

**QUESTIONS FROM CITY OF CHELSEA
AND PROPOSED ANSWERS**

Questions

1. What is the Local Capital Projects Fund, what will it fund, is it for host, surrounding and/or all communities?

This fund was created in G.L. c. 29, § 2EEEE which was added by St. 2011, c. 194, the same statute that created our governing statute, G.L. c. 23K. Unlike sections 2CCCC and 2 DDDD, which were created by the same legislation, 2EEEE does not describe how the money deposited into the fund is to be spent nor does it describe who is to authorize disbursements from the fund. Formerly, there was a Local Capital Projects Fund and it is described in one of the Comptroller's comprehensive annual reports – that fund was dedicated to building jails and prisons – but the current version does not appear to carry any reference to it. We are working with the Comptroller to see if we can determine the appropriate disposition of the fund or whether to suggest a Legislative correction to supply the missing information.

2. Is there a standard percentage of gross gaming receipts that should be shared with the host community and with the surrounding communities?

No. 6.5% of the tax on gross gaming revenue goes into the Community Mitigation fund and then, under G.L. C. 23K, §61(b), the Commission distributes portions of that fund to host and surrounding communities in accordance with requests they make and regulations the Commission creates.

3. Can host/surrounding communities agreements include payments for unrestricted local government use or must all funds have associated mitigations?

Insofar as host and surrounding communities obtain funds from the developer's license application fee, use of those funds is limited to reimbursement for "the cost of determining the impact of a proposed gaming establishment and for negotiating community mitigation impact agreements." See c. 23K, § 15(11). Insofar as the "community impact fee(s)" required by the host and surrounding community agreements are concerned, the statute is not as clear and the Commission will have to issue regulations or policies with respect to the issue. See c. 23K, § 15(8), 15(9). Insofar as funds from the Community Mitigation Fund are concerned, the Commission will likewise have to issue regulations or policies dealing with the criteria it will use to make payments and will take advice on that score from the yet to be formed subcommittee on community mitigation of the gaming policy advisory committee. See c. 23K, §§ 61, 68(b). See also c. 23K, § 68(e).

4. Will community mitigation funds be available to communities prior to construction beginning or facilities opening?

The funds paid from the developers' application fees and funds paid directly to cities and towns by developers, see 205 CMR § 114, will be available prior to construction. Community mitigation funds specified in the host and surrounding community agreements will be available before construction to the extent the agreement provides.

Funds paid from the Community Mitigation Fund will not be available prior to construction because those funds come from a tax on gross gaming revenue.

5. **Are mitigation agreements contracts and assuming so, can municipalities legally enter into 15 year contracts with casinos?**

Yes and yes. The statute is silent about the content of mitigation agreements but there is nothing to prevent a host or surrounding community entering such an agreement with all of the formalities of a contract for whatever duration the community deems appropriate. It may be, however, that the Commission would wish to create a regulation dealing with some of these matters to prevent, for example, a 50 year mitigation contract from accompanying a 15 year license and the potentially disappointed financial expectations that could result if the license were not renewed.

6. **How will the Gaming Commission determine social impacts that communities say they are experiencing?**

We have not yet decided that. Chapter 23K, § 61(c), however, says that we can hold hearings for that purpose and we surely can make inquiries on the subject during the course of the licensing proceeding if a surrounding city or town claims that the applicant's mitigation efforts are insufficient. Finally, the Gaming Policy Advisory Committee's Subcommittee on Community Mitigation will look at, and make recommendations on, this topic. That Subcommittee, in turn, receives advice on the subject from the Local Community Mitigation Advisory Committees in each region. Chapter 23K, §68 details this process.

7. **Can a table of all revenue sources and how they can be used/accessed by municipalities be published?**

Yes. We should undoubtedly do that as part of the package of helpful web content overseen by the ombudsman.

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