      Date

\_\_\_\_\_  
Enrique Zuniga, Massachusetts Gaming Commission      Date

**MASSACHUSETTS GAMING COMMISSION  
SECTION 61 FINDINGS ISSUED  
PURSUANT TO M.G.L. c. 23K AND M.G.L. c. 30, § 61**

PROJECT NAME: Wynn Boston Harbor (f/k/a Wynn Everett)  
PROJECT LOCATION: 1 Horizon Way in Everett, Massachusetts  
PROJECT PROPONENT: Wynn MA LLC  
EOEEA NUMBER: 15060  
APPROVAL SOUGHT: Category 1 Gaming License

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**MASSACHUSETTS GAMING COMMISSION  
SECTION 61 FINDINGS ISSUED  
PURSUANT TO M.G.L. c. 23K AND M.G.L. c. 30, § 61**

PROJECT NAME: Wynn Boston Harbor (f/k/a Wynn Everett)  
PROJECT LOCATION: 1 Horizon Way in Everett, Massachusetts  
PROJECT PROPONENT: Wynn MA, LLC  
EOEEA NUMBER: 15060  
APPROVAL SOUGHT: Category 1 Gaming License

**I. INTRODUCTION**

Pursuant to the Massachusetts Environmental Policy Act, G.L. c. 30, §§ 61-62I, G.L. c. 23K, § 15(12), 301 CMR 11.12, and 205 CMR 120.02, the Massachusetts Gaming Commission (the “Commission”) finds that, with the implementation of the measures identified in the Project Proponent Wynn, MA LLC’s (“Wynn’s”) Final Environmental Impact Report (“FEIR”) submitted to the Executive Office of Energy and Environmental Affairs (“EOEEA”) on June 30, 2014, the Secretary of EOEEA’s (the “Secretary’s”) Certificate regarding the FEIR dated August 15, 2014 (the “FEIR Certificate”), the Supplemental Final Environmental Impact Report submitted February 17, 2015 (“SFEIR”), the Secretary’s Certificate regarding the SFEIR dated April 3, 2015 (the “SFEIR Certificate”), the Second Supplemental Final Environmental Impact Report (“SSFEIR”) dated July 15, 2015 (the “SSFEIR”), the Secretary’s Certificate dated August 28, 2015 regarding the SSFEIR (the “SSFEIR Certificate”), and including, without limitation those measures summarized below, that all practicable and feasible means and measures have been taken to avoid or minimize potential damage to the environment from Wynn’s proposed category 1 gaming establishment as defined in G.L. c. 23K, § 2 (the “Project” or the “Gaming Establishment”).

**II. PROJECT SITE**

According to the SSFEIR Certificate, the project site known as 1 Horizon Way in Everett, Massachusetts (“Project Site”) is a waterfront parcel totaling approximately 33.9 acres located in Everett adjacent to the Mystic River. Approximately 25.6 acres are upland, surrounded by shoreline and the remnants of marine structures, and approximately 8.3 acres are below the mean high water mark on the Mystic River. The Project Site includes approximately 1,600 linear feet (“lf”) of shoreline along flowed tidelands. A small area of the Project Site is used as a materials storage yard and includes a 5,200 square feet (“sf”) construction trailer/office.

Historic uses of the Project Site include a Monsanto chemical manufacturing facility. The Project Site is classified as a disposal site subject to G.L. c. 21E and the Massachusetts Contingency Plan (“MCP”). The Project Site is contaminated and contains high levels of arsenic and lead in soils and groundwater. Contaminated sediments have also been identified in the area of the Project Site within the Mystic River.

The Project Site is bordered to the west by the tracks of the Massachusetts Bay Transportation Authority (“MBTA”) Newburyport commuter rail line. The upland portions of the Project Site are bounded by Horizon Way (which intersects with Route 99), and commercial and institutional properties. Most of the soils on the Project Site are disturbed and comprised of fill material. Along the shoreline of the Mystic River is a mix of deteriorated stone seawalls, loose gravel and boulders, and rotted timber piers and pilings. The shallower portions of the shoreline also contain debris and remnants of timber structures.

Access to the Project Site is via Horizon Way, which forms an unsignalized intersection with Broadway (Route 99) in Everett. The Project Site is located in an urban, commercial/industrial area that has suffered from economic disinvestment during the latter part of the twentieth century when manufacturing, import, and fishery activities declined. Surrounding land uses are primarily commercial/retail, with local businesses (e.g., an auto dealership, chain restaurants, and an auto repair shop) and infill residential structures nearby. Proximate uses include Boston Water and Sewer Commission (“BWSC”) and Massachusetts Water Resources Authority (“MWRA”) properties, the MBTA’s Everett Shops maintenance facility (“Everett Shops”) to the north, and the Gateway Center and Gateway Park to the west. The Department of Conservation and Recreation (“DCR”) owns and operates parkways in the vicinity of the Project Site, including Revere Beach Parkway, the Fellsway, and Mystic Valley Parkway. In addition, DCR owns and operates the Mystic River Reservation and the Amelia Earhart dam, a flood control structure located on the Mystic River in the vicinity of the Project Site.

The Project Site is bordered by the Mystic River to the south and an embayment to the east. The embayment is approximately 350 to 500 feet wide from shoreline to shoreline (from the Project Site to the upland east of the embayment containing operations of the MWRA and BWSC). The embayment contains a former channel, reportedly constructed in the mid-1800s. Records indicate the channel to be about 1,000 feet long with a width of 100 feet, and an original draft of 20 feet below the mean low water mark. The channel flares out at the northern end to about 250 feet wide. The channel has since shoaled and the present depth does not exceed 13 feet below the mean low water mark. Waters adjacent to the channel banks are shallower than the central portion of the channel. The eastern side of the embayment is a mud flat with surface grades from the mean low water mark to about three above it. The mud flat contains a variety of debris, including several abandoned timber barges.



### **III. PROJECT DESCRIPTION**

The Project consists of the redevelopment of the 33.9 acre Project Site as a destination resort casino. As described in the SSFEIR Certificate, the Project will include a total of approximately 3,096,700 sf,<sup>1</sup> including, without limitation, the following amenities:

<b>Amenity</b>	<b>Gaming Positions</b>	<b>Rooms</b>	<b>Square Feet</b>
Gaming area	4,580		190,461
Hotel		629	621,774
Retail			52,632
Food and beverage			54,680
Lobbies, lounge, atrium garden and other “front of house” areas			58,548
Back of house facilities			411,058
Spa and gym			15,405
Convention/meeting rooms			37,068

Included within the Project’s total square footage, Wynn proposes to construct a parking structure below the Gaming Establishment (including under the retail portion of the Project). There will be approximately 2,930 on-site self-serve and valet parking spaces for patrons. Employee parking will be accommodated at off-site locations, with 800 off-site parking spaces for employees. Wynn will provide shuttle service for employees to and from the Project Site.

The Project includes remediation and restoration of the Project Site. The proposed shoreline work includes the installation of a vertical steel pile bulkhead, the placement of stone revetments and the installation of pile-supported walkways, the removal of abandoned and deteriorated structures and remnants, salt marsh restoration and re-vegetation of the shoreline. Waterside work includes dredging of approximately 15,000 cubic yards (“cy”) of sediment over approximately 41,480 sf to provide an adequate water depth of six feet below the mean low water mark to accommodate water transportation vessels. Coastal bank and salt marsh

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<sup>1</sup> In the SSFEIR itself, the total square footage of the Project has been reduced to 2,933,839± sf primarily because the number of parking spaces has been reduced in the SSFEIR from 3,400 to 2,930. The latter number of parking spaces is reflected in the SSFEIR Certificate.

restoration is proposed within 69,000 sf area landward of high tide at the southwestern edge of the Project Site.

Access to the Project Site is proposed via a new boulevard-type driveway located approximately 150 feet north of Horizon Way. It will intersect the west side of Lower Broadway (Route 99) just north of Horizon Way opposite Mystic Street. This access requires the acquisition of land (approximately 1.758 acres) from the MBTA consisting of three non-contiguous parcels that are currently part of Everett Shops as shown on SSFEIR Figure 1-8. Wynn proposes to relocate the current unsignalized entrance driveway to the MBTA maintenance facility to the north on Lower Broadway to the signalized intersection at Beacham Street. A secondary access for deliveries and employees will be provided via a service road that would follow the periphery of the Everett Shops property and connect with Route 99 across from Beacham Street in Everett.

The proposed Project will include extensive outdoor landscape and open space amenities including a 20 foot wide harborwalk with connections to the extensive public open space network along the Mystic River; overlooks to view restored coastal bank vegetation and salt marsh; a public gathering area with an outdoor park; a pavilion, waterfront features, water transportation and transient vessel docking facilities. Off-site improvements include the construction of a pedestrian connection to the DCR Gateway Park, as well as transportation, pedestrian, and bicycle accommodations.

#### **IV. MEPA HISTORY**

Wynn filed an Expanded Environmental Notification Form (“EENF”) for the Project on May 31, 2013 and a Draft Environmental Impact Report (“DEIR”) on December 16, 2013. The Secretary issued a certificate approving the DEIR on February 21, 2014. Wynn submitted the FEIR on June 30, 2014. On August 15, 2014, the Secretary issued the FEIR Certificate requiring Wynn to submit an SFEIR limited to traffic and transportation issues and a Response to Comments, but otherwise approving the description of environmental impacts and mitigation measures in the FEIR. Wynn submitted the SFEIR on February 17, 2015.

On April, 3, 2015, the Secretary issued the SFEIR Certificate requiring Wynn to submit the SSFEIR limited to the following scope:

1. An explanation of and remedy for the premature conveyance of land from MassDOT/MBTA and its acceptance by Wynn prior to the completion of MEPA review.
2. Wynn’s commitment to a specific dollar amount for an annual operating subsidy to the MBTA to support service and capacity improvements on the MBTA Orange Line.
3. Clarification of the SFEIR’s Traffic Impact Assessment and supplemental data and analysis.

4. Revised Draft Section 61 Findings that incorporate commitments associated with the three requirements listed above.
5. Responses to Comments that provide clear specific responses to the issues raised.

The SFEIR Certificate otherwise approved of the description of environmental impacts and mitigation measures in the SFEIR. It also noted that the Commission has issued a Category 1 gaming license to Wynn, effective November 18, 2014 (the “License”) pursuant to Chapter 194 of the Acts of 2011 and G.L. c. 23K (the “Gaming Act”) and that this License was conditional on completion of the MEPA review process. This conditional License did not constitute Agency Action under MEPA or its implementing regulation (301 CMR 11.02, Agency Action (c)). *See* SSFEIR Certificate, pp.7-8.

According to the SSFEIR (§ 1.3.6 and Appendix B), on April 15, 2015, Wynn and its affiliate, Everett Property, LLC (collectively, the “Wynn Parties”), entered into an escrow agreement with the MBTA (the “Escrow Agreement”) pursuant to which Wynn executed a quitclaim deed to return the portions of the Everett Shops the Secretary had deemed were prematurely conveyed by MassDOT/MBTA. The Wynn Parties and MBTA also executed an agreement terminating an Easement Agreement conveyed by MassDOT/MBTA at that time. The MBTA placed the purchase price paid by the Wynn Parties for the portion of Everett Shops in question (\$6,000,000) in escrow. Specifically, the SSFEIR (§ 1.3.6) provided as follows:

The escrow agreement provides, in pertinent part, that the conveyance of the property shall be deemed to have not taken place unless and until the Secretary of Energy and Environmental Affairs has determined that, for the Project located on the Proponent’s adjacent land that includes work or activities on the MBTA Everett Shops property: (1) no Environmental Impact Report is required; or (2) a single or final Environmental Impact Report is adequate and sixty (60) days have elapsed following publication of notice of the availability of the single or final Environmental Impact Report in the Environmental Monitor in accordance with 301 CMR 11.15(2), provided that the MBTA shall reconsider and confirm or modify the conveyance of the property pursuant to the Deed and any conditions following MEPA review.

Pursuant to the terms of the Escrow Agreement, in the event the MBTA determines that the transaction requires no modifications or conditions or other mitigation, the escrow agent will return the Quitclaim Deed and Termination of Easement Agreement to the Proponent and the money to the MBTA. In the event the MBTA determines that the transaction requires modifications or conditions or other mitigation, the parties are obligated to work in good faith to document such required modifications, conditions or mitigation commitments after which the escrow agreement will return the Quitclaim Deed and Termination of Easement Agreement to Proponent and the money to the MBTA and record any such modifications. In the event that the parties cannot agree to any required modifications, conditions or other mitigation, the escrow agreement will file the Quitclaim Deed and Termination of Easement Agreement and return the money to Proponent.

Pursuant to the terms of the Escrow Agreement, the Proponent has agreed that it shall not commence any pre-construction or construction activities on the MBTA Everett Shops property until such time as the escrow is dissolved.

On June 1, 2015, Wynn met with representatives from MassDOT, the MEPA Office, EOEEA, the Commission, the City of Everett and the City of Somerville regarding long-term improvements to the Rutherford Avenue corridor. The City of Boston declined to attend this meeting. However, representatives from Wynn and the City of Boston later met on June 10 and June 18, 2015 to discuss improvements to the Rutherford Avenue corridor.

On July 15, 2015, Wynn submitted its SSFEIR for the Project addressing the issues required by the SFEIR Certificate. The SSFEIR included an updated Project description and associated plans, an updated Transportation Impact Analysis, revised mitigation based on additional analysis and comment letters, and provided conceptual plans for proposed improvements. The SSFEIR included a separate chapter summarizing proposed mitigation measures and included draft Section 61 Findings for each State Agency that will issue permits for the Project.

On August 28, 2015, the Secretary issued the SSFEIR Certificate which concluded that the SSFEIR “submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and with its implementing regulations (301 CMR 11.00).” SSFEIR Certificate, p.1, emphasis in original. The Secretary determined that Wynn adequately addressed the issues required by the SFEIR Certificate and that “[o]utstanding aspects of the Project that require additional analysis can be addressed during local, State and federal permitting, review and approval processes.” *Id.*

In the SSFEIR Certificate, the Secretary noted the measures taken by Wynn and MassDOT/MBTA to “remedy the premature conveyance of the land” under MEPA and that, “[a]s directed [by the Secretary in the SFEIR Certificate], the Proponent has provided separate draft Section 61 Findings for MassDOT (i.e. Vehicular Access Permit) and the MBTA (i.e. Land Transfer).” *Id.*, pp.12-13. The SSFEIR Certificate concluded that the MassDOT and MBTA Section 61 Findings “will be finalized during permitting, any associated modifications to the sale will be recorded, and copies of the Section 61 Findings will be filed with the MEPA Office.” *Id.* p. 13.

The SSFEIR Certificate also noted that Wynn had “made significant commitments to minimize and mitigate traffic impacts,” including “an unprecedented commitment” to mitigate impacts on the MBTA’s Orange Line operations in the form of an approximately \$7.4 million subsidy over a 15-year period. As also noted in the SSFEIR Certificate, both MassDOT and the Metropolitan Area Planning Council (“MAPC”) reviewed Wynn’s traffic analysis and mitigation plans and determined, consistent with their review protocols, that those plans would be effective to mitigate the Project’s impacts on existing transportation infrastructure. The Secretary also found the methodology for the transportation analysis in Wynn’s EIR submittals was “consistent with that which was required of each of the Casino proposals [in the Commonwealth], including MGM Springfield (EEA #15033); Project First Light (EEA #15159), and the proposed Mohegan Sun project in Revere (EEA #15006).” SSFEIR Certificate, p. 7.

## V. PROJECT IMPACTS

The Project's potential environmental impacts are associated with the creation of 19.42 acres of impervious surfaces, alteration of wetland resource areas, 311,830 gallons per day ("GPD") of water use, generation of 283,482 GPD of wastewater, and dredging of 15,000 cy of sediments over an area of approximately 41,480 sf.

The Project will generate approximately 31,844 new (unadjusted) average daily vehicle trips ("adt") and 37,916 new (unadjusted) adt on a Saturday. When adjusted for mode share, the Project is estimated to generate approximately 20,130 adt on a Friday and 23,982 adt on a Saturday.

Wynn's proposed acquisition of portions of the Everett Shops property from the MBTA for the Project and the construction of the Project's access are expected to require the relocation of the Everett Shops' main gatehouse to the north opposite Beacham Street. As shown on SSFEIR Figure 1-15, Wynn proposes that a 10-foot wide, 60-foot long layover area be added to the Everett Shops driveway's eastbound approach to allow a larger vehicle to wait while another enters Everett Shops as part of this relocation. Wynn also proposes new loading docks be added to Everett Shops as part of the relocation. As explained in the SSFEIR, the proposed relocation of this main access is not expected to negatively affect maneuverability for MBTA vehicles at Everett Shops.

According to the SSFEIR, the MBTA has obtained an independent appraisal of the impact of Wynn's proposed purchase on the value of the three Everett Shops parcels. That appraisal concluded that "the sale of these parcels will not have a negative impact on the use of the larger property by the MBTA. In fact, the sale of the parcels will facilitate construction of a new traffic light controlled intersection with Broadway which will facilitate better access to the remaining MBTA property." SSFEIR, pp.1-7.

According to the SSFEIR, the amount of additional ridership the Project is expected to add to the MBTA's Orange Line would not, on its own, cause the Orange Line to operate beyond the MBTA's Service Delivery Policy capacity standards for most time periods and locations. Assuming no further improvements to Orange Line service and operations prior to 2023, if the Project is built and becomes operational, Orange Line service is expected to be beyond the MBTA's Service Delivery Policy capacity standards for four hours a week, including three weekday non-peak hours in which the Orange Line service is currently not in compliance with the Service Delivery Policy and a fourth hour on Saturday (12-1 p.m.) in which service would be in non-compliance with the Service Delivery Policy by less than one additional passenger per train.

The Project is subject to MEPA review and required the preparation of a Mandatory EIR pursuant to 301 CMR 11.03(1)(a)(2), 11.03(3)(a)(5), 11.03(6)(a)(6) and 11.03(6)(a)(7) because it requires State Agency Actions and it will create 10 or more acres of impervious area, create a new non-water dependent use occupying one or more acres of waterways or tidelands, generate 3,000 or more new adt on roadways providing access to a single location, and provide 1,000 or

more new parking spaces at a single location. The Project is also subject to the EOEEA Greenhouse Gas (“GHG”) Emissions Policy and Protocol dated May 5, 2010.

As described in the FEIR Certificate, Wynn analyzed potential historic and archaeological resources as part of the FEIR and determined that the Project will not adversely impact any historic resources on or in the vicinity of the Project Site. There are also no archaeological resources that will be impacted by the Project due to the fact that the majority of the land portion of the Project Site is fill and has been substantially disturbed. In its comment letter on the DEIR, the Massachusetts Historical Commission (“MHC”) determined that the Project would have “no adverse effect” on historic resources in the vicinity of the project.

The Project is not subject to the enhanced analysis provisions of the EOEEA Environmental Justice Policy (the “EJ Policy”). Although the Project is located in and adjacent to communities with designated environmental justice populations, it does not exceed the MEPA thresholds for solid waste or air quality that trigger a requirement for enhanced analysis under the EJ Policy. The EOEEA has also not required Wynn to conduct any further analysis under Executive Order No. 552 on Environmental Justice (November 20, 2014). Nonetheless, the Commission finds that the proposed Project will make significant positive environmental justice contributions to the host community of Everett and the surrounding area. These positive contributions include without limitation the rehabilitation and revitalization of a contaminated former chemical manufacturing site and its abutting riverfront, the creation of open space amenities including a 20 foot wide harborwalk with connections to the extensive public open space network along the Mystic River, the use of environmentally-sensitive design in all aspects of the Project as described below, and the creation of significant numbers of new jobs arising out of and related to the construction and operation of the proposed facility. The Commission finds that these jobs will directly and substantially benefit disadvantaged persons in the local community.

**VI. REQUIRED GOVERNMENTAL PERMITS AND APPROVALS**

According to the SSFEIR Certificate the Project is expected to require the following permits and approvals or review by the following federal, state, and local agencies, in addition to the License from the Gaming Commission:

Agency	Permit(s)
MassDOT	Vehicular Access Permit (Category III); Non-vehicular Access Permit; Traffic Signal Regulation
MassDOT, Rail and Transit Division/MBTA	Land Disposition and Easement Agreements; Agreements and approvals necessary to construct improvements and to operate within MBTA transit stations and agreements and approvals necessary to relocate bus stops; funding to support Orange Line capacity; and improvements to MBTA stations.

Agency	Permit(s)
MassDCR	Construction and Access Permit
MWRA	8M Permit
MassDEP	Chapter 91 Waterways License; Chapter 91 Dredging Permit; Notification of Construction/Demolition; Air Plan Approval or Environmental Results Program Certification; Section 401 Water Quality Certification; and Asbestos Removal Permit (if required).
City of Everett Conservation Commission (or a Superseding Order of Conditions (SOC) from MassDEP if the local Order is appealed) <sup>2</sup>	Order of Conditions
City of Boston Transportation Department & Public Improvements Commission	Approval for Off-Site Roadway Improvements
U.S. Army Corps of Engineers (“ACOE”)	Section 404 Clean Water Act Permit and Section 10 Permit
Federal Aviation Administration	Determination of No Hazard to Air Navigation <sup>3</sup>
U.S. Environmental Protection Agency	National Pollutant Discharge Elimination System (“NPDES”) Construction General Permit

The Project may also require approval for modification to I-93 and other portions of the National Highway System from the Federal Highway Administration. If so, the Project may be subject to review pursuant to the National Environmental Policy Act) and the National Historic Preservation Act. The Project may also require Federal Consistency Review by Coastal Zone Management. It also requires review by the Massachusetts Port Authority (“Massport”) for certain mitigation measures proposed on Massport property.

## **VII. EXECUTED MITIGATION AGREEMENTS**

Pursuant to G.L. c. 23K §§15(8) - (10), Wynn entered into the following mitigation agreements (each individually a “Mitigation Agreement” and collectively the “Mitigation Agreements”):

<sup>2</sup> Depending on the extent of dredging or remediation work, an Order of Conditions from the Boston Conservation Commission may be required as well.

<sup>3</sup> The SSFEIR Certificate also references air space review by the Massachusetts Aeronautics Commission which may take place as part of the FAA’s review.

1. The Host Community Agreement with the City of Everett dated April 19, 2013 (approved by local referendum pursuant to G.L. c. 23K, § 15(13), on June 22, 2013);
2. Surrounding Community Agreements with the following municipalities:
  - a. The City of Boston (“Boston”), dated January 27, 2016;<sup>4</sup>
  - b. The City of Cambridge (“Cambridge”), dated April 22, 2014;
  - c. The City of Chelsea (“Chelsea”), dated June 9, 2014<sup>5</sup>
  - d. The City of Malden (“Malden”), dated November 12, 2013;
  - e. The City of Medford (Medford”), dated April 11, 2014; and
  - f. The City of Somerville (“Somerville”), dated June 12, 2014.<sup>6</sup>
3. Neighboring Communities Agreements with the following municipalities:
  - a. The City of Lynn (“Lynn”), dated January 28, 2014; and
  - b. The City of Melrose (“Melrose”), dated January 28, 2014;
4. The Impacted Live Entertainment Venues Agreement including with the Massachusetts Performing Arts Coalition, dated January 20, 2014; and

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<sup>4</sup> By written decision dated May 15, 2014, the Commission determined that the “Wynn gaming establishment is located solely in Everett. Accordingly, by definition, the City of Boston is not a host community to that project.” On May 15, 2014, the Commission voted to formally deem the City of Boston a surrounding community to the Wynn Project (May 15, 2014 Tr. 123-124). After Boston declined to participate in the Commission’s binding arbitration process under 205 CMR 125.01, the Commission voted on August 7, 2014, to “deem the city of Boston to have waived its surrounding community status with respect to the application for a Category 1 casino license filed by Wynn MA, LLC.” (August 7, 2014 Tr. 195-96). Subsequently, Boston and Wynn executed and submitted to the Commission the Surrounding Community Agreement dated as of January 27, 2016. On February 4, 2016, the Commission voted to accept the Surrounding Community Agreement, to reinstate Boston as a surrounding community to Wynn’s proposed Category 1 Gaming Establishment in Everett, and to determine that the terms of the Surrounding Community Agreement will replace Sections 3 and 4 of the conditions in Wynn’s conditional License related to Boston. *See* Vote Regarding Litigation Release and Surrounding Community Agreement dated February 4, 2016.

<sup>5</sup> Pursuant to 205 CMR 125.01(6)(c), Wynn participated in binding arbitration with Chelsea. The Arbitrator issued a Report and Final Arbitration Award dated June 9, 2014, selecting Wynn’s Best and Final Offer (“BAFO”) to Chelsea and thereby specifying its terms as the surrounding community agreement between Wynn and Chelsea. The provisions of Wynn’s BAFO to Chelsea attached to the Report and Final Arbitration Award dated June 9, 2014, were incorporated by reference as conditions in the conditional License.

<sup>6</sup> Pursuant to 205 CMR 125.01(6)(c), Wynn also participated in binding arbitration with Somerville. An Arbitration panel issued a Report and Final Arbitration Award dated June 9, 2014, selecting Wynn’s BAFO and thereby specifying its terms as the surrounding community agreement between Wynn and Somerville. Wynn and Somerville subsequently executed the Surrounding Community Agreement referenced in the text.



5. The Massachusetts State Lottery effective as of September 5, 2014.

Subject to the caveats listed below regarding the MEPA Section 61 Conditions, the Commission incorporates by reference the provisions of each of the above Mitigation Agreements into these Section 61 Findings as conditions to be included in the License for the Gaming Establishment issued pursuant to 205 CMR 120.02. Nothing in these Section 61 Findings shall prevent the reopening of any Mitigation Agreement pursuant to its terms or pursuant to 205 CMR 127.00; provided, however, that in the event any Mitigation Agreement is reopened, the Commission in its discretion expressly reserves the right to modify or amend these Section 61 Findings and the conditions set forth in the License to continue to ensure that all feasible measures are taken to avoid or minimize impacts of the Project and damage to the environment.

## **VIII. MEPA SECTION 61 FINDINGS AND CONDITIONS**

### **A. Scope of Commission Section 61 Findings**

In the Secretary's Certificate on the SSFEIR, the Secretary noted that "the subject matter of the [the Commission's] Agency Action is sufficiently broad ... such that it is functionally equivalent to broad scope jurisdiction" because "the Gaming License ... addresses a broad range of environmental issues - sustainability, energy efficiency, renewable energy, and traffic- and extends to mitigation of environmental impacts on host and surrounding communities." The Secretary also concluded that while MEPA jurisdiction is limited to the subject matter of required or potentially required permits "the subject matter of the Gaming License confers broad scope jurisdiction and extends to all aspects of the project that may cause Damage to the Environment, as defined in the MEPA regulations."

As a result, the Commission's Section 61 Findings include detailed conditions to mitigate this broad range of environmental issues, incorporate the Mitigation Agreements to further mitigate environmental impacts on host and surrounding communities, and incorporate Section 61 Findings of other State Agencies to comprehensively address these issues as set forth below.

### **B. Enhanced Public Participation in Commission Section 61 Findings**

In the SSFEIR Certificate (pp. 3-4), the Secretary required "enhanced public review during ... development of [the Commission] 61 Findings." The Commission has complied and will comply with these enhanced requirements as follows:

1. In these Section 61 Findings, the Commission has considered and revised as appropriate, the draft Section 61 Findings included in the SSFEIR.
2. In these Section 61 Findings, the Commission has included and included by reference the Section 61 Findings from all other State Agencies including, but not limited to, MassDOT's Section 61 Findings. See below.
3. In preparing these Section 61 Findings, the Commission engaged Green International and City Point Partners as consultants, whose representative made a public presentation at the Commission's open meeting on March 22, 2016 at 1:00 PM and who

have provided recommendations regarding additional conditions that should be added to the Commission’s draft and Final Section 61 Findings.

4. The Commission posted a March 17, 2016 preview draft of the Section 61 Findings and the consultants' report on the MGC website on March 18, 2016; posted the Commission’s draft of the Section 61 Findings on the MGC website after the meeting on March 22, 2016; and solicited written comments on the draft Section 61 Findings on or before April 11, 2016 at 4:00 PM.
5. On March 29, 2016, at 5:00 PM MGC held a public hearing on the draft Section 61 Findings at the Boston Convention and Exhibition Center, 415 Summer Street, Boston.
6. These Section 61 Findings incorporate consideration of public comments received at the Commission’s public hearing on March 29, 2016, and prior to the close of public comments on April 11, 2016, .
7. Upon the completion of the above process, the Commission will incorporate its Final Section 61 Findings into the Gaming License and the Commission will file the Final Section 61 Findings with the MEPA Office.
8. The Commission will conduct a regular quarterly review concerning compliance with the Commission’s Final Section 61 Findings and the conditions of the Gaming License.

**C. Mitigation Measures in Section 61 Findings of Other State Agencies**

In the Secretary’s Certificate on the SSFEIR, the Secretary instructed that the Commission’s “Section 61 Findings shall include or include by reference the Section 61 Findings from all other State Agencies including, but not limited to, MassDOT's Section 61 Findings.” To date, the following State Agencies have issued draft or final Section 61 Findings for the Project:

Agency	Date	Env. Monitor
MWRA	1/12/16	1/20/16
Massport	1/21/16	2/10/16
MassDEP	1/22/16	
MassDOT, MBTA and DCR <sup>7</sup>	4/6/16	4/7/16

Subject to the limitations listed below regarding the MEPA Section 61 Conditions, the Commission incorporates these Section 61 Findings by other State Agencies (and any final Section 61 Findings by these other State Agencies pursuant thereto) into the Commission’s Section 61 Findings. Wynn shall comply with the detailed mitigation measures provided by the

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<sup>7</sup> These combined Section 61 Findings are referred to herein as the “MassDOT/MBTA/DCR Section 61 Findings.”

final Section 61 Findings issued by each other State Agency with jurisdiction to take Agency Action with respect to the Project including, without limitation, MassDEP, MassDOT, MBTA, MassDCR, Massport and MWRA. Wynn shall also comply with all applicable and lawful terms and conditions of any final federal, state, or local permit or approval required for the Project.<sup>8</sup>

**D. Limitations Regarding MEPA Section 61 Conditions**

The Commission in its discretion expressly reserves the right to take, and nothing herein shall prevent the Commission from taking, further action with respect to these Section 61 Findings, the License for the Gaming Establishment, and/or any conditions contained in these Section 61 Findings or the License for the Gaming Establishment, pursuant to 205 CMR 127 or otherwise. Without limitation, to continue to ensure that all feasible measures are taken to avoid or minimize impacts of the Project and damage to the environment the Commission in its discretion expressly reserves the right to modify or amend its Section 61 Findings as a result of any Section 61 Findings or final Agency Action issued or finalized by other Agencies after the Commission's Section 61 Findings. If the terms of (a) any other Agency's Section 61 Findings or final Agency Action, (b) any other governmental permit or approval, (c) any denial of any other governmental permit or approval, (d) any process required to obtain such permit or approval, or (e) any provision of any of the Mitigation Agreements listed above, conflict with the Commission's Section 61 Findings or the mitigation measures set forth below, or render such mitigation measures infeasible or impossible, Wynn shall notify the Commission of that conflict for resolution by the Commission pursuant to G.L. c. 23K and 205 CMR 120.01 and 120.02. Pursuant to G.L. c. 23K, § 10(c), the Commission reserves its rights to determine which infrastructure improvements onsite and around the vicinity of the Gaming Establishment, including projects to account for traffic mitigation as determined by the Commission, shall be completed before the Gaming Establishment shall be approved for opening.

**E. Mitigation Measures for the Project under the FEIR, SFEIR, and SSFEIR**

Wynn shall comply with the following detailed measures to mitigate the Project's impacts specified in (a) the FEIR and the FEIR Certificate, (b) the SFEIR and the SFEIR Certificate, and (c) the SSFEIR and the SSFEIR Certificate including, without limitation, the mitigation measures described in the following sections of the FEIR, SFEIR, and SSFEIR:

- (1) Measures described in SFEIR Chapter 3, and SFEIR Tables 3-2: Proposed DEP Mitigation Measures by Wynn MA, LLC, 3-3: Proposed DCR Mitigation Measures by Wynn MA, LLC, and 3-4: Summary of Proposed Mitigation Measures by Wynn MA, LLC;

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<sup>8</sup> By complying with the Secretary's SSFEIR Certificate and by incorporating and requiring compliance with the final Section 61 Findings by other State Agencies (and their resulting final permits and approvals), the Commission neither assumes control over nor takes responsibility for matters that, by statute and regulations, are committed to the jurisdiction, control and expertise of other State Agencies. However, the Commission does exercise its own discretion and authority under the Gaming Act and MEPA and their respective regulations to issue its own Section 61 Findings and to incorporate its final Section 61 Findings into the Gaming License.

- (2) Measures to mitigate impacts on wetlands, waterways and water quality set forth in FEIR Chapter 3, FEIR Section 13.4.1, and FEIR Tables 13-1 and 13-3, Proposed Wetlands, Waterways and Water Quality Mitigation Measures;
- (3) Measures to mitigate air quality impacts set forth in FEIR Chapter 5, FEIR Section 13.4.5, and FEIR Tables 13-1 and 13-3;
- (4) The transportation demand management (“TDM”) program strategies for patrons and employees as noted in FEIR Chapter 4;
- (5) Measures to mitigate greenhouse gas impacts and promote sustainable development set forth in FEIR Chapter 6, FEIR Section 13.4.6, and FEIR Tables 13-1 and 13-3, Greenhouse Gas Emission Mitigation Measures;
- (6) Measures to mitigate storm water impacts set forth in FEIR Chapter 7, FEIR Section 13.4.4, and FEIR Tables 13-1 and 13-3, Stormwater Mitigation Measures;
- (7) Measures to mitigate impacts on water supply set forth in FEIR Chapter 8, FEIR Section 13.4.2, and FEIR Table 13-1, Proposed Water Use Mitigation Measures;
- (8) Measures to mitigate wastewater impacts set forth in FEIR Chapter 9, FEIR Section 13.4.3, and FEIR Tables 13-1 and 13-3, Proposed Wastewater and Sewer Mitigation Measures;
- (9) Measures to mitigate solid and hazardous wastes impacts set forth in FEIR Chapter 10 and FEIR Section 13.4.7 (Brownfields Remediation);
- (10) Measures to mitigate impacts on historic and archaeological resources set forth in FEIR Chapter 11;
- (11) Measures to mitigate construction-related impacts set forth in FEIR Chapters 12 and 13;
- (12) Measures to mitigate impacts on open space set forth in FEIR Chapter 2.3.8 and FEIR Section Table 13-4; and
- (13) Measures identified in SSFEIR Chapter 4.

In addition, Wynn shall comply with all measures to mitigate transportation impacts set forth in FEIR Chapter 4, FEIR Section 13.3, FEIR Tables 13-2 and 13-4, Table of Proposed Transportation Mitigation Measures, SFEIR Chapter 3 and SFEIR Table 3-1: Proposed Transportation Mitigation Measures by Wynn MA, LLC, and SSFEIR Chapter 4 as supplemented and amended in the SFEIR, SSFEIR and FEIR, SFEIR and SSFEIR Certificates,

and shall comply with any additional conditions that the Commission imposes in the License pursuant to 205 CMR 120.02(1)(a).

With respect to the foregoing requirements, in the event of a conflict regarding a particular mitigation measure described in the FEIR, the Secretary's FEIR Certificate, the SFEIR, the Secretary's SFEIR Certificate, the SSFEIR and/or the Secretary's SSFEIR Certificate, the mitigation measure described in the later document in the MEPA process shall control.

#### **F. Project-Specific Mitigation Measures and Off-Site Improvements**

The environmental review process culminating in the SSFEIR and the SSFEIR Certificate, and the Section 61 Findings issued by the other State Agencies listed above require detailed and specific mitigation measures and off-site improvements to avoid or minimize the impacts of the Project and damage to the environment within the scope of MEPA and its implementing regulations.<sup>9</sup> The Commission incorporates by reference the mitigation measures specified by the Section 61 Findings of these State Agencies having expertise in their respective areas of subject matter jurisdiction. The Commission also incorporates by reference Mitigation Agreements listed above which mitigate other impacts on the host and surrounding communities from the development and operation of a gaming establishment within the scope of the Gaming Act and its implementing regulations. Without limitation, the Commission incorporates by reference the acknowledgement and agreement of the City of Boston in § 1.2 of the Boston SCA regarding mitigation of the transportation impacts of the Project.<sup>10</sup> The Commission finds pursuant to G.L. c. 30, § 61 and 301 CMR 11.12(5), and based on the results of the MEPA process that, subject to the mitigation measures imposed as conditions by the Commission's Section 61 Findings herein, all feasible measures have been taken to avoid or minimize impacts of the Project and damage to the environment.

Specifically and without limitation, as conditions of the Commission's Section 61 Findings, the Commission hereby requires that Wynn shall implement, and shall be fully responsible for the costs of implementing, the following mitigation measures according to the following schedule:

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<sup>9</sup> See, e.g., MassDOT/MBTA/DCR Section 61 Findings (§§ V and VII), MWRA Section 61 Findings (at page 5), Massport Section 61 Findings (¶ B), and DEP Section 61 Findings (DEP's Written Determination and Draft Special Conditions on Waterways Application, page 7, and Combined 401 Water Quality Certification, page 5).

<sup>10</sup> Section 1.2 of the Boston SCA stipulates that, while the Project will result in additional vehicular traffic that may burden the transportation infrastructure in Boston, particularly in the Sullivan Square area in the neighborhood of Charlestown, Boston acknowledges and agrees that "Wynn's mitigation under the Massachusetts Environmental Policy Act ('MEPA') and its payments to Boston under this [Surrounding Community] Agreement will mitigate any transportation impacts of the Project" and that "such mitigation will adequately mitigate all such impacts."

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<b>1. EVERETT MITIGATION</b>		
	<p><b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b></p>	
<p>Revere Beach Parkway (Route 16)/Mystic View Road/Santilli Highway/Route 99 Connector Improvements  (Santilli Circle)</p>	<ul style="list-style-type: none"> <li>• Modify the approach from Frontage Road into the rotary to allow for two formal lanes.</li> <li>• Widen circle at Santilli Highway approach to allow for three travel lanes.</li> <li>• Provide improved pedestrian and bicycle connection from Frontage Road to Mystic View Road.</li> <li>• Reconfigure channelizing island on south side of rotary near Mystic View Road.</li> <li>• Provide traffic signal improvements at the signalized locations around the traffic circle.</li> <li>• Provide landscaping improvements to the center of the circle.</li> <li>• Provide new guide signage and pavement markings.<sup>11</sup></li> </ul> <p>These geometric and traffic signal improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Santilli Circle Conceptual Improvement Plan (Figure 2-24A, B, C, and D)” included in the SFEIR, as revised in accordance with the revised conceptual plans entitled, “Proposed Modifications to SSFEIR 2023 Build Condition at Santilli Circle &amp; Santilli Highway (Figure 1 &amp; 2)” included in a</p>	<p>Prior to opening.</p>

<sup>11</sup> The SSFEIR Certificate indicated that Wynn will perform a Road Safety Audit (“RSA”) during 25% design to identify safety improvements to be implemented as mitigation where feasible, incorporate RSA recommendations into final design where feasible, and coordinate with MassDOT to identify funding source for implementation of RSA recommendations. Since that time, as set forth below, Wynn has conducted the RSA and recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of Wynn. These Section 61 Findings require that Wynn fund the approved road safety improvements resulting from the RSA recommendations as and to the extent set forth in MassDOT/MBTA/DCR Section 61 Findings. See below.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>Technical Memorandum dated March 3, 2016 to be reviewed and approved by MassDOT, with such refinements thereto as are approved by MassDOT through the 100 percent design submission.</p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (“RSA”) at Santilli Circle due to its inclusion in a- Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at Santilli Circle, the Proponent shall incorporate in the conceptual design plans for Santilli Circle all the potential safety enhancements with “low” and/or “medium” costs and with “short-term” and/or “mid-term” timeframes as listed in the RSA Report in Table 3: Potential Safety Enhancement Summary--Santilli Circle.</p>	
<p>Revere Beach Parkway (Route 16)/Broadway/Main Street  (Sweetser Circle)</p>	<ul style="list-style-type: none"> <li>• Reconstruct circle and approaches to function as a two-lane modern roundabout.</li> <li>• Reconfigure the existing Broadway (Route 99) northbound approach to allow for three travel lanes providing free flow access to Route 16 eastbound.</li> <li>• Provide shared use path on northwest side of rotary to improve bicycle access.</li> <li>• Install new signage to provide direction to bicyclists on how to navigate the rotary safely.</li> <li>• Provide landscaping and improvements on the north side of the circle.</li> <li>• Maintain pedestrian signal across Route 16 eastbound exit from rotary.</li> </ul> <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Sweetser Circle Conceptual Improvement Plan (Figure 2-25A, B, and C)” included in the SFEIR, with such refinements thereto as are approved by MassDOT through the 100 percent design submission.</p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (RSA) at Sweetser Circle</p>	<p>Prior to opening.</p>

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at Sweetser Circle, the Proponent shall incorporate in the conceptual design plans for Sweetser Circle all the potential safety enhancements with “low” and/or “medium” costs and with “short-term” and/or “mid-term” timeframes as listed in the RSA Report in Table 4: Potential Safety Enhancement Summary--Sweetser Circle.</p>	
<ul style="list-style-type: none"> <li>• Route 99 (Broadway)/ Horizon Way (Site Driveway)</li> <li>• Route 99 (Broadway)/ Lynde Street</li> <li>• Route 99 (Broadway)/ Thorndike Street</li> <li>• Bow Street/Mystic Street</li> <li>• Bow Street/Lynde Street</li> <li>• Bow Street/Thorndike Street</li> <li>• Beacham Street/Robin Street</li> <li>• Route 99 (Broadway)/ Bowdoin Street</li> <li>• Route 99 (Broadway)/ Beacham Street intersection (service driveway)</li> </ul>	<ul style="list-style-type: none"> <li>• Construction of the site driveway and signalization of the Route 99 (Broadway)/Horizon Way intersection.</li> <li>• Reconstruct Lower Broadway as a 4-lane boulevard with turn lanes at major intersections.</li> <li>• Upgrade/replace/install traffic control signals.</li> <li>• Reconstruct or construct sidewalks and bicycle lanes where required.</li> <li>• Install street trees and lighting.</li> <li>• Improve and provide access MBTA bus stops along Lower Broadway.</li> <li>• Installation of technology along Broadway/Alford Street (Route 99), near project entrance, to allow for signal prioritization.</li> </ul> <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Lower Broadway/ Alford Street (Route 99) Improvement Plan (Figures 2-12A, B, and C)”) and refinements thereto through the 100 percent design.<sup>12</sup></p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (“RSA”) along this corridor due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The</p>	<p>Prior to opening.</p>

<sup>12</sup> As these various intersections are not under MassDOT jurisdiction, the determination of appropriate mitigation measures (if necessary) and the determination appropriate design and construction details will be made between Wynn and Everett as stated in the MassDOT/MBTA/DCR Section 61 Findings.



SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at the intersections along this corridor, the Proponent shall incorporate in the conceptual design plans for the corridor all the potential safety enhancements with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes as listed in the RSA Report in Table 3: Potential Safety Enhancement Summary-Lower Broadway.</p>	
<p>Broadway/Norwood Street/Chelsea Street<sup>13</sup></p>	<p>Optimize traffic signal timing, phasing and coordination.</p> <p>This intersection is not under MassDOT jurisdiction. The determination of appropriate design and construction details at this intersection should be made between Wynn and the City of Everett.</p>	<p>Prior to opening.</p>
<p>Lower Broadway Truck Route</p>	<ul style="list-style-type: none"> <li>• Upgrade Robin Street and Dexter Street to serve as a truck route.</li> <li>• Provide full depth reconstruction of the existing roadway to accommodate heavy vehicles.</li> <li>• Reconstruct Robin Street and Dexter Street to include heavy-duty pavement, corner radii improvements, sidewalk reconstruction (where present), drainage system modifications (minor), signs and pavement markings.</li> </ul>	<p>Prior to opening.</p>
<p>Ferry Street/Broadway (Route 99)<sup>14</sup></p>	<p>Retime and optimize traffic signal.</p>	<p>Prior to opening.</p>
<p>Intersections not under MassDOT jurisdiction</p>	<p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersections are not under MassDOT jurisdiction. If necessary, the determination of any appropriate mitigation measures and/or design and construction details at these intersections should be made between Wynn and Everett.</p>	<p>Prior to opening.</p>

<sup>13</sup> See prior footnote.

<sup>14</sup> See prior footnote.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Route 99 (Broadway)/2<sup>nd</sup> Street/Corey Street Intersection</li> <li>• Route 99 (Broadway)/Mansfield Street/Church Street Intersection</li> <li>• Route 99 (Broadway)/High Street/Hancock Street Intersection</li> <li>• Route 99 (Broadway)/McKinley Street/Cameron Street/Lynn Street Intersection</li> <li>• Tileston Street/Oakes Street/Main Street Intersection</li> <li>• Waters Avenue/Linden Street/Main Street Intersection</li> <li>• Peirce Avenue/Bellingham Avenue/Main Street Intersection</li> </ul>	
Other Intersections	<p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at the following locations that Wynn could be required to implement:</p> <ul style="list-style-type: none"> <li>• Route 16 (Revere Beach Parkway)/Garvey Street/2nd Street Intersection</li> <li>• Route 16 (Revere Beach Parkway)/Spring Street Intersection</li> <li>• Route 16 (Revere Beach Parkway)/South Ferry Street Intersection</li> <li>• Route 16 (Revere Beach Parkway) Vine Street Intersection</li> <li>• Route 16 (Revere Beach Parkway) Vale Street Intersection</li> <li>• Route 16 (Revere Beach Parkway)/Everett Avenue Intersection</li> </ul>	N/A
<b>2. MEDFORD MITIGATION</b>		
	<p><b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b></p>	
Mystic Valley Parkway (Route 16)/Fellsway (Route 28)/Middlesex Avenue  (Wellington Circle)	<ul style="list-style-type: none"> <li>• Upgrade/replace traffic signal equipment/signs/pavement markings.</li> <li>• Optimize traffic signal timing, phasing and coordination.</li> <li>• Widen Route 28 northbound to provide an additional left turn lane.</li> <li>• Widen Route 16 westbound to provide an additional through lane in the middle of the intersection.</li> <li>• Reconstruct non-compliant sidewalks and accessible ramps around the intersection to improve pedestrian access.</li> </ul>	Prior to opening.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Provide landscape improvements.</li> </ul> <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Wellington Circle Conceptual Improvement Plan (Figure 2-67A, B, and C)” included in the SFEIR, with such refinements thereto as are approved by MassDOT through the 100 percent design submission.</p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (RSA) at this intersection due to- its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at this intersection) the Proponent shall incorporate in the conceptual design plans for this intersection all the potential safety enhancements with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes as listed in Table 4: Potential Safety Enhancement Summary-Wellington Circle.</p>	
Mystic Valley Parkway (Route 16)/Mystic Avenue (Route 38)	<ul style="list-style-type: none"> <li>• Implement traffic Signal retiming and optimization.</li> <li>• Implement ADA Improvements.</li> </ul> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, prior to any site occupancy, the Proponent (Wynn) will implement these improvements at this intersection in accordance to conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent has conducted a Road Safety Audit (RSA) at this intersection due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and</p>	Prior to opening.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at this intersection, the Proponent shall incorporate in the conceptual design plans for this intersection all the potential safety enhancements as listed in the RSA Report in Table 4: Potential Safety Enhancement Summary-Mystic Valley Parkway/Route 16/Connector Road and Mystic Valley Parkway/Route 38/Harvard Street.<sup>15</sup></p>	
<p>Mystic Valley Parkway (Route 16)/Route 16 Southbound Connector</p>	<ul style="list-style-type: none"> <li>• Implement traffic Signal retiming and optimization.</li> <li>• Implement ADA Improvements.</li> </ul> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, prior to any site occupancy, the Proponent (Wynn) will implement these improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent has conducted a Road Safety Audit (RSA) at this intersection due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at this intersection, the Proponent shall incorporate in the conceptual design plans for this intersection all the potential safety enhancements as listed in the RSA Report in Table 4:</p>	<p>Prior to opening.</p>

<sup>15</sup> The Commission's Section 61 Findings incorporate MassDOT/MBTA/DCR Section 61 Findings with respect to the RSA recommendations for this intersection. If the intent of the MassDOT/MBTA/DCR Section 61 Findings is to describe the safety enhancements for this intersection as those with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes, the Commission's Section 61 Findings would similarly track that requirement.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	Potential Safety Enhancement Summary – Mystic Valley Parkway/Route 38/Harvard Street. <sup>16</sup>	
Wellington Circle Study	Provide \$1.5 million to MassDOT toward a transportation study to develop alternatives for a long-term fix of Wellington Circle.	Prior to opening.
Intersections not under MassDOT jurisdiction	As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no additional feasible means to avoid or minimize the project's traffic impacts at the following locations that the Proponent (Wynn) could be required to implement: <ul style="list-style-type: none"> <li>• Route 28 (Fellsway West)/Fulton Street Intersection</li> <li>• Route 28 (Fellsway West)/Route 60 (Salem Street) Intersection</li> <li>• Route 28 (Fellsway)/Central Avenue/Medford Street Intersection</li> <li>• Route 28 (Fellsway)/Riverside Avenue Intersection</li> </ul>	Prior to opening.
Other Intersections	As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at this location that Wynn could be required to implement: <ul style="list-style-type: none"> <li>• Route 16 (Mystic Valley Parkway)/Locust Street Intersection</li> <li>• Route 16 (Mystic Valley Parkway)/Commercial Street Intersection</li> </ul>	N/A
Other Mitigation under Surrounding Community Agreement	In addition to the MEPA mitigation measures described above, Wynn shall comply with the requirements of the Medford Surrounding Community Agreement (“Medford SCA”). Without limitation, subject to the terms and conditions thereof, Wynn shall pay to Medford the Transportation Hub Payment under Section 1.2 and the annual Public Safety Payment under Section 2.2 thereof.	Ongoing pursuant to schedule set forth in the Medford SCA.
	<b>3. MALDEN MITIGATION</b>	
Other Mitigation under Surrounding Community	In addition to the multimodal improvements to MBTA’s Malden Center Station and other MBTA property described below pursuant to MEPA, Wynn shall comply	Ongoing pursuant to schedule set forth in the

<sup>16</sup> See prior footnote.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
Agreement	with the requirements of the Malden Surrounding Community Agreement (“Malden SCA”). Without limitation, subject to the terms and conditions thereof, Wynn shall pay to Malden the Transportation Hub Payment under Section 1.2, the Transitional Roads Payment under Section 2.2, and the Public Safety Payment under Section 3.2 thereof.	Malden SCA
<b>4. BOSTON MITIGATION</b>		
	<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings and in the Boston SCA, Wynn shall:</b>	
Sullivan Square Mitigation Program  Main Street/Maffa Way/Cambridge Street/Alford Street Intersection (Sullivan Square)  Alford Street/Main	<ul style="list-style-type: none"> <li>• Optimize signal timing for Maffa Way/Cambridge Street; interconnect and coordinate traffic signals, modify the Main Street approach.<sup>17</sup></li> <li>• Install a traffic signal interconnection conduit system and associated equipment (pull boxes and wiring) from Sullivan Square to Austin Street.</li> <li>• Reconstruct busway between Cambridge Street and Maffa Way.</li> <li>• Reconstruct the southbound approach of Alford Street at Cambridge Street.</li> <li>• Install new traffic signals at Cambridge Street/Spice Street/MBTA Busway and Maffa Way/Busway.<sup>18</sup></li> <li>• Upgrade/replace traffic signal equipment/signs/pavement markings.<sup>19</sup></li> </ul>	Prior to opening, except for Regional Working Group which shall be ongoing.

<sup>17</sup> The SSFEIR Certificate indicates that Wynn will “widen the Main Street approach to provide two lanes.” The Boston SCA indicates that Wynn will “modify the Main Street approach.” These Section 61 Findings anticipate that Wynn and Boston will finalize the modification of the Main Street approach during review by the Boston Transportation Department & Public Improvements Commission.

<sup>18</sup> The Boston SCA further specifies that this mitigation measure also includes “new traffic signals at ... Maffa Way/Beacham Street Extension, and Main Street (west)/Beacham Street.”

<sup>19</sup> The Boston SCA further specifies that this mitigation measure also includes “new signal controllers with adaptive signal control capabilities and new Pan-Tilt-Zoom (PTZ) cameras,” and requires that Wynn “[i]ninstall necessary additional loop detection to ensure adaptive signal control capabilities.” For the Cambridge Street/I-93northbound off-ramp, the Boston SCA specifically requires Wynn to “[u]pgrade traffic signals, including new controller with adaptive signal control capabilities and new PTZ camera.”

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<p>Street/Sever Street/Cambridge Street (Sullivan Square)</p> <p>Cambridge Street/Spice Street/Sullivan Square Drive Intersection</p> <p>Maffa Way/Beacham Street Extension Intersection</p> <p>Cambridge Street/I-93northbound off-ramp</p> <p>And Related Intersections</p>	<ul style="list-style-type: none"> <li>• Optimize traffic signal timing, phasing and coordination.</li> <li>• Reconstruct Spice Street.</li> <li>• Reconstruct D Street.<sup>20</sup></li> <li>• Reconstruct sidewalks on west side of rotary between Sullivan Square station and Alford Street Bridge.</li> <li>• Reconstruct sidewalks and upgrade lighting and streetscape in rotary between Cambridge Street and Main Street (east).</li> <li>• Provide bicycle lanes on Cambridge Street.</li> <li>• Reconstruct MBTA lower busway and parking area at Sullivan Square station, including new traffic signal at Maffa Way/station entrance.</li> <li>• Construct BUS ONLY left-turn lane from Main Street into Sullivan Square Station.</li> </ul> <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Sullivan Square Conceptual Improvement Plan (Figure 2-91)” included in the SFEIR and approved by MassDOT. This plan will be refined as the design progresses to the 100 percent level.</p> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Sullivan Square, the Maffa Way/Beacham Street Extension Intersection, the Maffa Way/MBTA Bus Lane Intersection, the D Street/Rutherford Avenue Intersection, and the Spice</p>	

<sup>20</sup> According to the SSFEIR Certificate, “The railroad right-of-way (ROW) referred to in the SSFEIR as D Street is owned by Massport. Comments from Massport indicate that this ROW is not a public way and proposed improvements would require approval by Massport.” The MassDOT/MBTA/DCR Section 61 Findings state that, “Prior to the issuance of the Vehicular Access Permit for the project, the Proponent will submit to the MassDOT District 4, and District 6 Offices satisfactory documentation to demonstrate that all necessary ROW along D Street has been acquired from the Massachusetts Port Authority (Massport) for the implementation of the mitigation measures detailed in this finding....” In Massport’s Section 61 Findings, Massport has concluded that, subject to its review and approval of detailed plans and specifications to support the request for a license for the construction of the transportation mitigation improvements on Massport’s D Street property, “the Project’s proposed transportation improvements on Massport’s D Street Property are expected to result in no adverse environmental impacts.”

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>Street/D Street Intersection are not under MassDOT jurisdiction. However, because traffic operations at these locations may affect traffic operations at the I-93 Northbound off- Ramp and/or the MBTA bus operations or Sullivan Square Station driveways, Wynn will prepare and submit conceptual and 100 percent plans to MassDOT and MBTA for review and approval (as specified in the MassDOT/MBTA/DCR Section 61 Findings), in consultation with the City of Boston, prior to the construction of these intersections or improvements.</p> <p>Moreover, enhanced transportation planning for long-term transportation improvements that can support sustainable redevelopment and economic growth in and around Sullivan Square will occur through the Regional Working Group required by the SSFEIR Certificate and discussed separately below.</p>	
Dexter Street/Alford Street (Route 99)	<ul style="list-style-type: none"> <li>• Upgrade/replace traffic signal equipment/signs/pavement markings.<sup>21</sup></li> <li>• Optimize traffic signal timing, phasing, and coordination.</li> </ul> <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Lower Broadway/ Alford Street (Route 99) Improvement Plan (Figure 2-12)” and refinements thereto as the design progresses to the 100 percent level.</p>	Prior to opening.
Rutherford Avenue (Route 99)/Route 1 Ramps	<p>Optimize traffic signal timing and phasing.</p> <p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the traffic signal plans are to be submitted to and approved by MassDOT. This plan will be refined as the design progresses to the 100 percent level.</p>	Prior to opening.
Other Intersection not under MassDOT jurisdiction	As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersection is not under MassDOT jurisdiction:	Prior to opening.

<sup>21</sup> The Boston SCA further specifies that this mitigation measures includes “PTZ camera.”



SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Main Street/Beacham Street Intersection.</li> </ul> <p>The determination of appropriate design and construction details of this intersection should be made between the proponent and the City of Boston.</p>	
Other Intersections	<p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at the following locations that Wynn could be required to implement at this time:</p> <ul style="list-style-type: none"> <li>• Rutherford Avenue/ Austin Street Intersection.</li> <li>• I-93 ramps/Rutherford Avenue/Chelsea Street Intersection (City Square).</li> </ul> <p>Rather, enhanced transportation planning will occur through the Regional Working Group required by the SSFEIR Certificate and discussed separately below.</p>	Per results of Regional Working Group.
Sullivan Square Landscaping	Improve landscaping within the rotary at Sullivan Square and immediately north of the rotary adjacent to Rutherford Avenue.	Prior to opening.
Cooperation and Outreach	<ul style="list-style-type: none"> <li>• Continue to work with MassDOT and Boston to refine geometric improvements and optimize traffic operations.</li> <li>• Continue discussions with affected property owners impacted by improvements regarding necessary grants of right of way.</li> </ul>	Prior to opening and ongoing.
	<b>In accordance with the SSFEIR Certificate<sup>22</sup> as more particularly specified and conditioned in the Boston SCA, Wynn shall comply with the following conditions:</b>	

<sup>22</sup> In the SSFEIR Certificate, the Secretary noted that under the Reopener Provision of the conditional Gaming License (Section 2 condition 32), “the City of Boston can reopen negotiations for Surrounding Community Status any time prior to opening of the gaming establishment and the MGC has the authority to amend and modify mitigation as appropriate.” Wynn and the City have done so. See Commission’s Vote Regarding Litigation Release and Surrounding Community Agreement dated February 4, 2016.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<p>Long-term Financial Commitment to Transportation Mitigation for Sullivan Square</p>	<p>Pursuant to and subject to §§ 7.3, 7.4 and 7.5 of the Boston SCA, Wynn shall provide payments of \$2.5 million per year for 10 years into the SSIP Fund toward the Sullivan Square Infrastructure Project, as defined therein.</p> <p>Prior to the Opening Date, pursuant to and subject to § 7.5 of the Boston SCA, Wynn shall negotiate with Boston in good faith an escrow agreement pertaining to the SSIP Fund. If Wynn and Boston do not reach an escrow agreement prior to the Opening Date, Wynn shall report to the Commission on or within 30 days after the Opening Date for action by the Commission as may be necessary with respect thereto.</p>	<p>Annually for 10 years beginning on the first anniversary of the Opening Date.</p>
<p>Long-term Commitment Transportation Demand Management relative to Sullivan Square and Boston</p>	<p>Pursuant to and subject to § 7.1.B of the Boston SCA, Wynn shall monitor traffic and, if there are operational deficiencies at the monitored locations and either (1) the measured traffic volumes for the Project exceed 110% of the projected values; or (2) the distribution of Project-related traffic from the Project Site entrance to the roadway network varies by more than 10% of the trip assignment assumed for the Project, then Wynn shall be responsible for the costs of implementing additional mitigation measures including but not limited to those measures listed in § 7.1.B of the Boston SCA.<sup>23</sup></p> <p>Pursuant to and subject to § 7.1.B of the Boston SCA, Wynn shall engage and pay for an independent organization approved by the Commission to complete the monitoring program.</p> <p>Consistent with the MassDOT/MBTA/DCR Section 61 Findings, at least annually on the anniversary of the Opening Date, or on such other schedule as Wynn and Boston may agree, Wynn shall report to the Commission and Boston the results of the monitoring program, any operational deficiencies at the monitored locations</p>	<p>Commences prior to the initial occupancy of the Project and continues for a period of 10 years.</p>

<sup>23</sup> The terms “projected values” and “measured traffic values” in the first condition should be measured based on Friday and Saturday peak hour trip volumes; and the phrase “more than 10% of the trip assignment assumed for the Project” in the second condition should be understood to mean more than 80.3% of Gaming Establishment traffic travels through Sullivan Square (which represents a variation of 10% from the projected traffic through Sullivan Square).

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>related to metrics (1) and (2) above, and the plan for, schedule for and status of implementing any additional mitigation measures with respect thereto.</p> <p>See also Transportation Monitoring Program, in § VIII.F.11 below.</p>	
Community Outreach	Pursuant to and subject to § 8.8 of the Boston SCA, Wynn shall engage in community outreach to the Charlestown neighborhood and consult with the neighborhood regarding the progress of the Project including any transportation mitigation or changes in transportation mitigation plans.	Ongoing.
Community Impact Fee <sup>24</sup>	<p>Pursuant to and subject to § 2.1 of the Boston SCA, following the Opening Date and throughout the term of the License for as long as Wynn, or any parent, subsidiary or related entity, owns, controls, or operates a commercial gaming facility at the Project Site, Wynn shall make an annual payment of \$2 million to Boston (the “Community Impact Fee”), subject to escalation pursuant to § 10.16 of the Boston SCA, for the purposes set forth therein.</p> <p>Pursuant to and subject to § 2.2 of the Boston SCA, the Commission has released to Boston at Wynn’s request Wynn’s check in the amount of \$1 million. If that check does not clear because of the passage of time since it was cut, Wynn shall promptly provide a replacement check in that amount to Boston.</p> <p>Pursuant to and subject to § 2.3 of the Boston SCA, the Community Impact Fee shall remain in the exclusive custody and control of Boston, and shall be used and applied at Boston's sole discretion and determination toward any impact, infrastructure, improvement and/or mitigation measures related to the Project that Boston deems necessary and suitable.</p>	<p>Annually on or before the ninetieth (90th) day following the Opening Date.</p> <p>Completed.</p>

<sup>24</sup> Pursuant to and subject to §§ 2.1-2.3 of the Boston SCA, the Community Impact Fee may be used by the City for transportation mitigation or other purposes. Reference to this Community Impact Fee is included in this section because its potential uses include without limitation funding relative to transportation infrastructure impacts and the Sullivan Square Infrastructure Project (as defined in Section 7.4 of the Boston SCA) related to the Project.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<b>5. REVERE MITIGATION</b>		
	<p><b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b></p>	
<p>Beach Street/Everett Street/Route 1A/Route 16/Route 60 Intersection (Bell Circle)</p>	<ul style="list-style-type: none"> <li>• Upgrade/replace traffic signal equipment/signs/pavement markings.</li> <li>• Optimize traffic signal timing, phasing and coordination.</li> </ul> <p>As and to the extent set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p>	<p>Prior to opening.</p>
<b>6. CHELSEA MITIGATION</b>		
	<p><b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b></p>	
<p>Route 16 (Revere Beach Parkway)/Washington Avenue</p>	<ul style="list-style-type: none"> <li>• Replace traffic signal equipment.</li> <li>• Furnish new signs/pavement markings.</li> <li>• Optimize traffic signal timing, phasing and coordination.</li> </ul> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p>	<p>Prior to opening.</p>

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
Route 16 (Revere Beach Parkway)/Everett Avenue <sup>25</sup>	Optimize traffic signal timing, phasing and coordination.	Prior to opening.
Route 16 (Revere Beach Parkway)/Webster Avenue /Garfield Avenue	<p>Optimize traffic signal timing, phasing and coordination.</p> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at this intersection as applicable in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p>	
Intersections not under MassDOT jurisdiction	<p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersection is not under MassDOT jurisdiction:</p> <ul style="list-style-type: none"> <li>▪ Williams Street/Chestnut Street Intersection.</li> </ul> <p>If necessary, the determination of appropriate mitigation measures at this intersection should be made between the Proponent and the City of Chelsea.</p> <p>As an adjunct to the ongoing monitoring required under these Section 61 Findings, the Commission requests that Wynn investigate whether this location becomes the subject of significant additional cut-through traffic between Logan Airport and the gaming establishment. If it does, the Commission reserves the right to impose additional mitigation requirements on Wynn to address such significant additional cut-through traffic, including, without limitation, replacing traffic signal equipment;</p>	Ongoing.

<sup>25</sup> The SSFEIR Certificate refers to this intersection in Chelsea and indicates that Wynn has committed to optimize traffic signal timing, phasing and coordination at this intersection. The MassDOT/MBTA/DCR Section 61 Findings (at pages 5-6) refer to this intersection in Chelsea and that Wynn will apply to MassDOT for a Vehicular Access Permit to implement improvements for modifications at this location; however, those Findings (at pages 4 and 16) list this intersection in Everett and indicate that “there are no feasible means to avoid or minimize the project's traffic impacts at this location that the Proponent could be required to implement.” In public comments dated March 22, 2016, on the Commission’s draft Section 61 Findings, the Chelsea City Manager asked “that Wynn be required, as part of its traffic mitigation, to improve the Route 16/Everett Avenue intersection by means of replacing traffic signal equipment, installing new signage and pavement markings and optimizing traffic signal timing phasing and coordination.” These Final Section 61 Findings require that Wynn optimize traffic signal timing, phasing and coordination at this intersection as and to the extent authorized or required by MassDOT.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	installing new signage and pavement markings; and/or optimizing traffic signal timing, phasing and coordination. The implementation of any such measures at this intersection should be coordinated between Wynn and the City of Chelsea.	
Other Intersections	As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at this location that Wynn could be required to implement: <ul style="list-style-type: none"> <li>• Route 16 (Revere Beach Parkway)/Union Street Intersection.</li> </ul>	N/A
Other Mitigation under Surrounding Community Agreement Arbitration Award	In addition to the MEPA mitigation measures described above, Wynn shall comply with the conditions in Chelsea Surrounding Community Agreement Arbitration Award in the form of Wynn's BAFO to Chelsea attached to the Report and Final Arbitration Award dated June 9, 2014 (the "BAFO"), including, without limitation the requirements of Section 5 regarding Transportation Impacts. Without limitation, subject to the terms and conditions thereof, Wynn shall make to Chelsea the Transitional Roads Payment pursuant to Section 5.2 thereof and the additional annual mitigation payment under Section 5.3 thereof.	Ongoing pursuant to schedule set forth in the BAFO.
	<b>7. SOMERVILLE MITIGATION</b>	
	<b>In accordance with the SSFEIR Certificate and (as applicable) as more particularly specified and conditioned in the Somerville Surrounding Community Agreement ("Somerville SCA"), Wynn shall comply without limitation with the following conditions:<sup>26</sup></b>	
Orange Line Subsidy	Wynn will provide an annual Orange Line operating subsidy to the MBTA to support additional passenger capacity on the Orange Line, discussed below, which	See below.

<sup>26</sup> In Section 1.2 of the Somerville SCA, "The Parties acknowledge and agree that the proximity of the Project to the Assembly Row and Assembly Square developments may result in additional pedestrian and vehicular traffic in Somerville. The projects identified in the provisions in this Agreement regarding infrastructure improvements are intended to mitigate such impacts."

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	will directly benefit (without limitation) the residents, commuters and visitors to and from Assembly Station in Somerville <sup>27</sup> .	
Roadways	<p>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the Project's traffic impacts that the Project Proponent (Wynn) could be required to implement at the following locations:</p> <ul style="list-style-type: none"> <li>• I-93 Ramps/Route 38 (Mystic Avenue) Intersection.</li> <li>• I-93 NB Off-ramp/Route 28 (McGrath Highway) Intersection.</li> <li>• Route 38 (Mystic Avenue)/ Route 28 (McGrath Highway) Intersection.</li> <li>• Broadway/ Route 28 (McGrath Highway) Intersection.<sup>28</sup></li> </ul>	N/A.
Sullivan Square <sup>29</sup>	<p>Wynn will fund and undertake improvements to Sullivan Square in accordance with the SSFEIR Certificate and these Section 61 Findings.</p> <p>Wynn will comply § 5.2 of the Somerville SCA and these Section 61 Findings relative to developing a comprehensive traffic solution for Sullivan Square. See provisions regarding the Regional Working Group required by the SSFEIR Certificate and discussed below in these Section 61 Findings.</p> <p>As an adjunct to the ongoing monitoring required under § 7.1.B of the Boston SCA, the independent organization approved by the Commission should monitor traffic at</p>	<p>Prior to opening.</p> <p>Ongoing.</p> <p>Ongoing.</p>

<sup>27</sup> The Orange Line Subsidy also mitigates impacts relating to other Orange Line stations, such as Sullivan Square, in addition to Assembly Square.

<sup>28</sup> In § 1.2 of the Somerville SCA, Wynn agreed to complete any necessary improvements as determined in accordance with the MEPA process with respect to these intersections. However, as stated in Wynn's Response in the SSFEIR (at page 5-46) to Somerville's Comment 4 on the SFEIR, "[b]ased on the trip generation of the SFEIR, which was developed in consultation with and approved by MassDOT as outlined in their comment letter on the SFEIR, the impacts of the Project at Somerville intersections will be minimal. As determined in the FEIR, mitigation was not required at those intersections."

<sup>29</sup> Sullivan Square is located in Boston, not in Somerville. However, the Somerville SCA discusses mitigation with respect to Sullivan Square. As a result, this table briefly summarizes such mitigation, without in any way suggesting that Somerville has any jurisdiction over or standing with respect to such mitigation.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	the following intersection and, if there are material operational deficiencies at the monitored location caused by the two new signalized intersections associated with the Project’s mitigation measures, should recommend feasible mitigation measures, if any, to mitigate those deficiencies: Intersection of Broadway / Mt. Vernon Street / Alfred A. Lombardi Way.	
Wellington Circle <sup>30</sup>	<p>Wynn will fund and undertake improvements to Wellington Circle in accordance with the SSFEIR Certificate and these Section 61 Findings.</p> <p>Wynn will comply § 5.3 of the Somerville SCA and these Section 61 Findings relative to funding a study concerning permanent improvements to Wellington Circle, funding up to 25% or \$1.5 million of the concept design following the study, and cooperating with efforts by the relevant community or communities to seek future funding from the Transportation Infrastructure and Development Fund relative to Wellington Circle.</p>	<p>Prior to opening.</p> <p>Ongoing.</p>
Public Safety Mitigation Payment	<p>Pursuant to § 5.4 of the Somerville SCA, and contingent upon the receipt of a non-appealable License, Wynn will pay to Somerville an annual payment of \$250,000 (plus escalation per Exhibit B of the Somerville SCA) “to enable Somerville to fund staffing and other public safety initiatives related to increased pedestrian and vehicular traffic in Somerville and additional costs, if any, incurred in mutual aid responses to the Project.”</p> <p>Pursuant to § 5.4 of the Somerville SCA and with the specific conditions of these Section 61 Findings, Wynn will take steps to facilitate pedestrian and bicycle access along the Mystic River and Broadway.</p> <p>Pursuant to § 5.4 of the Somerville SCA and with the specific conditions of these Section 61 Findings, Wynn will coordinate signage on the Project to create</p>	<p>Annually per the requirements of the Somerville SCA.</p> <p>Ongoing.</p> <p>Ongoing.</p>

<sup>30</sup> Wellington Circle is located in Medford, not in Somerville. However, the Somerville SCA discusses mitigation with respect to Wellington Circle. As a result, this table briefly summarizes such mitigation, without in any way suggesting that Somerville has any jurisdiction over or standing with respect to such mitigation.



SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	continuity for pedestrian and bicycle use of such pathways and will participate in regional efforts to enhance and develop such path ways.	
Water Transportation and Related Measures	<p>Pursuant to § 5.5 of the Somerville SCA and the specific conditions of these Section 61 Findings, and contingent upon the receipt of a non-appealable License, Wynn will pay Somerville an annual payment of \$150,000 (plus escalation per Exhibit B of the Somerville SCA) “to make certain improvements to facilitate water transportation and to fund staffing and other public safety initiatives related to increased use of water transportation.”</p> <p>Pursuant to § 5.5 of the Somerville SCA, Wynn will participate in regional discussions regarding a walk/bike connection across the Mystic River to be built on or in the direct vicinity of the dam structure and will consider, in good faith, contributing, with other neighboring communities and businesses, to the design and construction of a connection.</p>	<p>Annually per the requirements of the Somerville SCA.</p> <p>Ongoing.</p>
Limitation on Satellite Pickup/Drop-off Sites	Pursuant to § 5.6 of the Somerville SCA, except with Somerville's express permission, Wynn will not use any location in Somerville as a satellite pickup/drop-off site to and from the Project for its employees generally; provided, however, Wynn, in coordination with Somerville, may provide transportation for employees who are residents of Somerville. In addition, Wynn will not have stops for so-called “line-runs,” or regularly scheduled bus or shuttle routes, in Somerville, provided that, subject to meeting legal requirements, Wynn will be able to provide transportation to patrons which whom it has established a relationship and will be able to provide transportation home to any patron residing in Somerville.	Ongoing.
Remote Parking	Pursuant to § 5.7 of the Somerville SCA, except with Somerville's express permission, neither Wynn nor any of its affiliates, successors or assigns shall construct a satellite parking or other facility associated with the Project within Somerville.	Ongoing.
TIPS Program	Pursuant to § 5.8 of the Somerville SCA, Wynn will incorporate a training program (e.g., TIPS (Training Intervention Procedures and Services Program)) for alcohol servers and other employees.	Ongoing.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<b>8. CAMBRIDGE MITIGATION</b>	
Intersections	<p>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at this location that the Project Proponent (Wynn) could be required to implement:</p> <ul style="list-style-type: none"> <li>• Route 28 (Monsignor O'Brien Highway)/Edwin H. Land Boulevard/Charlestown Avenue Intersection.</li> </ul> <p>Notwithstanding this finding, Wynn shall comply with the conditions in the Cambridge Surrounding Community Agreement ("Cambridge SCA"), including, without limitation the requirements of § 4 regarding Transportation Impacts. Specifically, to address any adverse impacts with respect to this intersection and contingent upon the acceptance by Wynn of a non-appealable License, Wynn has agreed to pay to Cambridge a onetime payment of \$200,000 to enable Cambridge to study and/or make certain improvements to the identified intersection to address any adverse impacts resulting from the development or operation of the Project.</p>	One time, due (per the requirements of the Cambridge SCA) on or before the ninetieth (90th) day following the acceptance by Wynn of a non-appealable License for the Project.
<b>9. TRANSPORTATION DEMAND MANAGEMENT STRATEGIES</b>		
	<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section VIII of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</b>	
Transportation Demand Management Program	<p>In addition to the Long-term Commitment for Transportation Demand Management relative to Sullivan Square and Boston referenced above, Wynn shall implement the following Transportation Demand Management Program:</p> <ul style="list-style-type: none"> <li>• Pay Membership Fee with a Transportation Management Association.</li> <li>• Employ a designated Transportation Coordinator for the Project to coordinate efforts, monitor success rates, and manage strategic implementation of traffic reduction programs.</li> </ul>	At opening and ongoing.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Provide on-site sale of MBTA passes for employees and for guests of the Project, including on-site Full Service MBTA Fare Vending Machine.</li> <li>• Schedule employee shift beginnings and endings outside specified peak traffic periods.</li> <li>• Implement carpool/vanpool matching programs.</li> <li>• Disseminate promotional materials, including newsletters about TDM program in print at the Project’s on-site Transportation Resource Center, and online.</li> <li>• Provide patron Orange Line Shuttle Service to Wellington and Malden Center stations, 2 locations, 20 Minute Headways, 20 Hrs./day, 30-60 passenger vehicles.</li> <li>• Provide Employee Shuttle Buses 2 Locations, 20 Minute Headways, 24 Hrs./day.</li> <li>• Improve and provide access to MBTA bus stops along Lower Broadway.</li> <li>• Implement improvements to Wellington and Malden Center Stations to accommodate Wynn patron shuttle service at curbside.</li> <li>• Premium Park &amp; Ride Shuttle buses 3 Locations, 90 Minute Headways, 12 Hrs./day.</li> <li>• Provide Neighborhood Shuttle Continuous Loop, 20 Minute Headways, 24 Hrs./day.</li> <li>• Provide for potential future expansion of shuttle service to include service to Logan International Airport, North Station, and South Station and other major transportation hubs through coordination with Everett and the MBTA.</li> <li>• Provide water shuttle service to the Project Site, including associated docks and facilities and the use of customized ferry vessels to support passenger transport between the Project Site and key Boston Harbor sites.</li> <li>• Participate in the MBTA Corporate Pass Program to the extent practical and as allowable pursuant to commercial tenant lease requirements.</li> <li>• Furnish electric vehicle charging stations within the proposed parking garage.</li> <li>• Furnish car sharing services in the garage at the Project Site</li> <li>• Provide preferential parking for car/vanpools and alternatively fueled vehicles.</li> <li>• Provide a “Guaranteed-Ride-Home” in case of emergency to employees that</li> </ul>	

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	commute to the Project by means other than private automobile.	
<b>10. MBTA FACILITY IMPROVEMENTS &amp; LAND TRANSFER MITIGATION</b>		
	<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section VII of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall comply with the following conditions:</b>	
Wellington Station Improvements	<p>Wynn shall make multimodal improvements to MBTA’s Wellington Station including dedicated curb space for the patron shuttles, reconfiguration of the existing parking lot to support the construction of a fourth curb cut north of the existing/taxi/auto pick-up/drop-off area, and reconfiguration of the existing MBTA parking lot to create additional parking spaces.</p> <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Wellington Station Curbside Reconfiguration (Figure 2-13)” included in the SSFEIR, with such refinements thereto as are approved by the MBTA through the 100 percent design submission.</p>	Prior to opening.
Malden Center Station Improvements	<p>Wynn shall make multimodal improvements to MBTA’s Malden Center Station to accommodate shuttle bus service at curbside, associated bus layover space, and construction of a passenger shelter on MBTA property near the corner of the busway and Centre Street.</p> <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Malden Center Station Curbside Reconfiguration (Figure 2-14)” included in the SSFEIR, with such refinements thereto as are approved by the MBTA through the 100 percent design submission.</p>	Prior to opening.
Sullivan Square Bus Station Improvements	Wynn shall make multimodal improvements to at and adjacent to MBTA’s Sullivan Square Station. These improvements include creation of a new circulation pattern including the alteration and reconstruction of the existing busways and the	Prior to opening.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>reconfiguration of the parking field in front of the bus station; provision of a new signalized busway exit to accommodate right-turn movements, opposite the I-93 northbound off-ramp on Cambridge Street; construction of a new signalized entrance to allow buses to circulate into the station from Beacham Street Extension and Main Street; and provision of new bus shelters at the bus berths on the lower busway.</p> <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Sullivan Square Bus Station and Parking Reconfiguration (Figure 2-15)” included in the SSFEIR, with such refinements thereto as are approved by the MBTA through the 100 percent design submission.</p>	
<p>Route 99 (Broadway) Transit Corridor Upgrades</p>	<p>Wynn shall make multimodal circulation and accessibility upgrades to the Route 99 Corridor, substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Lower Broadway/ Alford Street (Route 99) Improvement Plan (Figure 2-12A, B, and C)” included in the SFEIR, with such refinements thereto as are approved by the MBTA in consultation with the City of Everett through the 100 percent design submission.</p> <p>In connection with these upgrades, Wynn shall provide all necessary equipment for the traffic signals and the MBTA buses that travel this route to support a bus priority system along the Route 99 corridor.</p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (“RSA”) along this corridor due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts along this corridor, the Proponent shall incorporate in the conceptual design plans for the corridor all the potential safety enhancements with "low" and/or "medium"</p>	<p>Prior to opening.</p>

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	costs and with “short-term” and/or “mid-term” timeframes as listed in the RSA Report in Table 3: Potential Safety Enhancement Summary- Lower Broadway.	
MBTA Everett Shops Improvements	Subject to the mitigation regarding the conveyance stated below, and subject to review and approval by the MBTA, Wynn shall make improvements to access, construct a new gatehouse, grant an access easement to MBTA for 365 days a year/24 hours a day access, and construct new loading docks at MBTA’s Everett Shops.	Prior to opening.
Mitigation regarding Conveyance of certain of MBTA Everett Shops Land	In accordance with the SSFEIR Certificate, and as stated in the MassDOT/MBTA/DCR Section 61 Findings, Wynn has worked with the MBTA to place into escrow a quitclaim deed to Wynn and payment for 1.758 acres of the MBTA Shops property as shown on an ANR Plan prepared by Feldman Land Surveyors dated January 7, 2014; and, upon issuance of the MassDOT/MBTA/DCR Section 61 Findings, the escrow agent will return the original Quitclaim Deed and Termination of Easement agreement to Wynn, the money to the MBTA; and any modifications will be subsequently recorded.	Escrow to remain in place until issuance of the final MassDOT/MBTA/DCR Section 61 Findings.
Orange Line Subsidy	Wynn shall provide to the MBTA an annual Orange Line operating subsidy to support additional passenger capacity on the Orange Line. The annual operating subsidy shall be calculated and paid in accordance with the MassDOT/MBTA/DCR Section 61 Findings regarding the MBTA Orange Line. The total subsidy is currently estimated at \$7.4 million, including escalation, over the 15 year term of the License.	Annually beginning after opening.
<b>11. OTHER TRANSPORTATION MEASURES</b>		
	<b>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall comply with the following conditions:</b>	

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<p>Transportation Monitoring Program</p>	<p>Wynn shall engage and pay for an independent organization approved by MassDOT to undertake a comprehensive transportation monitoring program. Monitoring shall commence prior to the initial occupancy of either hotel or gaming components of the Project, whichever occurs first, to establish a baseline, and will continue for a period of 10 years. At least annually, Wynn shall provide a report on the Transportation Monitoring Program to the Commission (with a copy to MassDOT), which will include without limitation a report on the implementation of the TDM program described herein. Wynn shall provide more frequent reports as may be required from time to time by the Commission or MassDOT.</p> <p>The scope, locations, methodology, timing and frequency of the transportation monitoring program shall comply with the requirements of the MassDOT/MBTA/DCR Section 61 Findings, and may be adjusted by MassDOT as necessary to ensure that the geographic extent of the data collected is sufficient to measure the impact of the Project and to reflect changes in the transportation system that may occur after the completion of the Project. The transportation monitoring program shall include Roadway Data Collection, Capacity Analyses, Parking Data Collection, Public Transportation Data Collection, and a Travel Mode Analysis, all as specified by the MassDOT/MBTA/DCR Section 61 Findings and adjusted from time to time by MassDOT as necessary.</p> <p>Without limitation, this monitoring shall be done at the locations, for the time periods and in accordance with the requirements and methodology specified by MassDOT and the MassDOT/MBTA/DCR Section 61 Findings, and will include the following additional intersections:</p> <ul style="list-style-type: none"> <li>• Broadway / Mt. Vernon Street / Alfred A. Lombardi Way (Somerville)</li> <li>• Williams Street / Chestnut Street (Chelsea)</li> </ul> <p>At these additional intersection, Wynn shall conduct peak period manual turning movement counts, vehicle classification, and pedestrian/bicycle counts on a Thursday and Friday between 4:00 PM-6:00 PM and on a Saturday between 2:00 PM-5:00 PM. The Commission may require additional data to be collected if the Commission determines that the submitted data are insufficient.</p>	<p>Prior to the initial occupancy (to establish a baseline), and continuing for a period of 10 years.</p>

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>Wynn shall comply with the requirements for both the transportation monitoring program required by the MassDOT/MBTA/DCR Section 61 Findings and with the transportation monitoring program required by § 7.1.B of the Boston SCA as incorporated above in the Commission’s Section 61 Findings and in the License; provided, however, that Wynn shall work cooperatively with MassDOT, DCR, the City of Boston and the Commission to avoid unnecessary duplication of effort or any conflicting requirements.</p> <p>The Commission will review the monitoring results to determine whether the mitigation triggers listed in § 7.1.B of the Boston SCA have been exceeded and whether additional data should be collected; and the Commission reserves the right to determine the appropriate mitigation in the event there are any such operational deficiencies or imminent traffic problems associated with traffic to and from the Gaming Establishment, including but not limited to those additional mitigation measures listed in § 7.1.B of the Boston SCA. If the additional mitigation measures involve changes to roadways, intersections, or traffic signals under the jurisdiction of the City of Boston, Wynn shall cooperate with Boston concerning the permitting and implementation of the additional mitigation measures, pursuant to the Boston SCA.</p> <p>See also Long-term Commitment Transportation Demand Management relative to Sullivan Square and Boston, in § VIII.F.4 above.</p>	
Mystic River Pedestrian-Bicycle Bridge Feasibility Study	Wynn shall provide \$250,000 to DCR for planning and engineering services for a possible pedestrian bridge crossing of the Mystic River linking Somerville and Everett.	Prior to opening.
Water Transportation Vessels	<p>Wynn shall:</p> <ul style="list-style-type: none"> <li>• Provide dock facilities and customized ferry vessels to support passenger water transportation service between the Project Site and key Boston Harbor landing sites;</li> <li>• Provide a touch and go dock for transient boat access to the Project Site;</li> </ul>	At opening.



SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Consistent with Section 4.5.1.1 of the FEIR, provide water transportation level of service consisting of at least three custom-built, 49-passenger vessels, operating at different frequencies, as listed in the FEIR (subject to adjustment based on customer demand to support Wynn’s overall mode share, and except when impracticable due to weather conditions);</li> <li>• Ensure that customized passenger vessels supporting water transportation service to and from the Gaming Establishment are designed and built to be able to pass safely under the Alford Street (Rt-99) Draw Bridge across the Mystic River, mile 1.4, between Boston and Everett, at high tide in the closed position;</li> <li>• Implement reasonable restrictions to prohibit or discourage patrons arriving to or departing from the Gaming Establishment in private vessels that would cause the Alford Street (Rt-99) Draw Bridge to open during or affecting peak vehicular transportation hours on Alford Street and in Sullivan Square.</li> </ul>	At opening and Ongoing.
Annual Monitoring and Reporting Program	Without limiting the transportation monitoring programs required by the MassDOT/MBTA/DCR Section 61 Findings and by § 7.1.B of the Boston SCA Wynn shall also conduct a post-development traffic monitoring and employee survey program (including without limitation vehicular, public transit, and ferry service) in order to evaluate the adequacy of transportation mitigation measures including the TDM program for \$30,000 annually.	At opening and Ongoing.
<b>12. WASTEWATER, WATER USE, AND WETLANDS AND WATERWAYS MEASURES</b>		
	<b>In accordance with the Secretary’s applicable Certificates and MWRA’s, DEP’s and MassDOT/MBTA/DCR’s respective Section 61 Findings, Wynn shall comply with all of the following mitigation measures and conditions:</b>	
Wastewater	<ul style="list-style-type: none"> <li>• Implement or fund sewer system improvements that remove Infiltration and Inflow (“I/I”) equivalent to 4 gallons removed for every gallon of new wastewater generated (currently estimated at 283,489 GPD);</li> <li>• Assist in modifications to regional wastewater infrastructure modifications that will reduce the incidence of combined sewer overflows (“CSOs”) into the</li> </ul>	Prior to opening as to I/I and ongoing as to CSOs.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	Mystic River associated with the Cambridge Sewer Branch, including the installation of grease traps and gas/oil separators.	
Water use	<ul style="list-style-type: none"> <li>• Follow Leadership in Energy and Environmental Design (“LEED”) standards of Gold or higher, and incorporate water conservation measures that are intended to reduce the potable water demand on the MWRA water supply system;</li> <li>• Utilize water-efficient plumbing fixtures, low-flow lavatory faucets and shower heads;</li> <li>• Through rainwater harvesting, grey water reuse and the installation of alternatives to natural turf landscaping, the Project will further reduce water demand and use;</li> <li>• Include extensive indoor and outdoor landscaping;</li> <li>• Utilize timers, soil moisture indicators and rainfall sensors to reduce potable water use on landscaping.</li> </ul>	During construction.
Wetlands, waterways, and water quality certification	<ul style="list-style-type: none"> <li>• Remediate, revegetate and enhance 550 linear feet of existing shoreline with enhanced “living shoreline;”</li> <li>• Remove invasive vegetation and planting of native herbaceous and shrub vegetation along part of existing Coastal Bank and Riverfront Area;<sup>31</sup></li> <li>• Consult with MassDEP to develop specifications for the living shoreline and bank restoration.;</li> <li>• Transform 10,900 +/- SF of disturbed Coastal Beach/Tidal Flats, Coastal Bank, and Riverfront Area to Salt Marsh;</li> <li>• Clean up debris within the Land Under the Ocean, Coastal Beach and Coastal Bank resource areas;</li> <li>• Dredge to remove contaminated sediments from the harbor bottom to provide ample draft for water transportation, recreational vessels and a proposed floating</li> </ul>	During construction and prior to opening.

<sup>31</sup> The terms “Land Under the Ocean,” “Coastal Beach and Tidal Flats,” “Coastal Bank,” “Land Containing Shellfish,” Salt Marsh,” “Riverfront Area,” and “Land Subject to Coastal Storm Flowage” have the meaning given to them in the Massachusetts Wetlands Protection Act and its regulations, 310 CMR 10.21-10.37. See FEIR § 3.1.1.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>dock;</li> <li>• Replace existing bulkhead and construction of new bulkheads within areas of existing degraded Coastal Beach and Coastal Bank areas;</li> <li>• Ensure that the ground floor of the Gaming Establishment will be a facility for public accommodation;</li> <li>• Construct high quality landscaped open space along the edge of the Mystic River and the existing degraded Coastal Bank, Buffer Zone and Riverfront Area, including a harborwalk with high-quality amenities along the edge of the Mystic opening this site to public access and connecting it to Lower Broadway to the east;</li> <li>• Create a Gateway Park Connector multi-use path with benches, lighting, signage, plantings, and other amenities, linking the harborwalk on the Project Site under the MBTA rail line through to the DCR's Gateway Park to the west along the Mystic River, including bicycle and pedestrian connections;<sup>32</sup></li> <li>• Provide a pile-supported pier/walkway, a gangway, and Americans with Disabilities Act-compliant floating water transportation dock designed to support future water transportation service to Downtown Boston and other regional water transportation destinations, as well as transient vessels;</li> <li>• Develop an attractive public destination for water dependent uses along the waterfront, including significant open space, outdoor seating, viewing areas, a gazebo and public docks;</li> <li>• Further consider opportunities to improve shellfish resources at appropriate locations in consultation with the Division of Marine Fisheries (“DMF”).<sup>33</sup></li> </ul>	
Public Access	<ul style="list-style-type: none"> <li>• As stated above regarding Other Transportation Measures, provide \$250,000 to DCR for planning and engineering services related to an investigation of a</li> </ul>	Prior to opening.

<sup>32</sup> According to the MassDOT/MBTA/DCR Section 61 Findings, “DCR understands the value of the improvements to DCR's Gateway Park will total \$2,000,000 and will be provided prior to site occupancy.”

<sup>33</sup> The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>potential pedestrian bridge crossing of the Mystic River linking Somerville and Everett.</p> <ul style="list-style-type: none"> <li>• Participate in a process to study the feasibility of extending the Northern Strand Community Trail to Everett.</li> <li>• Provide over 190,000 sq. ft. of facilities for public accommodation to provide destinations and activation of the Project Site.</li> <li>• Provide 2 acres more open space than required by G.L. c. 91.</li> </ul>	<p>During construction/prior to opening, and ongoing.</p>
<p>Re-purpose Adjacent Waterfront Real Property</p>	<p>Pursuant to and subject to § 8.6 of the Boston SCA, Wynn shall pay to Boston \$250,000 for the purpose of covering Boston's legal, engineering and other professional services to be incurred by Boston under said § 8.6 in an effort to re-purpose the waterfront real property adjacent to and within the vicinity of the Project Site [i.e. the Boston Water and Sewer Commission's Material Handling Facility] and to return such waterfront real property to public access.</p>	<p>One-time payment prior to opening.</p>
<p>Stormwater</p>	<ul style="list-style-type: none"> <li>• Implement a stormwater management system that will improve the quality of runoff on-site. These measures include: <ul style="list-style-type: none"> <li>○ On-site mitigation measures: <ul style="list-style-type: none"> <li>▪ Two new outfalls will discharge treated stormwater into the Mystic River;</li> <li>▪ Green Roof installation;</li> <li>▪ Best Management Practices (“BMPs”) such as pavement sweeping, deep sump catch basins, tree box filters, filtering bioretention areas, four (4) proprietary stormwater separators, and stormwater media filters. These BMPs will be designed to remove at least 80% of the average annual load of Total Suspended Solids; and</li> <li>▪ Catch basins, silt fences, hay bales and crushed stone will be used during construction to prevent sediment removal from entering runoff;</li> </ul> </li> <li>○ Offsite mitigation measure associated with transportation improvements will include bioretention or subsurface infiltration chambers, deep sump catch basins or proprietary stormwater separators.</li> </ul> </li> <li>• Prepare a Stormwater Pollution Prevention Plan (SWPPP) in support of a Notice of Intent (NOI) filing with the EPA for coverage under NPDES Construction</li> </ul>	<p>Prior to opening.</p>

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>General Permit (CGP);</p> <ul style="list-style-type: none"> <li>• Incorporate new stormwater management systems in compliance with applicable requirements of State and City of Everett Stormwater Management Standards. The SWPPP and long-term stormwater improvements will provide stormwater mitigation measures to be implemented both during and after construction to improve water quality; and</li> <li>• Portions of the Project Site which currently drain into the MBTA 36-inch storm drain under existing conditions will be re-directed to the Project's stormwater management system.</li> </ul>	
<b>13. GREENHOUSE GAS AND AIR QUALITY IMPACTS</b>		
<p>MassDEP Air Plan Approval or Environmental Results Program/Greenhouse Gas Reductions</p>	<ul style="list-style-type: none"> <li>• Design the Project buildings to be certifiable under a LEED rating of Gold or higher;</li> <li>• Operate utilizing a series of best operating practices consistent with LEED principles to maintain the energy use, water efficiency, atmospheric, materials and resources use, and indoor air quality goals;</li> <li>• Comply with the Energy Stretch Code adopted by the City of Everett pursuant to the Green Communities Act of 2008;</li> <li>• Provide a self-certification to the MEPA Office regarding compliance with GHG reductions upon completion of construction;<sup>34</sup></li> <li>• Provide a lighting plan, approved by the City of Everett, for the Commission's review, and demonstrate to the Commission that the plan is reasonably consistent with the proposed LEED certification;</li> </ul>	<p>During construction and post occupancy.</p>

<sup>34</sup> The MassDOT/MBTA/DCR Section 61 Findings, incorporated herein by reference, provide that the Self Certification shall be (a) signed by an appropriate professional (e.g. engineer, architect, general contractor); (b) attest that Wynn has incorporated into the project all the GHG mitigation measures, or their equivalent, that were committed to in the EIRs to achieve the proposed stationary GHG emission reduction; (c) supported by as-built plans and shall include an update with respect to those measures that are operational in nature (i.e. TDM program, recycling, Energy Star-rated equipment, etc.); and (d) include any changes to these measures from those identified in the EIRs, the schedule for implementation of all measures, and how progress toward achieving these measures will be advanced, if not currently implemented. The Self Certification and all supporting plans and documents shall be provided to the MEPA office (with a copy to the Commission) within three (3) months of the completion of the Project.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Commit to a comprehensive list of Energy Efficiency Measures (EEM) that are predicted to reduce CO2 emissions 27.4%.<sup>35</sup> These proposed EE measures include: <ul style="list-style-type: none"> <li>○ Installing street trees and lighting;</li> <li>○ Cool roofs;</li> <li>○ Central chiller plant with better efficiency than Code;</li> <li>○ Demand Control Ventilation (DCV) for the casino, public entertainment, and retail areas;</li> <li>○ Energy Recovery Ventilation (ERV) to reduce chiller energy use;</li> <li>○ Building envelopes with roof and window insulation better than Code;</li> <li>○ Skylights over the entry atrium and along the retail promenade (daylighting controls will be tied to this extensive system of skylights);</li> <li>○ Lower light power density 20% better than Code;</li> <li>○ Low-energy Electronic Gaming Machines;</li> <li>○ Metal halide lighting for all parking structures;</li> <li>○ High efficiency elevators with regenerative VVVF drives and LED lights;</li> <li>○ Demand Control Exhaust Ventilation (DCEV) with variable frequency drive (VFD) fans for enclosed parking structures;</li> <li>○ Kitchen and restaurant refrigeration energy efficiency design to reduce energy use;</li> <li>○ Energy-STAR appliances;</li> <li>○ Enhanced building commissioning; and</li> <li>○ Occupancy controls for non-occupied or infrequently occupied spaces.</li> </ul> </li> <li>• Install a photo-voltaic system on the podium building roof or other location, and/or purchase from local service providers of green power of annual electric consumption equaling 10% or more of the Project’s annual electric consumption;</li> <li>• Improve intersections to reduce vehicle idling and TDM measures to reduce trips will reduce Project-related motor vehicle CO2 emissions by 13.0%. When</li> </ul>	

<sup>35</sup> The SSFEIR lists two different reduction goals depending on which ASHRAE standards are used. The higher standard is listed here.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>combined, (stationary source plus transportation), the Project’s total CO2 emissions reductions are 25.7% percent compared to the Base Case;</p> <ul style="list-style-type: none"> <li>• Install cogeneration plan using a nominal 1-MW microturbine, providing approximately 20% of the Project’s annual electrical consumption and significant amounts of absorption cooling, heat and hot water. Wynn will consult with MassDEP regarding the system prior to filing a permitting application.</li> <li>• Consider additional improvements in energy efficient design and expansion of commitment to renewable energy;<sup>36</sup></li> <li>• Consider electronic gaming machine energy use and provide information to EOEEA and the Commission regarding same;<sup>37</sup></li> <li>• Plan for and account for the effects of Sea Level Rise by elevating the proposed structures non-service and garage floor elevations to 15 to 16 feet above the 100-year flood level. The Project will also incorporate the following design criteria: <ul style="list-style-type: none"> <li>o Parking garages entrances and other openings into below grade spaces will be elevated a minimum of 3.35 feet above the 100-year flood level, or will be sufficiently flood proofed to avoid damage from coastal storms;</li> <li>o Critical infrastructure and HVAC equipment will be elevated above projected flood levels;</li> </ul> </li> <li>• Consider additional measures during subsequent design phases, including, but not limited to: rain gardens and swales; protection for service equipment (HVAC, electrical, fuel, water, sewage), installation of back-water flow valves and sump pumps; protection of entrances from snow and ice; enhanced building insulation; cool/green roofing; resilient back-up power and systems; backup power sources for elevators; insulation of refrigeration equipment and elevation of utility hook-ups, mechanical devices, electrical service panel, water heaters,</li> </ul>	

<sup>36</sup> The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.

<sup>37</sup> The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	and IT services above potential flood levels.	
<b>14. HAZARDOUS WASTE</b>		
Hazardous Waste Remediation	<ul style="list-style-type: none"> <li>• Remediation of areas of significant soil contamination, including soil removal and soil stabilization, will be initiated by Wynn at the commencement of Project construction and will be substantially completed in the first phase of Site construction (approximately 6 months);</li> <li>• During subsequent construction of the Project elements (casino, hotel, and retail buildings, site roadways and utilities, and waterfront improvements), additional contaminated soil will be removed, and Wynn will manage additional soil excavation and groundwater dewatering in accordance with the MCP;</li> <li>• All Project facilities, including the public harbor walk and other waterfront open space amenities, will be fully suitable for planned recreational and visitor uses;</li> <li>• Any hazardous materials excavated during construction will be managed in accordance with MassDEP guidelines, addressed, and disposed of accordingly, including treatment where applicable;</li> <li>• The parking garage will be waterproofed and designed to resist hydrostatic uplift pressures so that permanent, long term dewatering is not required. Dewatering will be required during construction and will be conducted pursuant to a Remediation General Discharge Permit under the NPDES program; and</li> <li>• Comply with G.L. c. 21E and the MCP in all areas of the Project including construction of the service road and shared entrances.</li> </ul>	Prior to opening/as permitted under MCP.
<b>15. CONSTRUCTION MITIGATION</b>		
Traffic and Transportation	<ul style="list-style-type: none"> <li>• Implement phased starting of trades to off-peak hours, 7:00 a.m. and earlier starts;</li> <li>• Utilize lean building practices to maximize off-site prefabrication;</li> <li>• Develop separate construction staging and traffic management plans for these improvements as part of their respective construction bid documents;</li> <li>• The relocation of utilities to Gateway Center, which include water, electrical and communications, will be coordinated with the foundations of the Project garage;</li> </ul>	During construction.



SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• On-site parking by construction workers will be minimized. Most personal vehicles will be restricted from parking at or around the construction site so as to reduce the impact to traffic;</li> <li>• Worker parking shall not be allowed on site except for company vehicles required to perform the work;</li> <li>• Off-site locations at which construction workers can park will be provided with shuttle bus services for worker transportation to and from the Project Site;</li> <li>• Due to the proximity of public transit systems, employees will be encouraged to use the MBTA. In addition, Wynn will offer carpooling incentives;</li> <li>• The Project will provide an off-site area at which trucks may be staged. Truck routes will be coordinated before the start of construction, and the Construction Manager will routinely check truck routes to ensure compliance with the approved plan;</li> <li>• The Construction Manager will establish and maintain designated material staging and delivery areas;</li> <li>• Given the existing traffic patterns, right-turns onto and off of the Project Site through the main site entrance are anticipated;</li> <li>• Wheel wash stations will be installed and maintained at construction site exits by the Construction Manager as needed. Street sweeping/vacuuming of all impacted City streets and sidewalks shall be performed by the Construction Manager on an as needed basis;</li> <li>• As set forth in FEIR § 12.2.12, and subject to the reasonable direction of the Police Chief, there will be full-time police detail at the site entrance to facilitate the safe delivery of materials to and from the site with as little disruption to the traffic on Lower Broadway as possible. As needed, police details will control the traffic signals along Lower Broadway to facilitate traffic movements near the Project Site;</li> <li>• Secured fencing and barricades will be used to isolate construction areas on the Project Site from pedestrian and vehicle traffic.</li> </ul>	
Utilities	<ul style="list-style-type: none"> <li>• Existing utility tunnels under the MBTA Commuter Rail are anticipated to be reused to minimize disruption to rail service and operation. The construction of</li> </ul>	During construction.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	utilities servicing the Project primarily will take place on-site; <ul style="list-style-type: none"> <li>• Connections to the water main and sanitary sewer in Broadway will occur during off peak hours; and</li> <li>• The stormwater management system will be functional prior to installing binder course in the service area or entry drive.</li> </ul>	
Air quality	<ul style="list-style-type: none"> <li>• The contractors will implement dust control measures during active construction. The selection of specific dust control measures will be activity dependent, but the following types of control measures will be implemented:               <ul style="list-style-type: none"> <li>○ Road and construction area watering;</li> <li>○ Chemical stabilization;</li> <li>○ Sand fencing</li> <li>○ Wind speed control;</li> <li>○ Perimeter sprinklers;</li> <li>○ Tire washing stations;</li> <li>○ On-site speed controls;</li> <li>○ Covered stockpiles; and</li> <li>○ Street sweeping.</li> </ul> </li> <li>• Additional air quality measures to reduce air emissions will include low-sulfur diesel in construction equipment, retrofit equipment as needed, and prohibiting excessive idling (per 310 CMR 7.11); and</li> <li>• If on-site material crushing activities will take place, appropriate notifications will be made at least 30 days prior to the commencement of such activities to local officials and to MassDEP in accordance with 310 CMR 16.05(3)(e)(6).</li> </ul>	During construction.
Noise and vibration	<ul style="list-style-type: none"> <li>• Instituting a program that includes allowable construction timeframes to ensure compliance with the local requirements;</li> <li>• Locating stationary noise sources, including staging areas, as far a possible from noise-sensitive receptors;</li> <li>• Constructing artificial or using natural barriers to shield construction noise;</li> <li>• Combining noisy operations to occur in the same time period (the total noise level produced will not be substantially greater than the level produced if the operations were performed separately);</li> </ul>	During construction.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• Using properly maintained equipment mufflers and providing enclosures on equipment operating continuously;</li> <li>• Turning off idling equipment;</li> <li>• Using quieter alternatives for equipment where feasible;</li> <li>• Selecting a quieter construction operation and technique where feasible;</li> <li>• Monitoring noise levels during the construction period to demonstrate compliance;</li> <li>• Conducting baseline noise level monitoring prior to construction and periodic monitoring of noise levels during construction. Noise monitoring shall be conducted at the site perimeter locations and locations near adjacent buildings;</li> <li>• Work activities that generate unavoidable excessive noise will be included in the two-week look-ahead schedule submitted by the construction managers;</li> <li>• Project specifications will include vibration limits to avoid potential damage to nearby utilities, buildings, and the adjacent rail line; and</li> <li>• If necessary to reduce vibration levels, pile locations proximate to sensitive structures will be pre-augured.</li> </ul>	
Stormwater and Erosion and Sediment Control	<ul style="list-style-type: none"> <li>• Storm water pollution prevention measures will include good housekeeping such as properly storing materials, spill prevention and response plans, and proper storage and disposal of solid wastes;</li> <li>• The Construction Manager will be responsible for preventing the tracking of sediments beyond the construction site and for controlling dust by using stabilized construction exits, street sweeping, and watering if necessary;</li> <li>• Temporary construction dewatering discharges will be appropriately controlled and discharged in accordance with the NPDES, state, and local dewatering standards;</li> <li>• Erosion and sediment risks will be reduced by avoiding prolonged exposure of bare soil, providing temporary and permanent stabilization as soon as practical, controlling storm water runoff, installing sediment and erosion controls, and providing frequent inspections and maintenance;</li> <li>• Erosion and sediment controls will be installed prior to any earth disturbing activities;</li> </ul>	Prior to and during construction.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• BMPs must be employed to control storm water flows through the Project Site and avoid the transport of sediments off site and towards surface waters or onto local roads. These may include silt fencing, hay bales, compost filter berms, sediment traps, check dams, diversion swales, sediment basins and/or settling tanks, and drain inlet protections;</li> <li>• Stockpile area(s) will be designated on-site. Stockpiles of off-site fill will be stabilized with temporary seeding and mulching, or provided with a tarp to prevent blowing dust, if the soil will not be used within a 14-day period;</li> <li>• Stockpiles of on-site fill will be covered with polyethylene sheeting to prevent dust migration, and hay bales or silt fence may be placed around the perimeter of the stockpiles to prevent the migration of soils during rain events;</li> <li>• Soil stabilization will be initiated immediately after earth-disturbing activities have permanently or temporarily ceased. Temporary stabilization will be provided as soon as possible, but no later than 14 days after construction activity ceases on any particular area;</li> <li>• Areas at final grade will be provided with permanent plantings or seeding prior to the opening of the Project;</li> <li>• These control measures will be specific to the contractor’s equipment, construction activity, and seasonal variability; and</li> <li>• Inspections will be performed in accordance with the SWPPP to be prepared for the Project. This includes inspection by a qualified individual of storm water controls, stabilization measures, disturbed areas, storage areas, and points of discharge at least every 7 days and within 24 hours of a storm event of ½ inches or greater.</li> </ul>	
Infrastructure Protection	<ul style="list-style-type: none"> <li>• Existing public and private infrastructure located within the public right-of-way will be protected during construction;</li> <li>• Existing infrastructure within easements on the Project Site will be protected or relocated with the coordination of the utility companies prior to the start of construction;</li> <li>• The Construction Manager will notify utility companies and call “Dig Safe” prior to excavation;</li> </ul>	Prior to, during and after construction.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<ul style="list-style-type: none"> <li>• The Construction Manager will be required to coordinate all protection measures, temporary supports, and temporary shutdowns of all utilities with the appropriate utility owners and/or agencies;</li> <li>• The Construction Manager will be required to provide adequate notification to the utility owner prior to any work commencing on their utility;</li> <li>• Wynn shall prepare and submit for review by MWRA a construction plan, calculations and an analysis of the MWRA's pipeline (prepared by a professional engineer licensed in the State of Massachusetts), which shall take into consideration the contractor's equipment, including vibration machines that would be used over MWRA's pipeline in instances where the existing roadway surface will be completely excavated away removing the protection of the HS-20 surface loading barrier; and Wynn will be required to upgrade existing water or sewer infrastructure to protect these facilities during and after construction. See MWRA Section 61 Findings (pp. 4-5);</li> <li>• Wynn will conduct additional survey work, test pits and vacuum excavation to precisely identify the locations of utilities and construction monitoring and post construction surveys to ensure the integrity of MWRA infrastructure. See MWRA Section 61 Findings (p. 6);</li> <li>• In the event a utility cannot be maintained in service during switch over to a temporary or permanent system, the Construction Manager will be required to coordinate the shutdown with the utility owners and project abutters to minimize impacts and inconveniences;</li> <li>• Measures for proposed dredging and waterfront infrastructure installations will include providing floating debris barriers and turbidity curtains for water work; and</li> <li>• Measures for dredging would include the use of an environmental style bucket to minimize turbidity, and monitoring turbidity in accordance with federal, state, and local permit approvals.</li> </ul>	
Recycling program	<ul style="list-style-type: none"> <li>• Construction waste material from demolition and new construction will be recycled when possible;</li> <li>• The disposal contract will include specific requirements that will ensure that</li> </ul>	During construction.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>construction procedures allow for the sufficient space for the necessary segregation, reprocessing, reuse, and recycling of materials; and</p> <ul style="list-style-type: none"> <li>• For those materials that cannot be recycled, solid waste will be transported in covered trucks to an approved solid waste facility, per MassDEP's Regulations for Solid Waste Facilities, 310 CMR 16.00. This requirement will be specified in the disposal contract.</li> </ul>	
Pest Control and Wildlife	<ul style="list-style-type: none"> <li>• The extermination of rodents will be required prior to demolition, excavation, and foundation installation;</li> <li>• Proposed work within the tidal zone and below MLW will be subject to time of year restrictions from the Massachusetts Division of Marine Fisheries, which are intended to protect migratory fish as they travel up and down river and to protect winter flounder spawning and nursery habitat; and</li> <li>• Channel dredging operations will be conducted only during those times of the year permitted by state and federal agencies, so as to reduce possible adverse impacts to ecological populations within the dredged area.</li> </ul>	Prior to and during construction.
Laundry Effluent	<ul style="list-style-type: none"> <li>• Obtain and comply with the conditions of a sewer discharge permit prior to and while discharging laundry wastewater into the MWRA sewer system. See MWRA Section 61 Findings (pp. 6-7).</li> </ul>	Prior to discharging laundry wastewater into the MWRA sewer system.

## **IX. REGIONAL WORKING GROUP**

The SSFEIR Certificate requires Wynn to participate in and provide a proportionate share of funding for a Regional Working Group<sup>38</sup> with MassDOT to assess and develop long-term transportation improvements to support sustainable redevelopment and economic growth in and around Sullivan Square.<sup>39</sup> The Regional Working Group will be led by MassDOT and include, among others, the Executive Office of Housing and Economic Development, MAPC, DCR, Wynn, and the cities of Boston, Everett, and Somerville. See Section VIII of the MassDOT/MBTA/DCR Section 61 Findings entitled “Sullivan Square and Rutherford Avenue Planning Process.” The Commission requires Wynn to participate in the Regional Working Group process as a condition of these Section 61 Findings and of the License. However, as the Secretary has concluded in the SSFEIR Certificate, “the practical, rational and effective approach to addressing broader regional transportation impacts for this project is through enhanced transportation planning processes, not through the prism of this single project.” As a result, the Commission will not require completion of long-term infrastructure improvements implemented as a result of the Regional Working Group process prior to opening of the Gaming Establishment pursuant to G.L. c. 23K. In accordance with these Section 61 Findings, the License will include a reopener pursuant to 205 CMR 120 if it is necessary for the Commission to adjust Wynn’s contribution to either the proportionate share of funding for a Regional Working Group, or the long-term infrastructure improvements to be implemented as a result of the Regional Working Group process, or both.<sup>40</sup>

Finally, Wynn shall use its best efforts to work with the MBTA, MassDOT, and DCR on any future plans to create mass transit opportunities that serve the Gaming Establishment, including

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<sup>38</sup> As the Attorney General notes in her public comments dated April 11, 2016, the Regional Working Group was originally named the Sullivan Square Working Group. It changed its name to the Lower Mystic Valley Working Group; however, its primary focus largely remains on Sullivan Square. These Section 61 Findings refer to the group as the Regional Working Group.

<sup>39</sup> Pursuant to § 7.3 of the Boston SCA, Wynn has committed to provide \$250,000 in funding to support the Regional Working Group. As the SSFEIR Certificate requires Wynn to provide a proportionate share of funding for the Regional Working Group, this \$250,000 contribution shall not be deemed to be a cap on Wynn’s contribution if its proportionate share is determined to exceed this amount. Rather, as a condition of these Section 61 Findings, to be incorporated as a condition of the License, Wynn shall contribute \$250,000 or (if larger) its overall proportionate share consistent with the SSFEIR Certificate to the Regional Working Group regardless of whether that overall proportionate share exceeds \$250,000. Any amount due in excess of \$250,000 will be calculated and paid annually unless otherwise specified by the Commission in a reopener pursuant to 205 CMR 120.

<sup>40</sup> Pursuant to §§ 7.1A of the Boston SCA, Wynn shall be fully responsible for the costs of implementing the Mitigation Improvements, defined therein, which are currently estimated to cost Eleven Million Dollars (\$11,000,000). In addition, pursuant to and subject to Section VIII.F.4 of these Final Section 61 Findings and §§ 7.3, 7.4 and 7.5 of the Boston SCA, Wynn is required to make substantial payments toward the Sullivan Square Infrastructure Project and toward the Boston Community Impact Fee. To the extent those payments toward the Mitigation Improvements, Sullivan Square Infrastructure Project and Boston Community Impact Fee are made and used toward long-term transportation mitigation and infrastructure improvements in and around Sullivan Square, those payments shall be counted toward Wynn’s fair proportionate share of the capital costs of the long-term infrastructure improvements to be implemented as a result of the Regional Working Group process.

without limitation working with the MBTA, MassDOT and DCR on right of way issues. Wynn shall consider making a reasonable contribution as may be determined by the Commission to the cost of implementation of such mass transit opportunities.

**X. FINDINGS**

Pursuant to G.L. c. 30, § 61, and 301 CMR 11.12(5), the Commission finds that all feasible measures have been taken to avoid or minimize impacts of the Project and damage to the environment. Specifically the Commission finds that:

1. Environmental impacts resulting from the proposed Project within the scope of MEPA are those impacts described in the FEIR, SFEIR, and SSFEIR, and the corresponding Secretary's Certificates regarding each.
2. Wynn shall comply with and implement (a) all conditions in the Commission's conditional License for the Project (except those conditions that have been expressly modified and amended by the Commission's action on the Boston SCA), (b) the terms and conditions of the Mitigation Agreements, (c) the mitigation measures described in these Section 61 Findings, and the applicable provisions of the FEIR, the SFEIR, the SSFEIR, and the Secretary's corresponding Certificates regarding the same, (d) the final Section 61 Findings and conditions issued by other State Agencies in their respective final Agency Action on the Project, and (e) all conditions imposed by the Commission in its final Agency Action and final License for the Project pursuant to 205 CMR 120.02(1)(a).
3. Appropriate conditions will be included in any final License issued for the Project pursuant to 301 CMR 11.12(5)(b) and 205 CMR 120 to ensure implementation of the conditions and mitigation measures identified herein.
4. The Commission will establish a schedule for and conduct a regular quarterly review of compliance with the Section 61 Findings and the conditions of the Gaming License.

_____ Gayle Cameron, Massachusetts Gaming Commission	_____ Date
_____ Bruce Stebbins, Massachusetts Gaming Commission	_____ Date
_____ Enrique Zuniga, Massachusetts Gaming Commission	_____ Date





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April 11, 2016

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**Subj: Comments on Wynn Resort in Everett, Draft Section 61 Finding, EEA # 15060**

Dear Commissioners:

The Attorney General's Office ("AGO") appreciates the opportunity to submit these comments on the Massachusetts Gaming Commission's ("Commission") Draft Section 61 Findings for Wynn MA LLC's ("Wynn") Casino project in Everett ("Casino"). As the chief legal officer of the Commonwealth, with a specific legislative mandate to prevent and remedy damage to the environment<sup>1</sup> as well as to work with the Commission in the oversight of expanded gaming,<sup>2</sup> the Attorney General has paid careful attention to her responsibilities to review and participate in the Casino licensing process. We have previously provided comments regarding the Casino and the MEPA process to the Executive Office of Energy and Environmental Affairs ("EEA") and the Department of Transportation ("MassDOT"), copies of which are attached, and now submit these comments on the Commission's Draft Section 61 Findings.

After reviewing the Draft Section 61 Findings, we urge the Commission to include in its Final Findings, conditions that ensure that Wynn is required to contribute its fair share to mitigate the long-term traffic issues in the Sullivan Square and Rutherford Avenue area attributable to the Casino, based upon the findings of the Lower Mystic Valley Regional Working Group ("Working Group").<sup>3</sup> These Final Section 61 Findings are the Commission's best opportunity to use its ongoing control over the Casino project to ensure that the work of the

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<sup>1</sup> G.L. c. 12, § 11D authorizes the Attorney General to prevent and remedy damage to the environment "on [her] own initiative," by commencing or intervening in legal actions. That provision was enacted as part of the same bill that created MEPA. St. 1972, ch. 781, secs. 1 & 2 (as amended); G.L. c. 30, §62B.

<sup>2</sup> See, e.g., G.L. c. 23K, §§ 3, 6, 21, 68, 69, 70.

<sup>3</sup> The Working Group was originally named the Sullivan Square Working Group. The Working Group changed its name to the Lower Mystic Valley Working Group; however, its primary focus still largely remains on Sullivan Square.

Working Group, which grew out of the gaming licensing process, will be fully funded and implemented. It also is the Commission’s last chance to put measures in place before the Casino is built that will protect the public from a traffic nightmare in and around Sullivan Square. The Commission has both the legal obligation and the legal authority to impose such conditions on Wynn.

## I. LEGAL AND FACTUAL BACKGROUND

### A. The Massachusetts Environmental Policy Act

MEPA establishes “an official policy of environmental protection in the Commonwealth.”<sup>4</sup> One of the principle ways that MEPA works is by requiring full disclosure of a proposed project’s potential environmental impacts and providing the public with a meaningful opportunity to review and comment on those impacts before the project is approved by the Commonwealth.<sup>5</sup> Timing and substance are both critically important to the fulfillment of MEPA’s purposes. For that reason, courts have emphasized “that relevant information about potential environmental damage] [must be] . . . gathered *before* a project is allowed to proceed [to the permitting stage].”<sup>6</sup> The standard rule—data first, license second—ensures that the approving agency makes an “eyes wide open” decision; that is, it understands all of a project’s environmental consequences and the public’s views on them before it makes up its mind.<sup>7</sup> Traffic concerns play an important role in those environmental consequences. MEPA regulations devote an entire category of review thresholds (conditions that trigger MEPA review of the “short-term and long-term” impacts of a project), to the project’s expected impacts on transportation.<sup>8</sup>

Once a MEPA certification has been issued for a project, any agency that takes “Agency Action”<sup>9</sup> on the project “shall determine whether the Project is likely, directly or indirectly, to cause any Damage to the Environment and make a finding describing the Damage to the Environment and *confirming that all feasible measures have been taken to avoid or minimize the Damage to the Environment.*”<sup>10</sup> These so-called “Section 61 findings” play a vital role in the MEPA process as “the statute’s principal enforcement component, because an agency may not

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<sup>4</sup> *Enos v. Sec’y of Env’tl. Affairs*, 432 Mass. 132, 136 (2000).

<sup>5</sup> G.L. c. 30, § 62B.

<sup>6</sup> *Allen v. Boston Redevelopment Auth.*, 450 Mass. 242, 246 (2007) (first and third set of brackets in original, emphasis added). The fundamental rule has been endorsed repeatedly by the Supreme Judicial Court. *Canton v. Comm’r of the Mass. Highway Dep’t*, 455 Mass. 783, 785 (2010) (stating that “agencies are prohibited from granting permits until [the MEPA process] is completed” and that “before any agency may take action on a project, it is required to make substantive findings certifying that all feasible measures have been taken to avoid or minimize the environmental impact, if any, of a project”); *Enos*, 432 Mass. at 136 (same); *Boston v. Mass. Port Auth.*, 364 Mass. 639, 660 (1974) (“it is the environmental impact report required by s 62 which is to provide the data on which s 61 decisions are to be based and against which such decisions may be evaluated.”).

<sup>7</sup> G.L. c. 30, § 62C; *see also id.* at §§ 61, 62A-62B, 62 D, 62F; 301 C.M.R. 11.12(4). MEPA’s mandated process (data first, action second) is based upon the common sense notion that “[i]t is far easier to influence an initial choice than to change a mind already made up.” *Sierra Club v. Marsh*, 872 F.2d 497, 500 (1<sup>st</sup> Cir. 1989).

<sup>8</sup> *See* 301 C.M.R. 11.01(1)(d) and 11.03(6).

<sup>9</sup> Agency Action includes “any formal and final action taken by an Agency in accordance with applicable statutes and regulations that grants a Permit, provides Financial Assistance, or closes a Land Transfer.” 301 C.M.R. 11.02.

<sup>10</sup> 301 C.M.R. § 11.12(5).

act . . . without them.”<sup>11</sup> An agency making Section 61 findings must base them on the Environmental Impact Reports certified in the MEPA process, and must “*specify in detail*: all feasible measures to be taken by the Proponent or any other Agency or Person to avoid Damage to the Environment or, to the extent Damage to the Environment cannot be avoided, to minimize and mitigate Damage to the Environment to the maximum extent practicable.”<sup>12</sup>

### B. The Expanded Gaming Act

The Expanded Gaming Act of 2011 (“Gaming Act”) established and authorized the Commission to award licenses, known as Category 1 Licenses, to operate three casinos with slot machines and table games—one license for each of three defined regions.<sup>13</sup> The Gaming Act and its regulations establish a two-step application process: (1) a phase 1 suitability determination and (2) for suitable applicants, a phase 2 final merits determination, which evaluates each applicant against the other applicants based on sixteen criteria and nineteen objectives.<sup>14</sup> Upon award of a license, which “shall be deemed to have occurred immediately upon a majority vote by the commission to issue a license” “notwithstanding any conditions included in” the final license, the licensee is required to pay to the Commonwealth a license fee of \$85 million.<sup>15</sup>

The Gaming Act places significant emphasis on the necessity of careful consideration of “local and regional social, environmental, traffic and infrastructure impacts” and mitigation of those impacts.<sup>16</sup> Of particular relevance here is the fact that the Gaming Act expressly made each applicant’s eligibility to receive a gaming license contingent on its compliance with MEPA.<sup>17</sup> MEPA is the only Massachusetts environmental law specifically incorporated into the Gaming Act.<sup>18</sup> The Attorney General is one of the government officers (and the only constitutional officer) the MEPA process is intended to inform about “the environmental consequences of state actions . . . *prior* to the issuance of any permit.” St. 1972, ch. 781, secs. 1 & 2 (as amended); G.L. c. 30, § 62B (emphasis added).

### C. Transportation Impacts In The Wynn Casino Licensing And MEPA Process

In connection with the award of the Region A Category 1 license (“Gaming License”) to Wynn, the Commission rightly has recognized that the traffic problems in and around Sullivan Square are a significant issue that the must be addressed by Wynn.<sup>19</sup> Thus, when the Commission issued the Gaming License in September 2014 and maintained that it did so conditionally, subject to Wynn’s ultimate compliance with MEPA, the Commission reserved its

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<sup>11</sup> *Enos*, 432 Mass. at 137.

<sup>12</sup> 301 C.M.R. § 11.12(5)(a) (emphasis added).

<sup>13</sup> G.L. c. 23K, §§ 2, 3, 19.

<sup>14</sup> *Id.* at §§ 12, 15, 18.

<sup>15</sup> *Id.* at § 10(d); 205 C.M.R. § 118.06(5).

<sup>16</sup> *Id.* at §§ 9(13), 10(c), 18(8), 18(14).

<sup>17</sup> *Id.* at § 15(12).

<sup>18</sup> *See id.* at §§ 1-71.

<sup>19</sup> *See, e.g.*, Agreement to Award the Category 1 License in Region A to Wynn MA, LLC 1 & Ex.2, §§ 3-4 (Sept. 17, 2014) (“Gaming License”).

responsibility to re-evaluate traffic issues at the close of the MEPA process.<sup>20</sup> Our Office has concerns about whether the Commission’s issuance of a draft license prior to the completion of MEPA was consistent with a legal process that was designed to ensure project impacts are evaluated before agencies make decisions and grant approvals. Those concerns reinforce our view that the Commission, which has both the authority and responsibility to do so, must take action now on the transportation issues it reserved in the licensing process to ensure that all of the Wynn Casino traffic impacts are considered and that Wynn is held accountable for mitigating those impacts.

Consistent with the Commission’s focus on this issue, consideration of the Casino’s traffic impacts has played a central role in the MEPA review process thus far as well.<sup>21</sup> When former EEA Secretary Sullivan denied Wynn’s MEPA certificate on August 15, 2014, it was due, in large part, to the failure of Wynn’s Final Environmental Impact Report (“FEIR”) to appropriately address transportation planning.<sup>22</sup> There, Secretary Sullivan “strongly encourage[d] . . . [Wynn] to consult jointly with [MassDOT], the surrounding cities, and [the Metropolitan Area Planning Council (“MAPC”)] on both short-term and long-term solutions to address the project’s impacts while supporting municipal redevelopment visions, roadway design plans, and improved regional connections” in the Supplemental FEIR (“SFEIR”) Wynn was then required to file.<sup>23</sup> When Wynn submitted its SFEIR, on February 17, 2015, EEA again rejected it for its failure to analyze properly long-term traffic mitigation issues.<sup>24</sup> In its comment letter on Wynn’s SFEIR, MassDOT specifically asked EEA “to establish a process for the development of the long term improvements for the Rutherford Avenue corridor consistent with the schedule outlined in the Gaming License.”<sup>25</sup> In ruling on Wynn’s SFEIR, EEA Secretary Beaton obliged, requiring Wynn to engage in joint meetings with MassDOT and the City of Boston and to submit a further Second SFEIR (“SSFEIR”) to address traffic mitigation, among other issues.<sup>26</sup>

Following up on these continuing concerns regarding Wynn’s treatment of the transportation issues in its MEPA filings, on July 13, 2015, Attorney General Healey wrote to MassDOT Secretary Pollack and called for rigorous modelling of the transportation impacts of the Casino by the Central Transportation Planning Staff (“CTPS”) of the Boston Region Metropolitan Planning Organization.<sup>27</sup> As we detailed in our subsequent August 21, 2015 written comments to EEA Secretary Beaton on Wynn’s SSFEIR, our own independent study of Wynn’s traffic modelling suggested that there were significant problems with Wynn’s traffic estimates, that traffic problems were likely to be worse than Wynn’s predictions, and therefore

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<sup>20</sup> See, e.g., Gaming License at Ex. 2, § 2, Nos. 2, 33 & § 3, No. 1.

<sup>21</sup> Certificate of the EEA Sec’y on the Second Suppl. Final Env’tl. Impact Report (EEA No. 15060) 1 (Jul. 22, 2015) (“SSFEIR Cert.”) (“Traffic impacts have been a primary concern in the MEPA review of each of the proposed casino projects.”)

<sup>22</sup> See Certificate of the EEA Sec’y on the Final Env’tl. Impact Report (EEA No. 15060) 34 (Aug. 15, 2014) (“Wynn FEIR Cert.”).

<sup>23</sup> *Id.*

<sup>24</sup> See Certificate of the EEA Sec’y on the Suppl. FEIR (EEA No. 15060) 13, 15-16, 33-34 (Apr. 3, 2015) (“Wynn SFEIR Cert.”).

<sup>25</sup> Ltr. From David J. Mohler, Exec. Director, Office of Transportation Planning, MassDOT, to Matthew Beaton, Secretary, EEA, re Everett – Wynn Everett Resort Casino – SFEIR (EEA #15060) (Mar. 27, 2015) (“MassDOT SFEIR Comments”).

<sup>26</sup> Wynn SFEIR Cert. at 13, 15-16, 33-34.

<sup>27</sup> The Attorney General’s letter to Secretary Pollack is attached as Exhibit A

that CTPS modelling was necessary.<sup>28</sup> We also specifically identified a number of other legal problems with Wynn’s SSFEIR, including the lack of any long-term traffic plan for Sullivan Square, given that the Casino will contribute to long-term traffic problems that its short-term mitigation will not resolve, and Wynn’s failure to analyze any feasible project alternatives that were consistent with the City of Boston’s existing transportation plans for the area.<sup>29</sup>

EEA approved Wynn’s SSFEIR on August 28, 2015, but did so with caveats related to the still-unresolved long-term traffic issues raised by the Attorney General’s letters. Secretary Beaton required enhanced public participation during the permitting and development of Section 61 findings by MassDOT and the Commission, and most importantly, ordered the creation of the Working Group to “assess and develop long-term transportation improvements” in and around Sullivan Square.<sup>30</sup> Secretary Beaton also specifically considered the fact that the Commission has the ongoing authority to modify Wynn’s mitigation requirements, as appropriate, in approving Wynn’s MEPA certificate.<sup>31</sup>

Consistent with EEA’s SSFEIR Certificate, MassDOT convened the Working Group last Fall and it is now meeting regularly, with the AGO participating as an observer. We are encouraged by the fact that the rigorous CTPS traffic modelling the Attorney General called for will be performed under the supervision of the Working Group. Ultimately, the Working Group is expected to fulfill its mandate to assess the existing and future traffic conditions, propose alternatives to mitigate transportation issues, and identify funding resources and the equitable allocation of project costs among all responsible parties, including Wynn.<sup>32</sup>

More recently, in January 2016, the City of Boston reached a settlement with Wynn that included the execution of a Surrounding Community Agreement. As in the previous MEPA filings, the likelihood of the Casino’s creation of unsafe traffic impacts and the oversight and monitoring of those impacts was a significant focus here as well.<sup>33</sup> In approving the Surrounding Community Agreement, the Commission again specifically reserved its discretion and authority to impose additional conditions, including in its Section 61 findings.<sup>34</sup>

Finally, over the last several weeks, MassDOT issued its draft Section 61 findings. Long-term transportation issues created by the Casino were again central to those draft findings, with MassDOT expressly acknowledging the need for a long-term transportation solution for troubled areas like Sullivan Square and Rutherford Avenue.<sup>35</sup> MassDOT also made specific reference to the Working Group. As a result, in our written comments on the draft findings and

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<sup>28</sup> Ltr. From Maura Healey, Attorney General, to Matthew Beaton, Secretary, EEA, re Comments on Wynn MA, LLC’s SSFEIR (EEA No. 15060) 11-13 & Ex.2 (Aug. 21, 2015) (“AGO SSFEIR Comments”). This letter is attached as Exhibit B.

<sup>29</sup> *See id.* at 9-15.

<sup>30</sup> Wynn SSFEIR Cert. at 2.

<sup>31</sup> *Id.* at 4.

<sup>32</sup> *See id.*

<sup>33</sup> *See* Surrounding Community Agreement, By and Between the City of Boston, Massachusetts and Wynn MA, LLC, (Jan. 27, 2016) (“Boston SCA”).

<sup>34</sup> Massachusetts Gaming Commission, Vote Regarding Litigation Release and Surrounding Community Agreement, Wynn Everett, 3 (Feb. 4, 2016) (“Boston SCA Approval”).

<sup>35</sup> MassDOT, Dep’t of Conservation and Recreation, Draft Finding Pursuant to M.G.L. c. 30, § 61, Wynn Resort in Everett (EEA No. 15060) 21, 25, 26, 27 (Feb. 2, 2016) (“MassDOT § 61 Findings”).

in our testimony before the agency, our office again urged MassDOT to wait for the Working Group's long-term analysis before finalizing its findings – because waiting until after the Casino is constructed and in operation to address issues like these defeats the purpose of the analysis, especially where there is no explicit obligation in the findings for Wynn to comply with the results of the analysis.<sup>36</sup>

Thus, as the Commission predicted when it initially reserved its right to further condition the Gaming License in September 2014, a more detailed evaluation of the Casino's transportation impacts and the problems they will create has developed through the MEPA process. Now that the analysis of the long-term traffic impacts of the Casino and potential mitigation alternatives is at last underway through the Working Group, we will finally have the opportunity to understand precisely the Casino's long-term traffic impacts on Sullivan Square, even after Wynn's proposed short-term mitigation is complete. Because the Commission has the ultimate regulatory authority over Wynn and the Casino, the Commission's Final Section 61 Findings will be even more crucial than those of MassDOT. As a result, at the Commission's public hearing on its Draft Section 61 Findings on March 29, 2016, we asked the Commission to exercise the authority and responsibility it has reserved to provide a mechanism for incorporating the results of the Working Group, thus accomplishing a definitive resolution to the potential long-term traffic disaster in Sullivan Square. The written comments in this letter amplify our comments at the public hearing.

## **II. THE COMMISSION SHOULD REQUIRE THAT WYNN PAY ITS SHARE OF LONG-TERM TRAFFIC INFRASTRUCTURE COSTS AND THUS RESOLVE THE ISSUE THE COMMISSION RESERVED IN GRANTING THE GAMING LICENSE**

### **A. The History Of The Casino Project Requires That The Commission Impose Further Conditions At This Time.**

The question of how to mitigate the Casino's short and long-term effects on traffic in and around Sullivan Square has been raised and considered at virtually every step of the Commission's licensing process, yet mitigation of long-term effects never has been resolved. The Commission in issuing the Gaming License, two different EEA Secretaries in issuing four MEPA decisions, and MassDOT in issuing its Section 61 Findings each recognized the Casino's long-term transportation impacts. Yet in each instance, approvals were granted to the Casino without analysis of those impacts or requirement for Wynn to mitigate them. Thus, we have reached a point where everyone—including Wynn<sup>37</sup>—acknowledges the Casino's effect on long-term traffic problems in and around Sullivan Square, yet no entity has specifically required Wynn to take responsibility for its share of the construction costs to fix those problems.

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<sup>36</sup> Ltr. From Melissa A. Hoffer, Chief, Energy and Environment Bureau, Office of the Attorney General, to Stephanie Pollack, Secretary, MassDOT, Re: Comments on Wynn Resort in Everett, Draft Section 61 Findings, EEA # 15060, 9 (Feb. 25, 2016). This letter is attached as Exhibit C.

<sup>37</sup> See, e.g., Hr'g Tr. Of Gaming Comm'n Public Meeting # 178, at 14 (Feb. 4, 2016) (statement of Jacqui Krum, Wynn Resorts Senior Vice President and General Counsel, discussing Working Group's study of long-term impacts of all new developments, including the Casino).

Moreover, this failure to require Wynn to mitigate its share of these obvious and severe traffic problems is magnified in light of the ongoing planning that was already in place prior to the siting of the Casino to reduce stress on an overburdened traffic system that was struggling to bear the weight of its existing load. When Wynn was filing its application for a Gaming License that will increase traffic in Sullivan Square and Rutherford Avenue, Boston was completing about three-and-a-half years of community planning, with extensive public involvement, resulting in a plan to downsize Rutherford Avenue and Sullivan Square and transition the area into a “pedestrian-friendly, village type neighborhood.”<sup>38</sup> In fact, eleven-and-a-half million dollars in federal funds already had been earmarked for the project,<sup>39</sup> and MassDOT already had started using the money to advance the plan.<sup>40</sup> In this context, the idea of significantly increasing, rather than decreasing, the load on the traffic system in the area of the Casino is particularly concerning. And where there has been a potential conflict between Boston’s plan for the area and the Casino, the need for a definitive, mandatory requirement that Wynn account for its share of the problem is even more important.

All in all, these findings represent the last scheduled opportunity before Wynn begins substantial construction of the Casino for the Commission to take up these serious traffic issues that have been postponed since the conditional grant of the Gaming License and protect the residents and commuters in the Sullivan Square area. We appreciate that the Commission is aware of the issue. We applaud the fact that the Commission has confirmed that it will exercise continuing control over the project going forward, with a right to reopen and modify Wynn’s Gaming License conditions as appropriate.<sup>41</sup> However, we remain concerned that nothing in the Commission’s draft Section 61 Findings definitively ensures that Wynn will be required to pay its fair share of the construction costs for long-term mitigation work going forward. Absent such a condition, the Casino’s Gaming License could become a significant part of the problem in Sullivan Square rather than a substantial part of the solution. The Commission is the state agency with the authority and responsibility in connection with the Gaming License to address this reality.

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<sup>38</sup> Press Release, City of Boston, City Announces Selection of Rutherford Ave Surface Option (Mar. 12, 2013), <http://www.cityofboston.gov/news/Default.aspx?id=6022>; MassDOT SFEIR Comments at Attached Mem. p. 6.

<sup>39</sup> Safe, Accountable, Flexible, Efficient Transportation Equity Act: Legacy For Users, Pub. L. No. 109-59, sec. 1702, Item No. 3568 & sec. 1934(c), Item No. 174 (2005) (authorizing the appropriation of \$10 million to the Commonwealth for Rutherford Avenue Improvements); Office of Mgmt. and Budget, Database of Federal Earmarks For 2005 Appropriations, [https://earmarks.omb.gov/earmarks-public/earmarks/earmark\\_183678.html](https://earmarks.omb.gov/earmarks-public/earmarks/earmark_183678.html) (appropriating \$1.476 million to the Commonwealth for Rutherford Avenue Improvements from Consolidated Appropriations Act of 2005, Pub. L. No. 108-447, sec. 117 (2004)). It also appears that another ten million dollars in State funds have been appropriated for the project. Kimberly Ashton, *Transportation Bill Earmarks Include Rutherford Redesign*, Charlestown Patch, Aug. 14, 2012, available at <http://patch.com/massachusetts/charlestown/transportation-bill-earmarks-include-rutherford-redesign>; An Act Financing Improvements to the Commonwealth’s Transportation System, St. 2012, ch. 242, sec. 2A (authorizing the expenditure of \$10 million “for the redesign and reconfiguration of Rutherford avenue and Sullivan square”).

<sup>40</sup> Ltr. from Clinton Bench, Deputy Exec. Director, Office of Transportation Planning, MassDOT, to Maeve Valley-Bartlett, Secretary, EEA, re Everett – Wynn Everett Resort Casino – FEIR (EEA #15060), at p.5 (Aug. 15, 2014) (hereinafter “MassDOT FEIR Comments”).

<sup>41</sup> See Massachusetts Gaming Commission Draft Section 61 Findings, Wynn Everett, (EEA No. 15060) 53 (Mar. 22, 2016) (“MGC Draft § 61 Findings”).

B. The Commission Should Require Wynn To Finance Monitoring Costs And Its Share Of The Working Group's Recommendations.

Specifically, the Commission's Draft Section 61 Findings state that the Gaming License will include a reopener provision<sup>42</sup> that the Commission may employ "if it is necessary to adjust Wynn's contribution to either the proportionate share of funding for a Working Group, or the long-term infrastructure improvements to be implemented as a result of the Working Group Process, or both." This language leaves open the possibility that, if no agency or member of the public comes to the Commission, or if the Commission does not choose to act on its own, the current Gaming License conditions may never be amended to require that Wynn pay its proportional share of the construction costs for the long-term infrastructure improvements recommended by the Working Group, which will be necessary in part due to Wynn's Casino impacts.

This creates a needless risk. Because the Working Group is expected to analyze the proportional share of construction costs for which Wynn should be responsible, the Commission can require Wynn to pay whatever share is determined. Alternatively, if the Working Group fails to include such an allocation in its report, the Commission can decide the appropriate share for Wynn.

In fact, this is precisely what the Commission has done to Wynn's payments for funding the operating costs of the Working Group.<sup>43</sup> The Commission notes that although Boston and Wynn agreed that Wynn would pay a \$250,000 dollar share of Working Group operating costs, the Commission has decided, consistent with EEA's order in Wynn's SSFEIR Certificate, that Wynn shall pay a proportionate share of those operating costs, even if that is larger than \$250,000.<sup>44</sup> This modification, however, does not appear to apply to the long-term costs of infrastructure construction, despite the fact that the Working Group was created in the first place to devise a long-term solution for Sullivan Square that will likely include such construction work.<sup>45</sup> Consequently, the Commission needs to apply the same allocation principle to the construction costs as well.

There is simply no reason that the issue of Wynn's share of construction costs should sit dormant unless and until the Commission raises the issue some years down the line after the completion of the Working Group's analysis. Indeed, addition of a mandatory provision would be consistent with Wynn's position that it intends to pay its share of its long-term transportation impacts.<sup>46</sup> It would also be consistent with the reservoir of authority the Commission's initially reserved to itself until after the MEPA process developed. Now that the MEPA process is nearly

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<sup>42</sup> The findings cite 205 C.M.R. 120 as the authority for the reopener, which means, pursuant to the terms of that regulation, it will be available for the Commission to use in order to ensure compliance with any part of MEPA, including traffic impact mitigation. *See id.*

<sup>43</sup> *See id.* at 53, n.35.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> "And of course we are still responsible if our traffic solutions fall short. We have commitments to MEPA, to you, the city of Everett and now the city of Boston to monitor, report back and address any deficiencies." Hr'g Tr. Of Gaming Comm'n Public Meeting # 178, at 14 (Feb. 4, 2016) (statement of Jacqui Krum, Wynn Resorts Senior Vice President and General Counsel).



complete, the Commission should follow through on its plan and use the authority it has consistently and correctly asserted it has to modify the License conditions and require a proportional payment by Wynn.

In our view, the Commission's Final Section 61 Conditions should include at least the following:

First, the Commission should incorporate the ultimate findings of the Working Group. Both the Gaming Act and MEPA require analysis and mitigation of all impacts, including long-term transportation impacts.<sup>47</sup> And while the Secretary of EEA has decided that because such impacts in this case will result from other entities in addition to the Casino, that the matter should be analyzed through the Working Group rather than the usual MEPA process,<sup>48</sup> that does not change the fact that there are long-term transportation impacts arising specifically as a result of the Casino development that need to be addressed at some point in the final MEPA record. Since the Working Group will be performing that essential work, its findings should be incorporated into the MEPA record through the Commission's Section 61 Findings.

Second, the Commission's findings should include a requirement that Wynn contribute its overall actual proportionate share of the mitigation for the long-term transportation impacts of the Casino, based upon the impacts of the Casino, as determined by the Working Group, in addition to its share of the monitoring, analysis, and other activities of the Working Group. This should include infrastructure construction costs and should apply regardless of whether the actual amount exceeds any previous commitments to pay such costs up to any particular dollar cap. The Commission should also order a fixed payment date, and set it a reasonable time after the Working Group issues its findings. To the extent any complications arise during the Working Group process, the Commission always retains the authority to amend these conditions to address them as appropriate.

The addition of these two straightforward requirements will help ensure that there is no risk of the public being saddled with the Hobson's choice of either living with even worse traffic in the Sullivan Square area or paying for what should be Wynn's equitable share of the costs to address the traffic impacts of the Casino. It will also ensure that the work of the Working Group does not go to waste, and will fulfill the plan the Commission set forth at the start of the licensing process.

### **III. THE COMMISSION SHOULD CLARIFY EXISTING TRAFFIC MONITORING REQUIREMENTS TO MINIMIZE THE RISK OF IMMINENT TRAFFIC PROBLEMS.**

In addition to our concerns about the implementation of the long-term solutions being developed by the Working Group, we also urge the Commission to use its authority to bolster and clarify existing Gaming License conditions requiring a Transportation Demand Management ("TDM") program, which is designed to monitor and minimize the traffic problems in and

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<sup>47</sup> G.L. c. 23K, §§ 9(13), 10(c), 15(12), 18(8), 18(14); 301 C.M.R. 11.01(1)(d) and 11.03(6).

<sup>48</sup> See Wynn SSFEIR Cert. at 2-4.

around Sullivan Square.<sup>49</sup> Given the existing language, negotiated by Wynn, it is unclear precisely when Wynn is obligated to take action to remedy issues or even how some of the data will be collected, potentially rendering these important measures ineffective. This is critical, because based upon our own independent analysis of Wynn’s traffic estimates, there is a significant likelihood that traffic will exceed Wynn’s estimates, and the TDM program may be the most effective way to mitigate severe traffic impacts on residents and commuters.<sup>50</sup>

The Commission has expressly incorporated the current version of these TDM requirements from the Surrounding Community Agreement that Wynn negotiated with the City of Boston into the Gaming License and into its Draft Section 61 Findings.<sup>51</sup> The Gaming License currently requires that “Wynn shall be responsible for the costs of implementing certain additional mitigation measures which may include, without limitation, [a menu of certain options],” if “the results of the transportation monitoring program indicate that there are operational deficiencies at the monitored locations and any of the following conditions apply.”<sup>52</sup> There are two conditions included which may trigger additional mitigation: “(1) [t]he measured traffic volumes for the Project exceed 110% of the projected values; or (2) [t]he distribution of Project-related traffic from the Project Site entrance to the roadway network varies by more than 10% of the trip assignment assumed for the Project.”<sup>53</sup> Each of these triggers is ambiguous.

As to the first, it is unclear what the “projected values” are and it is uncertain how “measured traffic values” are determined. The Draft Section 61 Findings describes project impacts and projected values in terms of average daily trips, relying on numbers generated in Wynn’s February 17, 2015, SFEIR.<sup>54</sup> However, on this project, traffic impacts are especially significant during the peak *hour* of traffic, rather than for a specific day. Indeed, much of the traffic analysis done for the proposed project is focused on the peak hour of traffic.<sup>55</sup> Therefore, given the context of the traffic analysis thus far and the lack of any detail in the language as to this issue, it is unclear precisely how the target threshold will be measured. In order to encompass the full scope of traffic impacts analyzed throughout the MEPA process, the Commission should clarify that “projected values” is measured in terms of both average daily trips on Fridays and Saturdays as well as peak *hour* volumes on Friday and Saturday.<sup>56</sup> Likewise, the “measured traffic values” should be measured for the same periods, both days and

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<sup>49</sup> See MGC Draft § 61 Findings at 25; Boston SCA Approval at 3.

<sup>50</sup> See *Review of MEPA Traffic Analyses Prepared for the Proposed Wynn Everett Casino* prepared by Norman Marshall of Smart Mobility, Inc., for the AGO at 1 (Aug. 20, 2015), which is Exhibit 2 to the AGO SSFEIR Comments, attached here as Exhibit B (“Smart Mobility Report”).

<sup>51</sup> See Boston SCA at § 7.1B. The current version of the TDM plan varies from the language imposed by the Commission in the original Gaming License conditions. See Gaming License § 4 No. 5. In particular, Wynn and Boston added a new section describing triggers for future mitigation based upon the results of the TDM Plan. This replaced the previous ‘per car’ traffic reduction payments the Commission required for traffic over and above Wynn’s estimates. *Id.* at § 4, No. 2.

<sup>52</sup> Boston SCA at § 7.1B.

<sup>53</sup> *Id.*

<sup>54</sup> See MGC Draft § 61 Findings at 7.

<sup>55</sup> See, e.g., Smart Mobility Report, at 3, 6-8, 12-14 (reviewing Wynn traffic analyses from its Draft Environmental Impact Report, FEIR, SFEIR, and SSFEIR).

<sup>56</sup> According to table 2.2, the table the Commission referenced in Wynn’s SFEIR, the Friday peak hour value is 1,358 and the Saturday afternoon peak hour is 1,810. See MGC Draft § 61 Findings at 7; Wynn SFEIR, at 2-3, table 2-2.

hours. Thus, the 110% project traffic volume trigger is exceeded if the observed traffic volume for any traffic count exceeds the projected values for any of the following periods: Friday daily; Friday afternoon peak hour; Saturday daily; and Saturday peak hour.

Turning to the second trigger, the ambiguity again lies in both what the limit is and how to measure it. Because the trigger focuses on “the distribution of project-related traffic from the Project Site entrance to the roadway network,” and because the trigger is established within the context of “Sullivan Square and Boston,” this trigger appears to specifically relate to whether the distribution of the Project-related traffic to Sullivan Square “varies by more than 10% of the trip assignment.”<sup>57</sup> The distribution of Casino traffic to Sullivan Square has not changed since the original Draft Environmental Impact Report: 73 percent.<sup>58</sup> However, the operation of the “10%” is not clear. For example, measuring 10 percent of 73, would mean that the trigger is exceeded at 80.3 percent, but simply adding 10 percent onto 73 percent would mean the trigger is exceeded at 83 percent. Therefore, taking the language Wynn negotiated literally, the Commission’s Final Section 61 Findings should clarify that base traffic distribution is 73 percent and that the trigger is exceeded at 80.3 percent.

Further, it is unclear how this trigger will be monitored, practically speaking. MassDOT’s Section 61 Findings, which the Commission incorporated into its Draft Section 61 Findings, simply state that the data collection at Sullivan Square “will be designed to determine the number of vehicle trips entering and leaving this intersection that are attributable to the Project during the Friday afternoon peak hour.”<sup>59</sup> However, that task is easier said than done. One way this type of monitoring can be done is through the video capture of license plates and the use of license plate matching systems to track vehicle movement. Another method includes the use of gps data collected from cell phones or toll transponders. Regardless of what method is chosen, it is critical to the operation and value of the TDM program that the method is rigidly performed. Thus, the Commission’s Final Section 61 Findings should clarify that whichever method is selected, Wynn and its consultant will be expected to comply strictly.

Finally, even if the TDM program shows that either of the triggers is exceeded, the consequences are vague, at best. The current language only states that Wynn is responsible for the costs of “certain additional mitigation measures which may include, without limitation” a set list. That, of course, may mean all, some, any, or none of the measures set forth on the list. And no mention is made of who decides what mitigation must be performed and when it must be implemented. Consequently, these precatory measures appear to be unenforceable as a practical matter, and certainly fall short of any kind of effective traffic response requirement. Moreover, they stand in stark contrast to the \$20,000-per-trip traffic reduction payments that previously existed in terms of both enforceability and the likelihood of achieving traffic reduction results. As a result, the Commission, in its Final Section 61 Findings should at least include a requirement that the Commission may review the TDM program results and decide if the triggers have been exceeded and what the appropriate mitigation may be. This is consistent with the Commission’s authority under the Gaming Act and the reservation of authority it has

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<sup>57</sup> See Boston SCA at § 7.1B.

<sup>58</sup> See Smart Mobility Report, at 9 and Fig. 4 (citing Wynn DEIR, Fig. 4-49).

<sup>59</sup> MassDOT, Dep’t of Conservation and Recreation, Draft Finding Pursuant to M.G.L. c. 30, § 61, Wynn Resort in Everett (EEA No. 15060) at 35 (Feb. 2, 2016).

consistently maintained throughout the licensing process and it will increase the likelihood that the TDM program will provide real relief to the public for the traffic problems we believe are likely to arise once the Casino begins operation.

#### IV. CONCLUSION

For these reasons, based upon the Commission's responsibilities and legal obligations under the Gaming Act and MEPA, the Commission should explicitly require Wynn to fund its fair share of the long-term infrastructure costs resulting from its Casino's impacts on Sullivan Square and the public. We continue to believe that the best way to accomplish this is for the Commission not to finalize its Section 61 Findings until the Working Group has completed its process and the Commission can assess all of the Casino's long-term impacts. However, to the extent the Commission issues Final Section 61 Findings, it should add the following conditions:

- 1) the findings of the Working Group are expected to be incorporated by reference into the Gaming License; and
- 2) Wynn shall contribute its overall proportionate share of the mitigation for the long-term transportation impacts of the Casino as determined by the Working Group (or alternatively, if the Working Group does not do so, then by the Commission), payable on a date (or dates) certain after issuance of the Working Group's findings.

Additionally, the Commission should clarify and strengthen the TDM program requirements so that it may serve as an effective, enforceable solution for traffic problems in and around Sullivan Square. To achieve this, the Commission should incorporate additional conditions into its Final Section 61 Findings, which reference the existing TDM program as set forth in the Boston SCA, and state that:

- 1) the terms "projected values" and "measured traffic values" in the first mitigation triggering condition of the TDM program should be measured by both Friday and Saturday daily trip volumes *and* Friday and Saturday peak hour trip volumes;
- 2) the phrase "more than 10% of the trip assignment assumed for the Project" in the second mitigation triggering condition of the TDM program means more than 80.3 percent of Casino traffic;
- 3) rigorous compliance is required for whichever monitoring method for traffic distribution under the second mitigation triggering condition is selected; and
- 4) the Commission will regularly review TDM program results to determine whether the mitigation triggers have been exceeded.

The Commission has reserved its authority to take these measures from the outset of the licensing process in 2014 and now is the time to follow through and ensure that the Gaming License is part of the solution for Sullivan Square rather than a part of the problem. It is well-understood that traffic in and around Sullivan Square is already problematic and will be

exacerbated by the presence of the Casino in Everett. The addition of these conditions will help ensure that the Commission is in a position to minimize the impact of these traffic problems on the public and fulfill the Commission's legal obligations under MEPA and the Gaming Act.

Should you have any questions as you work to finalize your Section 61 Findings, or if you wish to discuss these comments, you may reach me directly, or contact Rich Johnston, Chief Legal Counsel, at (617) 963-2028.

Sincerely,

A handwritten signature in black ink, appearing to read 'MAH', with a long horizontal flourish extending to the right.

Melissa A. Hoffer



Navigating our future.

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April 11, 2016

John S. Ziemba  
Ombudsman  
Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

Re: Wynn Resort in Everett Draft Section 61 Finding

Dear Mr. Ziemba,

On behalf of Boston Harbor Now (formerly The Boston Harbor Association), thank you for the opportunity to comment on the draft Section 61 Finding for the Wynn Resort Project. Boston Harbor Now has commented extensively on the original project, Supplemental FEIR, and Second Supplemental FEIR. We continue to strongly support the proponent's commitment to funding water transportation initiatives as a contribution to build a more comprehensive Boston Harbor ferry system. Our comments follow.

Commitment to Water Transportation Initiatives

In 2012, MassDOT created the Ferry Compact, an executive-level committee of water transportation stakeholders focused on developing "financially and environmentally sustainable ferry services." In recent years, water transportation services between Boston and the North and South Shores have increased for both commuters and recreational riders. Nonetheless,

[42°21'32"N 71°3'26"W](#)

water transportation continues to be an underused opportunity to stretch our public transit dollars and ease Boston's traffic problems.

For example, the MassDOT Section 61 findings do not even assess the impacts of water-based public transit options including water taxis, a scheduled ferry system, and water shuttles to and from major land-based MBTA stops. This should be a higher priority for MassDOT, the MBTA, and the Commonwealth. Water transportation has the potential to significantly improve public transit options for underserved Boston Harbor waterfront communities such as Everett.

Currently, Boston Harbor's existing ferry routes receive the lowest subsidies of any form of public transit in the MBTA system. To create a successful and viable ferry system, ferries must be seamlessly integrated with land-based services and benefit from on-going predictable subsidies, similar to buses, subways, and trains. Customers should be able to experience all public transit modes as part of the same system.

A strong commitment from developers to provide dedicated funding to water transportation is essential to expanding, completing, and maintaining operation of the ferry system. The mitigation funds committed by Wynn Everett should be used to help complete Boston Harbor's ferry infrastructure.

#### Proponent Support for Water Transportation

As part of the Draft Section 61 Findings, Wynn has committed \$8.6 million to provide dock facilities and customized ferry vessels able to traverse under the Alford Street Bridge and operate between the project site and Downtown Boston destinations (page 4-20 of SS FEIR).

Wynn has committed to providing an additional mitigation measure of up to \$3,303,000 per year for the operation of water shuttle service to the project site, an annual operating cost that will be required for the term of the project (page 4-18 of SS FEIR). In response to our previous comments inquiring about funds needed to maintain a viable transportation system, the proponent confirmed that it is committed to providing the water shuttle service, not the particular annual cost.

We strongly urge that the fare for the water shuttle service be consistent with that of scheduled MBTA ferry service, particularly if on-site parking rates for guests are relatively low. The proposed water shuttle service should be operated as a regularly scheduled ferry, not as on-demand taxi or water taxi services.

Finally, we ask that it be made clear that the proponent's minimum subsidy of \$3,303,000 will be used to provide frequent service with headways of at least 15 minutes, seven days a week.

Otherwise, the proponent's commitment of up to \$3,303,000 per year for service operation may result in a curtailed, infrequent schedule or a very expensive service (\$15 or more per ride) limited to a small number of high-end visitors.

#### Improved Connections from MBTA Orange Line

MassDOT has stated that public transit access to the project via the MBTA's Orange Line is a key component to the project's transportation strategy. We agree. On previous occasions, Boston Harbor Now has advocated for a ferry service between the dock by the MBTA Assembly station on the Orange Line and the project dock to help reduce road congestion by bus from the station to the project site.

With an estimated 5 to 7 minute boat ride, this proposed connection has the potential to reduce and eliminate the need for bus shuttle service from the Wellington and Malden Center stations on the Orange Line to the project site. As part of the mitigation plan to facilitate patron shuttle connections between the two stations to the project site, Wynn Everett has proposed an annual \$3,285,000. This connection would use smaller vessels than the customized ferry vessels to and from the Inner Harbor, with the added benefit of further activating Everett's water sheet.

Boston Harbor Now continues to push for smart investments towards a viable Boston Harbor ferry system. Water transportation alternatives require lower overall subsidies than other forms of mass transit and can significantly improve commuter links, relieve traffic congestions, and encourage further transit-oriented development. Wynn's commitment to water transportation is an excellent investment in bringing Boston's water transportation to scale. The city should continue to support the completion of ferry service as an option for traffic demand management.

Thank you for the opportunity to comment. We look forward to the inclusion of water transportation alternatives for this project and a fully connected and viable Boston Harbor ferry system.

Sincerely,



Jill Horwood

Waterfront Policy Analyst



Julie Wormser

VP of Policy and Planning



April 11, 2016

Massachusetts Gaming Commission

Dear Acting Chairman Zuniga and Commissioners Cameron and Stebbins:

We are residents of the neighborhoods and the areas to be most affected by the Wynn Casino's negative impacts. We have submitted and signed the attached questions and comments in response to the "Massachusetts Department of Transportation and Department of Conservation and Recreation Draft Finding for the Wynn Resort in Everett Project, Pursuant to G. L. c. 30, § 61." We were greatly disappointed that not a single one of our questions were addressed by MassDOT. The process you are overseeing cannot be genuine when reasonable questions and comments we have raised and that have been raised by others during this process, including the Attorney General and the Boston Transportation Department, are simply ignored.

As you acknowledge in your "Draft Section 61 Findings to be Issued Pursuant to M.G.L. c. 23K and M.G.L. c. 30, § 61" (March 22, 2016), "the subject matter of the Gaming License confers broad scope jurisdiction and extends to all aspects of the project that may cause Damage to the Environment, as defined in the MEPA regulations." (p. 11). Therefore, we construe the Secretary's Certificate on the SSFEIR, MEPA and the Gaming Act to require the Gaming Commission to address these same questions that we have posed regarding traffic and transportation deficiencies. This is all the more apparent in light of the Commission's obligations under G. L. c. 23K, § 10(c) and the Secretary's requirement that the Commission incorporate MassDOT's Section 61 Findings.

In responding, we ask that the Commission consider most directly the following questions as also discussed in the attached:

- How can the Commission find that it is not permitting Wynn to segment the Project in violation of 301 CMR 11.01(2)(c) where Wynn, the Commission, nor any other agency as part of the MEPA project:
  - Identified a viable long term solution to address Wynn's traffic increases in Sullivan Square, instead permitting a short term solution that requires continued maintenance of the Rutherford Avenue Tunnel and as a result forever forecloses the plan for redesign of the Sullivan Square area that was selected by the City after an extensive public outreach process in which some of us participated (which cannot be built with the tunnel in place);
  - Has not made any determination supported by a rational explanation that Wynn has taken all measures to avoid or minimize damage to the environment at intersections outside of MassDOT or DCR's jurisdiction despite the Secretary's explicit instruction regarding broad scope jurisdiction;
  - Undertaken an evaluation of the conditions necessary to minimize or, as they so obviously can do by using the existing site entrance, avoid the impact on critical MBTA repair operations both at the Everett Shops and system-wide, resulting from the loss of access and repair space caused by the MBTA Land Transfer;

- Failed to include within any MEPA filings or Section 61 Findings an analysis of the environmental impacts of contemplated takings by eminent domain of property in Everett to construct a replacement service entrance to the Everett Shops and provide secondary access to the Project, instead segmenting that analysis into a separate MEPA process under EOEEA #15414.
- Does the Commission have an explanation how executing an Agreement to award the Region A gaming license prior to Secretary's Certificate did not violate 301 CMR 11.12(4)(a)? Nothing about the license was "conditional," as the Commission may argue, where Wynn paid an \$85 million licensing fee, hired extensively for the Project, began on-site work, and acquired numerous permits from agencies outside of MEPA's jurisdiction? This has compromised the entire process, forcing agencies of the Commonwealth to address their statutory responsibilities knowing that the single License that is available in Region A has been awarded and dealing with the constant reminder and attendant political pressure of the importance of taxes from the Casino. It is a clear and continual violation of MEPA, a statute unambiguously intended to put these important issues concerning our health, environment and neighborhood ahead of private interests.
- What studies of the feasibility of the unprecedented water transportation program and its 6% mode share have been completed that support the finding that Wynn has taken feasible measures to minimize and avoid damage to the environment?
- The Secretary's Certificate required that up to \$20 million in "penalties" be paid for actual vehicle trips that exceeded Wynn's projections as a transportation demand management measure. Despite the fact that this is an explicit MEPA requirement and that the Commission made this an explicit condition of Wynn's license in September 2014. You have since stripped this requirement from Wynn's gaming license at Wynn's request. Failure to include this measure dramatically impacts Wynn's incentive to reduce vehicle traffic. Does the Commission expressly find that the financial penalty incentive was not a "feasible measure" to minimize or avoid damage to the environment and for that reason need not be required?

For further comment, please make reference to our attached correspondence to MassDOT.

Thank you for your consideration.

Sincerely,

Evelyn Addante  
54 Baldwin Street  
Charlestown, MA

Ann Kelleher  
42 8<sup>th</sup> Street, #4212  
Charlestown, MA

Nicole Payne  
70 High Street, #3  
Charlestown, MA

From: Dukakis, Michael

Sent: Monday, April 11, 2016 9:18 AM

To: mgcomments@state.ma.us

Subject: Comments on Draft Section 61 Requirements on the Proposed Casino

I would like to register my strong support both for the comments submitted to you by my former Secretary of Transportation, Fred Salvucci, and the position of the Attorney General of the Commonwealth on the transportation impact of the proposed Everett casino.

The purpose of the Commonwealth's environmental laws is to anticipate problems and deal with them before we face the serious consequences of failing to do so and then wondering why we did not act in advance to mitigate those problems. The proposed casino is a classic case of just such a situation. Nobody who has tried to deal with traffic in and around Sullivan Station,

Charlestown and Everett could possibly support approval of the proposed casino without the extensive work required on the area's transportation system to deal with the traffic it will produce. I speak from recent experience. Kitty and I traveled from Boston to Malden via Charlestown and Everett a few days ago to watch our grandson play hockey in a youth league. It wasn't pleasant, to put it mildly. I can't imagine what it would be like with a casino in operation without the necessary transportation improvements that will have to be made to accommodate the people that will be trying to get there.

Thank you.

Michael S. Dukakis

Former Governor

Frederick Salvucci  
6 Leicester Street  
Brighton, MA 02135

April 11, 2016

Massachusetts Gaming Commission  
101 Federal Street  
12th Floor  
Boston, MA 02110

Via mail and email:  
[Mgcomments@state.ma.us](mailto:Mgcomments@state.ma.us)

**Attn: Catherine Blue, General Counsel**

**Subject: Statement to the Gaming Commission on Draft Section 61 - Wynn**

Dear Commissioners,

I am writing to support the comments of the office of the Attorney General of Feb 25, (enclosed within), and urge that you postpone the completion of section 61 findings until the regional transportation study of the Sullivan Square and I-93 area required by Secretary Beaton can identify technically feasible and financially viable means to improve traffic conditions in the area before allowing the Wynn casino to proceed. Given the fact that the Commonwealth has just published its long term capital plan, the fact that many worthy projects have been postponed or cancelled, it is very uncertain that MassDOT will identify funding for any additional improvements that are needed. Permitting the casino to proceed without addressing the underlying issues will not only constitute illegal segmentation of the casino from the transport improvement it necessitates, but it will cost us our best chance to finally solve the Sullivan Square puzzle.

I have participated in transportation planning in this specific area since the 1960s, when I worked for the City of Boston and the BRA on studies of Rutherford Avenue and Prison Point (John F. Gilmore) Bridge, and the "North Terminal Area" through later studies associated with the Big Dig, and the revisions to I-93 to increase the capacity of the old Central Artery. The efficacy of those expansions in capacity were always identified as effective ONLY if complemented by significant transit improvements, to attract sufficient travel to transit to enable the roadways to operate without degenerating into unstable flow and gridlock. Unfortunately, the most significant of these transit improvements have not been implemented, and are at best a decade behind schedule. For example, the extension of the Green Line was to have been in operation by 2011; the Blue Line to Red Line connector was to have been in place by 2010; the aging Orange Line fleet was to have been replaced by 1995.

The result of this enormous delay in transit investment is now visible in daily reports of worsening congestion on I-93, especially in the vicinity of the Sullivan Square area. The regional study required by Secretary Beaton will hopefully regenerate political will to complete longstanding, but delayed plans, and initiate more significant initiatives sufficient to not only improve current degraded conditions, but provide the basis to support further growth in the economic activity in Charlestown, Everett, and Somerville.

But the current plan for the casino includes a relocation of the driveway/access to the Wynn site north into a location in conflict with the essential heavy maintenance facility of the MBTA, which is essential to the functioning of the MBTA with even greater reliance on repair because of the excessive age of the rail and bus vehicles. Moreover, the relocation of the driveway is in conflict with two of the most promising transit improvements discussed in the area:

1. The long discussed Urban Ring Bus Rapid Transit Improvement linking Kendall, Lechmere, Sullivan Square, Everett, Chelsea to Logan (which is now under construction in Chelsea!). This improvement relies on land for right of way and stations, either on route 99, or preferably close to the rail right of way to the west of the casino site and MBTA facility, and through Sullivan Square to the T station. If these are not provided for with specific plans, land for right of way and stations, and funding for construction, they cannot be implemented and the opportunity will have been forever foreclosed. By using up valuable MBTA land now part of Everett Shops and by not including any transit corridor in the plans for Broadway, which is a new street now being rebuilt, you will have forever foreclosed this possibility for the region.
2. The possibility of rail service from North Station to Sullivan Square and then to Everett, Chelsea, Revere, and Lynn using DMU vehicles more appropriate for urban service than traditional commuter rail. This is the only realistic plan for rail service to Everett as proposed by the Mayor of Everett. But like the Urban Ring, the rail right of way and stations need to be planned, designed and built. Land must be reserved, and the casino must be designed with such stations integrated into the plans.

If the current modified driveway/access for route 99 into the casino proceeds, it will almost certainly block both possibilities, and render the regional transportation study meaningless. A relatively easy way to not preclude these possibilities is for the Gaming Commission to require as a section 61 finding that the drive be left in its current location, and that Wynn must cooperate in the design and implementation of both initiatives including the planning for stations.

The original location of the drive way/access to Wynn was considered adequate by Wynn when the casino was proposed, but was relocated by Wynn to avoid the jurisdiction of the city of Boston, which was then opposed to the casino. But now that the city of Boston has withdrawn its opposition to the casino, there should be no reason to proceed with this destructive relocation. If the Gaming Commission will make this simple addition to the section 61 requirements, a major snafu can be avoided.

But, in addition, the findings that the Gaming commission must make include a finding that "the environmental impacts record for the proposed project within the scope of MEPA are those impacts described in the FEIR, the SFEIR, and the SSFEIR and the corresponding Secretary's Certificate regarding each." This is indicative of why the commission should withhold of section 61 finalization until after the regional study identifies technically feasible and financially funded methods to provide for adequate transportation to support the economy of the region, as proposed by the Attorney General.

The wordings in the Wynn MEPA filings lead one to believe that they are relying on the "Transit oriented Urban Grid" proposed by Charlestown residents, and accepted by the city and state. But close inspection of the line diagrams reveals that they are also assuming in their traffic analysis that the tunnel under Sullivan Square slated to be replaced in the Charlestown plan would still be available to process traffic. However, there is no indication of the impact of that extra traffic on Rutherford avenue, further south, nor of the impact on the boulevard plan which has been relied upon as accepted by the Charlestown community. So those impacts are not disclosed or mitigated in the MEPA filings by Wynn. If the tunnel under Sullivan Square is not rebuilt, (it is in terrible physical condition, and there is no funding available

to rebuild it, since it is supposed to be replaced with the surface boulevard) the MEPA filings do not indicate the worsening of impact on traffic projections, in particular the backup it would likely cause on I-93 northbound, nor any mitigation for that likely impact.

Because the MEPA filings prepared by Wynn did not disclose that they rely on altering the Charlestown pre-existing plan for Sullivan Square, they fail to disclose the adverse impacts upon I-93, and the boulevard plan further south in Charlestown. The regional study should correct this deficiency (intentional or otherwise), in the Wynn analysis, but until that gap in the analysis is filled satisfactorily by the regional study, it is impossible and inaccurate for the commission to make such a finding, until after the regional work is complete.

It is conceivable that the regional planning effort just begun will identify new configurations, and new improvements in regional transit significant enough to offset these impacts, but these are unknown at this point. This simply underscores the wisdom of the position taken by the attorney general that the section 61 process should not be completed by the gaming commission until after the regional study has developed better information, and hopefully transit investments sufficiently powerful to avoid adverse impact, and funding to make them available in timely fashion. In short given the deficiencies in the Wynn analysis, the Gaming Commission cannot truthfully state that "all feasible measures have been taken..." Nor that the MEPA filings adequately identify the impacts and /or mitigation for the impacts which would be caused by the casino, given the inadequate base of planning currently available.

The finding that "all feasible measures have been taken to avoid and minimize impacts of the project and damage to the environment" is a very strict statutory responsibility of the Commission - not Wynn, not the Secretary of Transportation, not the secretary of Environment and Energy. It is you the Commission that must make these strict findings. The entire premise that casino gambling, an activity long fraught with very serious problems can be implemented reasonably in Massachusetts rests on the idea that a strong Gaming commission can protect the public interest in the face of the political pressure that casino interests are capable of mounting.

If the Gaming commission can stand up to these pressures by requiring that the section 61 findings must follow, not precede the regional study, that confidence in the strength of the Gaming commission will have survived the first of many tests.

I urge that you direct the Wynn casino to restore the original driveway, and work cooperatively with the regional review, and finalize the section 61 findings only after the regional review identifies technically viable and financially feasible means to ensure reasonable transportation conditions to support the regional economy.

Thank you for your consideration.

Sincerely,



Frederick P. Salvucci.

Encs.

# Andrew Hudson

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36 Capitol Street, Watertown MA 02472 | 610-597-5684 | ahudson@eews.com

**April 11, 2016**

Mayor Joeseeph Curtatone  
93 Highland Avenue  
Somerville, MA 02143

**Dear Mayor Curtatone:**

I am writing to request that the efforts your office is making to affect the direction of the Wynn Casino project be handled in a way that does not delay the project. I am sure the reasonable people of Somerville and Everett can work through the issues at hand in parallel to the ongoing construction that needs to start for the project to succeed. As a former resident of Allentown, PA I have seen firsthand the benefits to the community that the Sands Bethworks Casino did for our neighbor Bethlehem, PA. The added construction jobs were great but the permanent jobs and additional tax revenues have really injected new life into an old steel town. I am confident the same positive effect will happen in Everett for their residents as well as the neighboring communities.

Whatever you can personally do to help move things along will be greatly appreciated.

**Sincerely,**

*Andrew Hudson*

Vice President

Northeast Division

**Eastern Exterior Wall Systems, Inc.**



CITY OF SOMERVILLE, MASSACHUSETTS  
*MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT*  
JOSEPH A. CURTATONE  
MAYOR

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

April 11, 2016

Massachusetts Gaming Commission  
Attn: Catherine Blue, General Counsel  
101 Federal Street, 12th Floor  
Boston, MA 02110

**Re: Draft Section 61 Findings/Wynn MA, LLC**

Dear Commissioners:

Thank you for the opportunity to comment on the draft Section 61 Findings, dated March 22, 2016, for the proposed Wynn MA, LLC project. The City of Somerville finds the draft Section 61 Findings deficient for many of the same reasons previously raised by the City concerning traffic and environmental issues associated with the proposed project.

The Commission's draft Section 61 Findings fail to include detailed conditions to mitigate environmental issues and the impacts on Somerville. Footnote 6 references the surrounding community agreement and arbitration between Wynn and Somerville. The findings state that an arbitration panel issued a "Report and Final Arbitration Award" selecting Wynn's "best and final offer" thereby specifying the terms of the surrounding community agreement. The findings fail to acknowledge the Dissent issued by one member of that panel, in a separately titled document which was enclosed and issued at the same time as the report. The concerns raised in the Dissent have come to fruition. The Office of the Attorney General has also raised concerns (as discussed below), and the analysis of traffic remains ongoing by the Sullivan Square regional working group.

Street Transportation

The Section 61 Findings, as relating to transportation, are inadequate for numerous reasons, including the erroneous projection of Wynn project-generated vehicle trip numbers, and the failure to require mitigation at several impacted intersections in Somerville. In addition, there is no condition which addresses the consequences of increased traffic to Sullivan Square, and Somerville, as an adjacent community. The regional working group does not necessitate that



the proponent fund a solution to the traffic impacts, or the roads leading into Somerville from this intersection – the interstate gateway to the Wynn site. Furthermore, it is the City’s position that the Gaming Commission’s Section 61 process cannot be finalized until the regional study has delivered tangible technical analyses to inform meaningful traffic mitigation measures at Sullivan Square / Rutherford Avenue. It is imperative that any proposed measures sufficiently provide for access requirements of the MBTA Everett Shops, and not preclude the potential development of the proposed inter-municipality transit plan known as the “Urban Ring” that would employ future Bus Rapid Transit service and/or DMU service linking Everett and other points beyond to the major employment and transit hubs including Sullivan Square, North Point, and Kendall Square. For a further description of these comments, see the enclosed letter from the City of Somerville’s Director of Transportation & Infrastructure Letter, dated February 25, 2016, to J. Lionel Lucien, P.E., Manager, Public/Private Development Unit, Office of Transportation Planning, which is incorporated herein. A copy of this letter is attached. Similar comments were made by the Office of the Attorney General by letter dated February 25, 2016, a copy of which also is attached. These comments, too, are incorporated herien.

### Water Transportation

To secure the approval of the Secretary of the Executive Office of Energy and Environmental Affairs under MEPA, Wynn made numerous, specific representations with respect to the proposed use of water transportation in Chapter 4 of its Final Environmental Impact Report dated June 30, 2014 (FEIR). The FEIR certainly created the impression that water transportation was being used as a means of mitigating traffic congestion caused by the casino. It also aimed to convince the Secretary to issue a public benefit determination under the Public Waterfront Act, G.L. c. 91, which the Secretary did on September 25, 2015. Among other things, that public benefit determination, based on the FEIR, cited as a public benefit, that Wynn adopted an “aggressive goal for water transit and committed to operate a private shuttle system” as a means of addressing the statutory requirement that the “impact on abutters and the surrounding community” be considered. The “provision of water shuttles” was also cited as a means of addressing the statutory requirement that the public benefit determination consider any enhancement of the property.

In view of Secretary’s decisions based on the FEIR, it is notable that the proposed service has been severely diminished in scope over time. Recently, in a March 22, 2106 packet filed with the Gaming Commission as part of public meeting number 183, Wynn revealed that the proposed water transportation system has been scaled back significantly – to the point where it is not likely to take motor vehicles off of the street network. What was originally a 3 vessel system; is now 2. A service that was to run from 6 a.m. to 2 a.m., now starts at 10 a.m. and ends at 12:15 a.m. Gone are the 20 minute headways, which are now 1.5 hours apart to 45 minutes apart during peak season, depending on the time of day. Given the reduction in service between the FEIR and the Gaming Commission Packet, the proposed ferry service cannot be expected to support the 6% mode share stated in the FEIR. For comparison’s sake, attached are Section 4.5.1.1 of the FEIR and the water transportation materials included in the March 22<sup>nd</sup> packet filed with the Gaming Commission.

## Regulatory Requirements

The MEPA regulations at 301 CMR 11.12(5) require that an agency making Section 61 Findings “specify in detail: all feasible measures to be taken by the Proponent or any other Agency Person to avoid Damage to the Environment or, to the extent Damage to the Environment cannot be avoided, to minimize or mitigate Damage to the Environment.”

In many instances the draft Section 61 Findings lack the required specificity. Water transportation can be cited as an example. The draft Section 61 Findings state, on pages 33 through 34 that “Wynn shall ... [p]rovide water shuttle service to the Project Site, including associated docks and facilities and the use of customized ferry vessels to support passenger transport between the Project site and key Boston Harbor sites.” As illustrated by the vast difference between the water transportation program outlined in the FEIR and the water transportation program presented to the Gaming Commission on March 22, 2016, without requiring compliance with a specific water transportation program, Wynn literally could satisfy this supposed mitigation requirement by providing for one ferry trip a day between the casino and one or two Boston Harbor sites. To avoid such dubious results, the MEPA regulations require a degree of specificity not required by the draft Section 61 Findings.

The same lack of specificity and concrete commitment plagues other provision of the draft Section 61 Findings. The failure to require a specific concrete commitment to solving the long-term traffic impacts on Boston and Somerville in and around Sullivan Square is an example. These impacts have been acknowledged by the Gaming Commission, the Department of Transportation, and others, and yet have not been addressed through specific mitigation requirements.

Similarly, the draft Section 61 Findings (at page 30) acknowledge the possibility, if not likelihood, that casino traffic will cause “material operational deficiencies” at the intersection of Assembly Square Drive/Broadway/Lombardi Way. Rather than assess these deficiencies now and require that they be avoided or mitigated, however, the draft Section 61 Findings simply require monitoring by an independent organization, which “should recommend feasible mitigation measures, if any, to mitigate those [material operational] deficiencies.” In much the same way that the draft Section 61 Findings defer and quite possibly avoid addressing traffic impacts on Sullivan Square, they defer and quite possibly avoid addressing traffic impacts on Assembly Square: This approach of acknowledging possible damage to the environment but requiring no concrete measure to avoid or mitigate does not meet the spirit or the letter of the MEPA statute and regulations.

More generally, the draft Section 61 Findings lack the requisite specificity and create confusion by broadly referencing various sections of Wynn’s environmental reports – the FEIR in particular – and requiring that Wynn comply with “detailed measures to mitigate the Project’s impacts” as specified in these reports. For instance, the draft Section 61 Findings require Wynn to comply with the measures to mitigate impacts on wetlands, waterways and water quality set forth in FEIR Chapter 3. This Chapter includes a commitment “to reseed soft shell clam beds in the area and to establish an oyster bed area.” FEIR, p. 3-18. Our understanding is that this commitment was taken back. To be clear, Somerville is not concerned so much with the shellfish beds as it is with the lack of specificity and clarity in the draft Section 61 Findings. By

being so imprecise, the draft Section 61 Findings not only fail to satisfy the requirements of 301 CMR 11.12(5) and other MEPA regulations, they enable Wynn to renege on commitments by pointing out the many inconsistencies in the environmental reports with which Wynn is supposed to comply to avoid and/or mitigate damage to the environment.

This degree of imprecision undermines the purpose and effect of Section 61 Findings and appears to be a result of the Gaming Commission's failure to delve into the environmental impact reports and craft specific, concrete requirements to be adopted. While it may take substantial additional work to craft concrete Section 61 Findings and requirements that will hold Wynn's feet to the fire, this work is essential given the broad range of environmental impacts that will be caused by the casino, particularly if mitigation measures are not implemented or are minimized on account of the vagueness of the requirements adopted by the Gaming Commission.

### Environmental Justice Communities and Health Impacts

The draft Section 61 Findings acknowledge that the project "is located in and adjacent to communities with designated environmental justice populations" (p. 8) but asserts that this is immaterial because the project "does not exceed the MEPA thresholds for solid waste or air quality that trigger a requirement for enhanced analysis under the EJ [Environmental Justice] policy." The Gaming Commission nonetheless finds that the "new jobs arising out of and related to the construction and operation of the proposed facility ... will directly and substantially benefit disadvantaged persons in the local community." The basis for this finding is unclear, but more to the point, the Gaming Commission should not focus on potential benefits on environmental justice communities without also considering the potential harms. MEPA requires a balanced approach, and the failure to require any type of health assessment to measure the effect of increased traffic on environmental justice populations – the focus of recent studies by Somerville and Tufts University – is a significant flaw. Without requiring such a health assessment the draft Section 61 Findings simply are not requiring all measures to avoid or mitigate damage to the environment.

### Prior Commentary

The City's concerns regarding the proponent's failure to mitigate harms that will result from the resort-casino project have been raised in previous correspondence by both the City and other government agencies. The City hereby incorporates the attached documents into this comment letter:

- Letter dated October 9, 2015, to Frank Taormina, Waterways Regulation Program, Mass. Dept. of Environmental Protection, from Mayor Joseph A. Curtatone, City of Somerville, re: Chapter 91 License Application/Wynn;
- Letter dated September 6, 2015, to Matthew A. Beaton, Secretary, from Mayor Joseph A. Curtatone, City of Somerville, re: Wynn Everett (EOEEA #15060) Notice of Intent to Commence Action Alleging the Improper Determination that a Single or Final Environmental Impact Report Complies with MEPA and 301 CMR 11;

- Letter dated February 25, 2016, to J. Lionel Lucien, P.E., Manager, Public/Private Development Unit, Office of Transportation Planning, from Brad Rawson, Dir., Transportation and Infrastructure Division, City of Somerville, re: Draft Section 61 Finding/MassDOT;
- Letter dated August 20, 2015, from Mikel Murga, Research Associate and Lecturer, Department of Civil & Environmental Engineering, MIT, to Brad Rawson, Dir., Transportation and Infrastructure Division, City of Somerville, re: SSFEIR for EEA No. 15060;
- Two (2) letters dated August 20, 2015, to Matthew A. Beaton, Secretary, from Frederick P. Salvucci, re: SSFEIR for EEA No. 15060;
- Memorandum dated August 20, 2015, from Kim E. Hazarvartian, Ph.D., P.E., PTOE, re: SSFEIR for EEA No. 15060;
- Report entitled “Improviing Health in Communities Near Highways,” prepared by Community Assessment of Freeway Exposure and Health, dated January 2015;
- Letter dated August 21, 2015, to Matthew A. Beaton, Secretary, from Attorney General Maura Healey; and
- Letter dated August 21, 2015 to Matthew A. Beaton, Secretary, from Anthony J. Gallagher, Office of Gaming Accountability, City of Boston.

We thank you for the opportunity to comment, and respectfully request that these matters be addressed by the Commission.

Sincerely,



Brad Rawson  
Director, Transportation & Infrastructure  
Mayor's Office of Strategic Planning & Community Development

Enclosures

## MacLachlan, Amy (MGC)

---

**From:** Maureen Lavelly <mglavelly@verizon.net>  
**Sent:** Wednesday, March 30, 2016 11:22 AM  
**To:** MGCcomments (MGC)  
**Subject:** Wynn Casino hearing

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Sirs:

I attended the hearing opportunity held last night. I feel for you if you have to sit through these kinds of things often. One speaker felt it impossible to make eye contact with most of you as you were probably struggling to listen to platitudes about the WONDERFUL Mr. Wynn, who exceeds every promise. I'm old and grouchy enough to also reject the desire to thank you profusely for listening, when I'm relatively sure your compensation is much greater than mine for being a teacher of children.

I hope you will DO YOUR JOB SERIOUSLY and explore the very few comments that dealt with the issues. From my perspective, some of the REAL issues brought up yesterday, WERE MISSED BY YOUR COMMISSION AND SHOULD HAVE BEEN EXPLORED BEFORE ISSUING THE LICENSE.

Don't compound the problem by glossing over THE REAL issues presented. The issue of pollution seems not to be a problem for Everett residents, but why should Somerville or Charlestown have their health priority ignored? We're not playing politics but stating the conditions we wish to live and raise families. It's too late to explain to those nicely bussed folks the amount of illumination they will live with, DAY AND NIGHT and are they aware that in Wynn's Belagio Casino, hookers openly stroll the entrance area???? However, it's too late to discuss the good or bad of a casino in your neighborhood. And those are not the issues you're asked to look at at this time.

How will you pursue the information relative to the many dollars that Wynn threw our politicians while the license was being negotiated? In that time period, I had ASKED my local politician if he had taken campaign support from then and he said "Yes".... but I've taken money from folks against the casino too". Obviously he doesn't know the LAW!!!

I look forward to feeling you REALLY looked at facts and can forget the promises. Don't be tempted by the nice rosy apple. A politician makes a decision for today, a statesman for the future. Do the right thing, PLEASE!!!

Respectfully,

Maureen Lavelly  
20 Devens Street  
Charlestown, MA 02129

## MacLachlan, Amy (MGC)

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**From:** lynnelevesque@gmail.com  
**Sent:** Wednesday, March 30, 2016 7:43 PM  
**To:** MGCcomments (MGC)  
**Cc:** Constituent Services (GOV); Healey, Maura (AGO); Pollack, Stephanie (DOT); Buckley, Deirdre (EEA); Crosby, Steve (MGC); Cameron, Gayle (MGC); Macdonald, Lloyd (MGC); Stebbins, Bruce (MGC); Zuniga, Enrique (MGC); Ziemba, John S (MGC); Blue, Catherine (MGC); mayor@cityofboston.gov; mayor@somervillema.gov; Eugene.O'Flaherty@boston.gov; Alexis.Tkachuk@cityofboston.gov; Gina.Fiandaca@boston.gov; dhadley@somervillema.gov; law@somervillema.gov; sal.didomenico@masenate.gov; dan.ryan@mahouse.gov; Salvatore.LaMattina@cityofboston.gov; annissa.essaibi-george@boston.gov; Michelle.wu@boston.gov; Ayanna.Pressley@boston.gov; Michael.F.Flaherty@boston.gov; anthony.gallagher@boston.gov; Christopher.breen@boston.gov; jlawson@pmaconsultants.com; Johnston, Richard (AGO); James.gillooly@boston.gov; Vineet.Gupta@cityofboston.gov; robert.desalvio@wynnresorts.com; jacqui.krum@wynnmass.com; John.tocco@wynnmass.com; cgordon@dirigogroup.net  
**Subject:** Wynn Section 61 Findings EEA #15060

Stephen Crosby, Chair, Massachusetts Gaming Commission

Gayle Cameron, Commissioner, Massachusetts Gaming Commission

Lloyd MacDonald, Commissioner, Massachusetts Gaming Commission

Bruce Stebbins, Commissioner, Massachusetts Gaming Commission

Enrique Zuniga, Commissioner, Massachusetts Gaming Commission

Email: [MGCcomments@state.ma.us](mailto:MGCcomments@state.ma.us)

Re: Wynn Section 61 Finding EEA #15060

Dear Commissioners,

I am a resident of Charlestown who has lived in this very special neighborhood for almost 18 years. My home is two blocks from Rutherford Avenue. Because I have so much at stake from the Wynn casino development and from plans for Sullivan Square/Rutherford Avenue, I am actively involved in tracking what is happening with the Wynn Casino. I am thus providing comments on MGC's Draft Section 61 Finding.

It is my understanding that Section 61 requires all affected State agencies to affirm that all environmental issues related to a particular project are addressed and mitigated. The Draft Section 61 Finding from MassDOT and the Department of Conservation and Recreation (DCR) did not address all of my concerns regarding the impacts of the Wynn casino project on the surrounding environment. I am including them here as well as adding new concerns in the hope that they will be incorporated in your final version:

- Tower Height, Mass and Illumination
- Traffic and lighting impact on historic sites in Charlestown • Sullivan Square/Rutherford Avenue
- Water Use



- Local Shuttles
- Public Health Issues

**1. The Project's Tower, Height, Mass and Illumination.** I note that there is no mention in the project's description of the height or mass of the project's tower and no mention in the draft document of the tower's impact on surrounding communities. Since Wynn did not provide requested pictures of its project for night-time images, William Lamb and I met with Wynn representatives to discuss our concerns on March 18. Mr. Lamb has provided John Ziembra and Catherine Blue with a summary of that meeting. My concerns are:

**a. The MGC has required that Wynn be 100% LEED certified.** In Wynn's presentation, they failed to note that they will actually not meet 100% of LEED requirements. Wynn's tower will be lit up 24/7 which violates at least one part of LEED certification. This issue needs to be addressed in your Section 61 Final Finding.

**b. Wynn should be required to commit to a height limitation of 400'.** Given the absence of the height in the document, this commitment should be required of Wynn in MGC Section 61 Final Finding.

**c. Commitment regarding sightlines from Charlestown.** In our conversation with Wynn representatives, they stopped short of committing that no Charlestown resident will be able to see the podium lights from their homes. Wynn should be required to make this commitment.

**d. Wynn should be required to provide a lighting plan to the MGC and to the Charlestown community at a public meeting in Charlestown.** This recommendation was made by MGC's consultants in the public meeting on March 22, but does not appear to be contained in the consultants' report. This commitment to the Charlestown community should be made in the spirit of "consulting" with the Charlestown community, per their license from the MGC.

## **2. Traffic and lighting impact on historic sites in Charlestown**

Section 61 Findings are the result of appropriate agencies' efforts to "review, evaluate, and determine the impact on the natural environment of all [such projects]" and are to "use all practicable means and measures to minimize damage [and] prevent damage to the environment." The section goes on to define "damage to the environment" as "any destruction, damage or impairment, actual or probable" .... "of seashores, dunes, marine resources, underwater archaeological resources, wetlands, **open spaces, natural areas, parks, or historic districts or sites.**" Such sites must include the Bunker Hill Monument, Doherty Park, both listed in the National Register of Historic Places, plus the Barry Playground located next to the Alford St. Bridge, the Gardens of Charlestown, and other parks and open spaces in Charlestown.

I believe Section 61 Findings pertain not only to illumination, but also to traffic. To date we have seen no independent analysis of the impact of the building's illumination or the traffic caused by the projected Wynn casino on the areas cited above.

These issues deserve environmental consideration that as far as I know has not been given to date. Therefore, the MGC in its final Section 61 Finding should require that Wynn provide the following:

**a. Detailed data on the impact of the illumination and the traffic on the areas cited above.**

**b. A description of the controls and remedies regarding maximum allowed standards that will be put into effect by the appropriate State agency to test the Wynn stated maximums, with funds for regular testing to be placed in escrow by Wynn with the appropriate state agency.**

**3. Public Health Issues.** The MassDOT/DCR Section 61 Finding did not address the health impacts of the project caused by increased and more-frequently-stalled traffic on the environment and on the health of the residents of surrounding communities. Charlestown, which will bear over 60% of the project's traffic, already has very high levels of asthma. In addition, there are very real impacts of the proximity of a gaming establishment to a community with one of the highest rates of opioid addiction.

Your consultants skimmed over the issues of pollution and other forms of environmental damage in their report. I would hope therefore that the MGC will address these issues in its Section 61 Finding and include:

a. **At minimum, major monitoring of “baseline” levels of pollution as well as opioid, alcohol, and gambling addictions prior to opening and levels on a quarterly basis starting with the first quarter after opening.**

4. **Sullivan Square/Rutherford Avenue.** While the MassDOT/DCR Section 61 Finding did address certain aspects of the nightmare that Wynn’s increased traffic will cause, I have concerns:

a. It makes no sense to me that Wynn plans to spend \$10 million and perhaps more for a short-term solution to be completed within 3 years prior to their opening. I understand that they maintain that part of their design could be incorporated into a long-term solution. However, I fear that moving forward with their short-term plan will negatively impact over 18 years of community involvement and progress on the long-term plan for improving Sullivan Square and Rutherford Avenue. I could also result in the potential waste of money that could be better spent on a long-term solution.

b. In addition, it is not clear how their short-term plan will affect long-in-development plans for the Urban Ring.

c. Wynn maintains that their short-term plan will work with either the surface or the tunnel solutions to the Sullivan Square/Rutherford Avenue traffic disaster. It is unclear if this is in fact true, since these plans are still in development. **Therefore, before Wynn is allowed to proceed with short-term changes to Sullivan Square, they must certify that their solution will work or be re-engineered to work with the City of Boston’s plans for Sullivan Square/Rutherford Avenue.**

d. **They should also be required to certify that their solution and project design will work or be re-engineered to work with the Commonwealth’s plans for the Urban Ring.**

e. The Massachusetts Attorney General asked that a commitment be required from Wynn not only to participate in a long-term plan for Sullivan Square/Rutherford Avenue. **Wynn should also be required to fund a proportional share of the long-term solution. The proposed “mitigation” of \$25 million should not be viewed as an upward limit to their contribution.**

5. **Water Usage.** Wynn has made much of how they will integrate their operation, as well as their name, into the surrounding waterways. My major concern regarding their plans is:

a. There is no commitment from Wynn to use only the boats that do not require raising the Alford Street Bridge. Given the potential clientele to the casino who may wish to arrive in yachts or larger boats, **Wynn should be required to commit to alternatives to avoid the raising and lowering of Alford Street Bridge, which is often a 9-minute process. At minimum, they should be prohibited from raising and lowering the Alford Street Bridge during rush hour traffic.**

6. **Local Shuttles.** We also need much more elaboration of the proposed “neighborhood shuttle bus service.” There is no clarity regarding in which neighborhoods these buses will be circulating every 20 minutes, 24 hours a day. Wynn has committed verbally that they will not be circulating shuttles in Charlestown. I would hope that in its Final Section 61 Finding, **the MGC would require community approval of any shuttles services in Charlestown.**

Thank you for your consideration of my concerns while you finalize your Section 61 Findings. I look forward to your response which I also presented last night at your March 29 meeting.

Sincerely,

*Lynne C. Levesque, Ed.D.*

617-242-7801

Copies to:

Governor Charles Baker

Attorney General Maura Healey



Secretary Stephanie Pollack

Director Deirdre Buckley

Commissioner Steve Crosby

Commissioner Gayle Cameron

Commissioner Lloyd MacDonald

Commissioner Bruce Stebbins

Commissioner Enrique Zuniga

John Ziemba, Ombudsman

Catherine Blue, General Counsel

Mayor Martin J. Walsh

Mayor Joseph Curtatone

Eugene O'Flaherty, Corporation Counsel

Alexis Tkachuk, Chief of Staff

Commissioner Gina Fiandaca

Dan Hadley, Chief of Staff

Francis X. Wright, Jr., City Solicitor

Senator Sal DiDomenico

State Representative Dan Ryan

City Councilor Salvatore LaMattina

City Councilor Annissa Essaibi-George

City Councilor Michelle Wu

City Councilor Ayanna Pressley

City Councilor Michael Flaherty

Anthony Gallagher

Christopher Breen

Jason Lawson

Richard Johnston

James Gillooly

Vineet Gupta

Robert Desalvio

Jacqui Krum

## MacLachlan, Amy (MGC)

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**From:** Jane Garvey <J.Garvey@meridiam.com>  
**Sent:** Sunday, April 03, 2016 9:12 AM  
**To:** MGCcomments (MGC)  
**Subject:** Draft Section 61--Wynn

Forwarded to John Z, Mary T and copied Amy.

Dear Commissioners,

I am writing to urge that you modify the proposed section 61 findings that you have proposed to add the provisions proposed by Attorney General Maura Healy. Specifically, the results of the regional transportation study for the area of Sullivan Square and 1-93 that has just begun and must be considered before you can conclude that "all feasible measures have been undertaken to minimize impact and reduce environmental harm". I urge that you hold in abeyance the conclusion of the section 61 process until the results of the study are available and sufficient mitigating actions have been agreed to and funded to make it possible to reach the statutorily required conclusion.

I had the honor of serving as Commissioner of Public Works for Massachusetts and later as Deputy Federal Highway Administrator of the US. In those roles I had the privilege to work to rectify mistakes that had been made in Boston area infrastructure in the years before the National Environmental Policy Act required that careful assessment of environmental impact. I participated in the removal of the overhead ramps connecting the Tobin bridge to the Central Artery which had separated City Square from the harbor. This project (CANA) emerged from the Charlestown community in the environmental process required for the "Big Dig". Because of the environmental process, the project resulted in a revision to the project that is safer, less congested and has allowed City Square to reemerge as a beautiful urban park. I also was able to participate in the revision of the crumbling elevated Central Artery, replacing it with an underground road and replacing the elevated structure with the Rose Kennedy Fitzgerald Greenway which has so significantly transformed that part of the city. All of which came from the environmental process undertaken by the state and the federal government in cooperation with the citizens of the Commonwealth.

The citizens of Charlestown have continued to work to revise mistakes from the pre-environmental era, such as Rutherford Avenue, which forms an intrusive barrier between parts of the community. Decades of planning have resulted in a proposal to replace Rutherford Avenue with a Boulevard and replace the congested, dysfunctional Sullivan Square with an urban grid that can more appropriately re-knit parts of the community into a more harmonious network to serve both motorists and the neighborhood. That plan is part of the Massdot 5 year plan.

But the Traffic analysis used to examine the proposed casino seems to rely on changing that plan to a tunnel with no indication of how that would be funded or if it is feasible. The lack of a plan threatens to create gridlock on I-93. There is no analysis of how the casino traffic would affect the plan to replace Rutherford Avenue with a boulevard, nor what the traffic consequences would be as far south as City Square and the Kennedy Greenway.

Hopefully, the regional study will produce answers to those questions. I strongly believe the Attorney General is correct to call for the section 61 process to be finalized only after all of the critical questions are answered and I urge you to hold any conclusion of section 61 process until mitigating actions have been agreed upon and funding identified.

Thank you,

Sincerely,  
Jane Garvey  
38 Winthrop Street

Charlestown, MA 02129

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 116.00: PERSONS REQUIRED TO BE LICENSED OR QUALIFIED

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116.07: Qualification of New Qualifiers for Gaming Licensees

~~No new qualifiers may perform duties or exercise any powers relating to the position that said qualifier is seeking to assume until qualified by the commission.~~

(1) No person requiring qualification pursuant to 205 CMR 116.02(1) may perform any duties or exercise any powers relating to the position that said qualifier is seeking to assume unless the individual notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a completed Multi Jurisdictional Personal History Disclosure Form and Massachusetts Supplement Form. Following such notification and submission of the completed Forms, the person may continue to perform duties and exercise powers relating to the position pending qualification.

(2) A person with reason to believe that his or her new position may require qualification pursuant to 205 CMR 116.02(1) shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the person shall be designated a qualifier pursuant to 205 CMR 116.02(1) and shall notify the person of such designation in writing. Within 30 days of designation as a qualifier, the person shall submit a completed Multi Jurisdictional Personal History Disclosure Form and Massachusetts Supplement Form. Following submission of the completed Forms, the person may continue to perform duties and exercise powers relating to the position pending qualification.

(3) The Bureau shall review the Forms submitted by the new qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a recommendation to the Commission in accordance with 205 CMR 116.01 whether the new qualifier meets the standards for suitability under 205 CMR 115.

(4) Upon notification by the Bureau that reasonable cause exists to believe the qualifier may not ultimately be found suitable, a gaming licensee shall promptly remove the qualifier from his or her position until such time as the commission makes its determination on suitability.

REGULATORY AUTHORITY

205 CMR 116: M.G.L. c. 23K, §§ 4(37), 5, 12, 14, and 16



*Legal Division*

## **Amended Small Business Impact Statement**

The Massachusetts Gaming Commission (“Commission”) hereby files this amended small business impact statement in accordance with G.L. c.30A, §5 relative to the proposed amendments in 205 CMR 116.00: Persons Required to be Licensed or Qualified; for which a public hearing was held on April 21, 2016. These amendments were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The amendment to **205 CMR 116.07 (New Qualifier)** allows a new qualifier for gaming licensees to perform duties so long as completed forms and required documents are submitted to the Enforcement Bureau (“IEB”) within 30 days of appointment to the position or designation by the IEB as a qualifier. The IEB shall conduct an investigation and make a recommendation to the Commission on whether the qualifier is suitable. A gaming licensee, upon notification from the IEB that a qualifier may not be suitable, shall promptly remove the qualifier from their position until such time as the Commission makes a determination on suitability. This amendment will allow new qualifiers to assume duties during the background suitability process. These regulations are largely governed by G.L. c.23K, §§ 4(37), 5, 12, 14, and 16.

These amendments apply solely to qualifiers to the gaming licensees and accordingly are unlikely to have an impact on small businesses. In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be impacted by these regulations. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements for small businesses created by these regulations.



Massachusetts Gaming Commission

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

There are no compliance or reporting requirements for small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed legislation:

There are no performance standards for small businesses to replace design or operational standards required in the proposed regulations.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

These regulations apply solely to qualifiers to the gaming licensees and therefore are not likely to deter or encourage the formation of new businesses in the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

These regulations do not create any adverse impact on small businesses.

Massachusetts Gaming Commission  
By:

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Cecelia M. Porché  
Paralegal  
Legal Division

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



Massachusetts Gaming Commission

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 134.00: LICENSING AND REGISTRATION OF EMPLOYEES, VENDORS, JUNKET ENTERPRISES AND REPRESENTATIVES, AND LABOR ORGANIZATIONS

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134.04: Vendors

(7) Qualification of New Qualifiers for Gaming Vendors – Primary.

(a) No person requiring qualification pursuant to 205 CMR 134.04(4)(a) may perform any duties or exercise any powers relating to the position that said qualifier is seeking to assume for a Gaming Vendor – Primary licensee unless the person notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a completed Key Gaming Employee - Standard Application Form. Following such notification and submission of the completed Form, the person may continue to perform duties and exercise powers relating to the position pending qualification.

(b) A person with reason to believe that his or her new position with a Gaming Vendor – Primary may require qualification pursuant to 205 CMR 134.04(4)(a) shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the person shall be designated a qualifier pursuant to 205 CMR 134.04(4) and shall notify the person of such designation in writing. Within 30 days of designation as a qualifier, the person shall submit a completed Key Gaming Employee – Standard Application Form. Following submission of the completed Form, the person may continue to perform duties and exercise powers relating to the position pending qualification.

(c) The Bureau shall review the Forms submitted by the new qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a determination or recommendation to the Commission in accordance with 205 CMR 134.09(1)(c) whether the new qualifier meets the standards for suitability.

(d) Upon notification by the Bureau of a determination that reasonable cause exists to believe the qualifier may not ultimately be found suitable, a gaming vendor licensee shall promptly remove the qualifier from his or her position until such time as the commission makes its final determination on suitability.



## 134.12: Temporary Licenses

### (1) Temporary Licenses for Employees

(a) Upon petition to the Commission by a gaming licensee, the Commission may issue a temporary license to an applicant for a key gaming employee license ~~or; a gaming employee license, or a gaming vendor license~~ if:

1. the applicant for a key gaming employee license; ~~or a gaming employee license, or a gaming vendor license~~ has filed a completed application with the commission **and has submitted all of the disclosure forms as required by the Division of Licensing;** and
2. the gaming licensee certifies, and the Commission finds, that the issuance of a temporary license is necessary for the operation of the gaming establishment and is not designed to circumvent the normal licensing procedures.

(b) ~~A temporary license shall issue unless:~~

1. ~~A preliminary review of the Applicant shows that the Applicant is disqualified under one or more of the criteria listed in 205 CMR 134.10(3); or~~
2. ~~A preliminary review of the Applicant shows that the Applicant will be unable to establish his or her qualifications for licensure under the standards set forth in 205 CMR 134.10(1) and 134.10(2).~~

(c) Unless otherwise stated by the Commission, a temporary license issued in accordance with 205 CMR 134.12 shall expire six months from the date of its issuance and may be renewed, at the discretion of the Commission, for an additional six-month period.

~~(2) Standard of Review. A Temporary license may be issued upon a finding that the license is reasonably likely to be issued upon completion of the investigation.~~

### (2) Temporary Licenses for Gaming Vendors

(a) Upon petition to the commission by a gaming licensee, the commission may issue a temporary license to an applicant for a gaming vendor license if:

1. the applicant for a gaming vendor license has filed a completed application with the commission and has submitted all of the disclosure forms as required by the Division of Licensing; and

2. the gaming licensee certifies, and the Commission finds, that the issuance of a temporary license is necessary for the operation of the gaming establishment and is not designed to circumvent the normal licensing procedures.

(b) A temporary license shall issue unless:

1. A preliminary review of the Applicant shows that the Applicant is disqualified under one or more of the criteria listed in 205 CMR 134.10(3); or

2. A preliminary review of the Applicant shows that the Applicant will be unable to establish his or her qualifications for licensure under the standards set forth in 205 CMR 134.10(1) and 134.10(2).

3. Unless otherwise stated by the commission, a temporary gaming vendor license issued under this section shall expire upon issuance of the full license or upon suspension or revocation of the temporary license, and in any event no later than the term of the license as set forth in 205 CMR 134.16(1).

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#### 134.16: Term of Licenses

(1) Licenses and registrations issued in accordance with 205 CMR 134.00 shall be valid for the following terms:

(a) Key Gaming Employees. Key Gaming employee licenses shall be for an initial term of ~~three~~ **five** years. The initial term of a key gaming employee license shall expire and be renewable on the last day of the month on the ~~third~~ **fifth** anniversary of the issuance date. Key gaming employee license renewals shall be for a term of three years.

(b) Gaming Employees. Gaming employee licenses shall be for an initial term of ~~three~~ **five** years. The initial term of a gaming employee license shall expire and be renewable on the last day of the month on the ~~third~~ **fifth** anniversary of the issuance date. Gaming employee license renewals shall be for a term of three years.

(c) Gaming Service Employees. Gaming service employee registrations shall be for an initial term of five years. The initial term of a Gaming service employee registration shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. Gaming service employee registration renewals shall be for a term of five years.

(d) Gaming Vendors and Gaming Vendor Qualifiers. Gaming vendor licenses and gaming vendor qualifier licenses shall be for an initial term of three years. The initial term of a Gaming vendor license and gaming vendor qualifier license shall expire and be renewable on the last day of the month on the third anniversary of the issuance date. Gaming vendor license and gaming vendor qualifier license renewals shall be for a term of three years.

(e) Non-gaming Vendors. Non-gaming vendor registration shall be for an initial term of five years. The initial term of a Non-gaming vendor license shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. Non-gaming vendor registration renewals shall be for a term of five years.

(f) Labor Organizations. Labor organization registrations shall be for an initial term of one year. The initial term of a Labor organization registration shall expire and be renewable on the last day of the month on the first anniversary of the issuance date.

(2) Notwithstanding 205 CMR 134.16(1), licenses and registrations issued in accordance with 205 CMR 134.00 may be issued with a conditional expiration date to coincide with any employment authorization issued by the United States which is less than the term of the license or registration. A license or registration that is issued with such a conditional expiration date may be extended upon the presentation of proof of United States citizenship or authorization to work in the United States beyond the previous expiration date. Provided, however, no expiration date shall be extended beyond the term for which such a license would have been issued in accordance with 205 CMR 134.16(1).

(3) If a licensee or registrant has, in accordance with 205 CMR 134.17, made timely and sufficient application for a renewal, their license or registration shall not expire and the applicant shall remain in good standing until the Bureau has issued a decision on the application. If a renewal application is received after the renewal date and the license expires before the Commission issues a new license, the person shall not be employable nor conduct business with the gaming establishment until a new license is issued.

(4) A license for a person for whom a positive determination of suitability was issued in accordance with 205 CMR 115.05(3) as part of the RFA-1 process and who filed an application in accordance with 205 CMR 134.08(23) in ~~lieu~~ lieu of the complete application for the position for which they seek licensure shall be issued nunc pro tunc to the date of the suitability finding.

(5) All licenses and registrations issued in accordance with 205 CMR 134.00 shall be valid for employment with any Massachusetts gaming licensee.

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## REGULATORY AUTHORITY

205 CMR 134: M.G.L. c. 23K, §§ 3, 12, 14, 16, 30 and 31



*Legal Division*

## **Amended Small Business Impact Statement**

The Massachusetts Gaming Commission (“Commission”) hereby files this amended small business impact statement in accordance with G.L. c.30A, §5 relative to the proposed amendments in 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations; for which a public hearing was held on April 21, 2016. These amendments were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The amendment to **205 CMR 134.04 (New Qualifiers Gaming Vendors)** allows new qualifiers for gaming vendors – primary to perform duties so long as completed forms and required documents are submitted to the Enforcement Bureau (“IEB”) within 30 days of appointment to the position or designation by the IEB as a qualifier. The IEB shall conduct an investigation and make a determination or recommendation to the Commission on whether the qualifier is suitable. A primary gaming vendor licensee, upon notification from the IEB that a qualifier may not be suitable, shall promptly remove the qualifier from their position until such time as the Commission makes a determination on suitability. This amendment will allow new qualifiers for gaming vendors to assume duties with a Massachusetts licensee during the suitability process. These regulations are largely governed by G.L. c.23K, §§ 3, 12, 16, 30 and 31.

These amendments apply directly to new qualifiers for gaming vendors - primary and accordingly are unlikely to have an impact on small businesses. In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be impacted by these regulations. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements for small businesses created by these regulations.



Massachusetts Gaming Commission

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

There are no compliance or reporting requirements for small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed legislation:

There are no performance standards for small businesses to replace design or operational standards required in the proposed regulations.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

These regulations apply solely to new qualifiers for gaming vendors-primary and therefore are not likely to deter or encourage the formation of new businesses in the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

These regulations do not create any adverse impact on small businesses.

Massachusetts Gaming Commission  
By:

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Cecelia M. Porché  
Paralegal  
Legal Division

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



Massachusetts Gaming Commission



*Legal Division*

## **Amended Small Business Impact Statement**

The Massachusetts Gaming Commission (“Commission”) hereby files this amended small business impact statement in accordance with G.L. c.30A, §5 relative to the proposed amendments in 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations; for which a public hearing was held on April 21, 2016. These amendments were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The amendments to **205 CMR 134.12 (Temporary License)** allows the Commission to issue temporary licenses for key gaming employees, gaming employees and gaming vendors upon submission of required documents and where the preliminary review shows that the applicant is neither disqualified nor will the applicant be unable to establish qualifications for licensure. It also provides that a temporary gaming vendor license shall expire upon issuance of the full license or upon suspension or revocation of the temporary license. These regulations are largely governed by G.L. c.23K, §§ 3, 12, 16, 30 and 31.

These amendments apply directly to the gaming employees and gaming vendors. These amendments were designed to streamline the licensing process to get individuals to work and allow gaming licensees to do business with vendors quickly without compromising licensing standards at the temporary licensing stage. To the extent that a gaming vendor is a small business, small businesses may be impacted with submission of required documents and information. In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

There are no compliance or reporting requirements for small businesses created by this regulation unless they elect to pursue a temporary license as a gaming vendor. In that event, this amendment was designed to streamline the licensing process to get individuals to work and allow gaming licensees to do business with vendors quickly without compromising licensing standards at the temporary licensing stage. Accordingly, there would be minimal impact to compliance and reporting requirements.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements for small businesses created by this regulation unless they elect to pursue a temporary license as a gaming vendor. In that event, this amendment was



Massachusetts Gaming Commission

designed to streamline the licensing process to get individuals to work and allow gaming licensees to do business with vendors quickly without compromising licensing standards at the temporary licensing stage. Accordingly, there would be minimal impact to schedules or deadlines for compliance or reporting requirements.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

There are no compliance or reporting requirements for small businesses created by this regulation unless they elect to pursue a temporary license as a gaming vendor. In that event, this amendment was designed to streamline the licensing process to get individuals to work and allow gaming licensees to do business with vendors quickly without compromising licensing standards at the temporary licensing stage. Accordingly, there would be minimal impact to compliance and reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed legislation:

There are no performance standards for small businesses to replace design or operational standards required in the proposed regulations. As a general matter, the procedures for granting a temporary license must be prescriptive in nature in order to ensure uniform process.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

M.G.L. c.23K was enacted to create a new industry in the Commonwealth and to promote and grow local small businesses and the tourism industry, including the development of new small businesses. The proposed regulations, as part of the overall process, are designed to effectuate those intentions and growth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

There are no alternative regulatory methods to minimize adverse impacts on small businesses.

Massachusetts Gaming Commission  
By:

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Cecelia M. Porché, Paralegal  
Legal Division

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



Massachusetts Gaming Commission





*Legal Division*

## **Amended Small Business Impact Statement**

The Massachusetts Gaming Commission (“Commission”) hereby files this amended small business impact statement in accordance with G.L. c.30A, §5 relative to the proposed amendments in 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations; for which a public hearing was held on April 21, 2016. These amendments were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The amendment to **205 CMR 134.16 (Term of License)** increases the initial term of licenses from three years to five years for key gaming employees and gaming employees. This amendment will allow the Commission to efficiently process new license applications for two projected casino openings in 2018 and avoid conflict with current casino license renewals at same projected period. These regulations are largely governed by G.L. c.23K, §§ 3, 12, 16, 30 and 31.

These amendments apply directly to gaming employees and accordingly are unlikely to have an impact on small businesses. In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be impacted by these regulations as they apply solely to employees of the gaming establishment. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements for small businesses created by these regulations.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

There are no compliance or reporting requirements for small businesses.



Massachusetts Gaming Commission



4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed legislation:

There are no performance standards for small businesses to replace design or operational standards required in the proposed regulations.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

These regulations apply solely to employees of the gaming establishment and therefore are not likely to deter or encourage the formation of new businesses in the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

These regulations do not create any adverse impact on small businesses.

Massachusetts Gaming Commission  
By:

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Cecelia M. Porché  
Paralegal  
Legal Division

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



Massachusetts Gaming Commission