

## SURROUNDING COMMUNITY AGREEMENT

This **SURROUNDING COMMUNITY AGREEMENT** (the “Agreement”), dated as of May 5, 2014 (the “Effective Date”), is between and among **Mohegan Sun Massachusetts, LLC**, a Delaware limited liability company with its principal place of business at One Mohegan Sun Boulevard, Uncasville, CT 06382 (the “Developer”), and the **City of Somerville**, Massachusetts, acting by and through its Mayor, a municipality duly existing and operating in the Commonwealth of Massachusetts, having its principal place of business at Somerville City Hall, 93 Highland Avenue, Somerville, MA 02143 (the “City”). The “Developer” as used in this Agreement shall also mean the Developer’s successors and/or assigns. The Developer and the City are together the “Parties” and individually are each a “Party”.

### RECITALS

Reference is made to the following facts:

1. The Developer represents that it has entered into a binding agreement pursuant to which the Developer will hold a long term lease of an approximately 40-acre parcel of land located off Winthrop Avenue in the City of Revere, Massachusetts (the “Property”), on which it has proposed to construct and thereafter own and operate a category 1 gaming establishment and related amenities (the “Project”, as more particularly described in Exhibit A).

2. The Developer has filed a “Phase 2” application with the Massachusetts Gaming Commission (the “Commission”) seeking a license to operate a category 1 gaming establishment (a “Gaming License”) at the Property pursuant to the provisions of M.G.L. chapter 23K (“Chapter 23K”).

3. The Parties acknowledge the potential regional traffic and other impacts resulting from the Project. In recognition of the City’s regional importance and impacts from the construction, development, and operation of the gaming establishment to the City, the Developer assented to the City’s petition to be designated as a “surrounding community” pursuant to 205 CMR § 125.01, and the Commission designated the City as a “surrounding community”.

4. Under section 15 of Chapter 23K, an applicant for a Gaming License must enter into an agreement with each “surrounding community” of the proposed gaming establishment, and the Parties have entered into this Agreement for the purposes set forth in Chapter 23K including to evidence the obligations of the Developer to the City as a surrounding community in proximity to the Project.

5. Pursuant to Chapter 23K, a portion of the gaming licensing fees, and a portion of the state taxes on the Project’s “Gross Gaming Revenue”, as that term is defined and used in Chapter 23K, following the date that any stage of the Project opens for gaming to the general public (the “Opening”), are to be allocated to a state community mitigation fund (the “Community Mitigation Fund”). Upon the Developer’s receipt of a Gaming License, the City would have the ability to apply for payments from the Community Mitigation Fund to address the Project’s potential impacts.

## AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties enter into this Agreement with mutual understandings and agree as follows:

### SECTION 1. IMPACTS OF THE PROJECT

#### A. STIPULATIONS OF KNOWN IMPACTS

1. The Parties intend that this Section 1.A shall be deemed to be the “stipulations of known impacts” that are required to be included in this Agreement pursuant to Section 15(9) of Chapter 23K.

2. The Project is expected to increase the number of vehicles using certain roadways in the City and other highways and roads in the vicinity of the Project. The projects identified in this Agreement regarding infrastructure improvements are intended, and expected by the Developer, to help to mitigate such impacts and improve longstanding background traffic conditions. A listing of the potential roadway traffic impacts affecting the City, as identified by the Developer, is more particularly set forth in Exhibit B. In the Developer’s Host Community Agreement with the City of Revere (the “Revere HCA”) executed pursuant to Section 15(8) of Chapter 23K, the Developer has committed to numerous infrastructure improvements to roadways of regional concern that also will provide benefit to traffic conditions in the City according to the Developer.

3. The Project may have an impact on municipal services which may require additional expenditures by the City in order to provide such services. The Developer’s payments made under this Agreement are intended, and expected by the Developer, to provide the City with adequate resources to mitigate any such impacts and the City acknowledges and agrees that such payments are intended, and expected by the Developer, to adequately mitigate all such impacts to the extent known as of the Effective Date of this Agreement.

4. The Project may have an impact on problem or compulsive gambling in the City. The Developer’s commitments under this Agreement and the relevant sections of Chapter 23K providing financial and other resources necessary to address problem or compulsive gambling are intended, and expected by the Developer, to mitigate such impacts to the extent known as of the Effective Date of this Agreement.

#### B. ADDITIONAL IMPACTS

1. The Parties acknowledge that there may be additional impacts associated with the Project that are unknown as of the Effective Date (the “Additional Impacts”). The Parties recognize that any Additional Impacts of the Project that are not sufficiently mitigated through this Agreement may be mitigated through state or municipal permitting processes that may be necessary to carry out the Project and through the Community Mitigation Fund or any other source of state funds, but these processes are not binding or exclusive. Nothing in this paragraph

shall constitute a waiver of the City's rights under this Agreement and/or 205 CMR 127 or other applicable law.

2. Consistent with the regulations promulgated by the Commission as of the Effective Date, which are designed to protect surrounding communities from significant and material adverse impacts occurring after the execution of mitigation agreements (specifically 205 CMR 127.00), the Developer and the City shall negotiate in good faith an amendment to this Agreement if a triggering event (as defined in 205 CMR 127.02) occurs.

3. Notwithstanding Section 1.B.2 of this Agreement and consistent with the provisions of 205 CMR 127.06, the Developer and the City shall also negotiate in good faith amendments to this Agreement (if any) under the conditions as expressly set forth elsewhere in this Agreement, including but not limited to, in the event that the Project be expanded or amended in a manner that differs from the terms of the Developer's application for a Gaming License with the Commission on file as of the Effective Date of this Agreement in a way that has a material adverse impact on the City.

## **SECTION 2. RESPONSIBILITIES AND UNDERTAKINGS BY THE DEVELOPER**

### **A. INFRASTRUCTURE IMPROVEMENTS.**

1. The Developer contemplates on an on-going basis both through this Agreement and through state and municipal permitting processes, certain public and private infrastructure improvements, which shall include all of those improvements (the "Infrastructure Improvements") agreed to by the Developer in its Revere HCA and its Surrounding Community Agreement with the City of Chelsea and any other Surrounding Community Agreement that may be entered into by Developer.

2. The Parties acknowledge that the Infrastructure Improvements described in this Section 2.A require the approval of various state and municipal agencies other than the City and that the Developer's completion of any Infrastructure Improvement shall be subject to the receipt of each such required approval. Nothing in this Agreement shall be deemed to provide the City approval rights over the Infrastructure Improvements, unless otherwise provided by law.

3. Not later than six (6) months following the date it obtains a third party financing for the Project (which date shall be after the date it obtains a Gaming License (the "Financing Date")), Developer shall begin a study of traffic mitigation solutions at Wellington Circle in the City of Medford, adjacent to the City, according to a scope of work established in cooperation with the Department of Conservation and Recreation and others, including the City. The Developer shall expend approximately \$450,000 on the study.

### **B. ANNUAL IMPACT FEE PAYMENT TO THE CITY OF SOMERVILLE**

Within ninety (90) days after the Opening and annually on such date thereafter for so long as the Gaming License shall continue in effect, the Developer shall pay to the City, by check payable to the "City of Somerville," Fifty Thousand Dollars (\$50,000) as an Annual Impact Payment.

C. COMMUNITY PROMOTION

1. The Developer will promote the City's hotels, restaurants, arts, entertainment and cultural institutions (collectively, the "City Amenities"). Such promotional activities shall include but not be limited to: (i) the provision of joint marketing opportunities to the City Amenities; and (ii) the provision of brochures or any other similar promotional materials as agreed upon by the Parties that promote the City Amenities.

2. On an annual basis, the Developer (together with its affiliates, tenants and operators) shall utilize best efforts to purchase not less than Fifty Million Dollars (\$50,000,000) in goods and services from vendors and companies with a principal place of business within a fifteen (15) mile radius of Revere City Hall, 281 Broadway, Revere, Massachusetts 02151 ("Regional Businesses"). The entirety of the City is within that 15-mile radius. The Developer shall meet with Regional Businesses regarding any opportunities to open satellite businesses within the Project. The Developer shall work with the City to hold vendor fairs, and to publicize same, that provide City businesses with information concerning providing goods and services to the Project. The Developer's obligations to make purchases under this section shall be subject to the availability of such goods and services on commercially reasonable terms.

3. The Developer shall use best efforts to enroll City Amenities in partnership programs that incentivize employees and patrons of the Project to utilize City Amenities, including the Developer's Mohegan Sun Momentum rewards program or any successor (collectively "Incentive Programs").

4. In addition, the Developer will create and implement a marketing program for the utilization of minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the Developer and any businesses operated as part of the Project. The Developer shall consult with the Chamber of Commerce in the City and such other business groups or associations as the City may reasonably request to identify opportunities in furtherance of the objectives set forth in this section.

D. COMPULSIVE GAMBLING SERVICES

The Developer shall provide the City with access to the Project's on-site compulsive gambling facility and associated compulsive gambling counseling services, and shall make such services available to City residents.

E. ACCESS TO COMMUNITY MITIGATION FUNDS

Sections 59(2)(c) and 61 of Chapter 23K, Section 93 of Chapter 194 of the Massachusetts Acts of 2011, and 205 CMR § 125.01(4) provide Surrounding Communities access to a Community Mitigation Fund administered by the Commission. The Developer hereby agrees to support the City's requests for funds, grants, or other funding mechanisms, from the Community Mitigation Fund and/or other funds established or funded pursuant to Chapter 23K, if the Developer is awarded a Gaming License.

F. EMPLOYMENT OPPORTUNITIES AT THE RESORT

1. The Developer shall use reasonable efforts to ensure that at least seventy-five percent (75%) of the total permanent workforce for the Project shall be individuals who reside within a fifteen (15) mile radius of Revere City Hall, 281 Broadway, Revere, Massachusetts 02151. The entirety of the City is within that 15-mile radius.

2. The Developer agrees to work with the City to promote employment opportunities at the Project and devise a network of training and recruitment partners.

3. The Developer covenants to use best efforts to expand access to employment opportunities for minorities, women, veterans, and other disadvantaged groups and to generally expand local employment opportunities.

G. OTHER COMMITMENTS OF THE DEVELOPER

1. The Developer agrees to make a one-time donation of \$50,000 to a local, Somerville-based non-profit entity or entities serving Somerville residents to support job readiness training program assistance, which shall be made no later than 180 days before the Opening.

2. The Developer will not use any location in the City as a satellite pick-up/drop-off site to and from the gaming establishment for employees generally, provided that the Developer may provide transportation for employees who are residents of the City.

3. The Developer will not have stops for so-called "line-runs," or regularly scheduled bus routes, in the City, provided that, subject to meeting legal requirements, the Developer will be able to provide transportation to patrons with whom it has established a relationship and will be able to provide transportation home to any patron.

4. The Developer will not conduct indiscriminate, mass marketing mailings to residents of the City, provided that the Developer will be permitted to send mailings to any patron with whom it has established a relationship.

5. The Developer shall participate and cooperate with the Commission, to the extent requested, in conducting the research contemplated by Section 71 of Chapter 23K.

6. The Developer agrees that, at the City's option, any terms of a surrounding community agreement entered into by the Developer and the cities of Cambridge, Melrose, and/or Salem shall be made part of this Agreement. Upon written notice by the City, the parties shall promptly execute an amendment to this Agreement.

**SECTION 3. UNDERTAKINGS OF THE CITY OF SOMERVILLE**

A. Non-Opposition to the Project.

In consideration of the distance of the Project to the City and the potential impacts when compared to the competing application for the Gaming License in Region A, the City will not



oppose the Mohegan Sun project specifically and will not oppose any federal, state or local permits for the Project, so long as the Project does not materially differ from the terms of the Developer's application for a Gaming License with the Commission on file as of the Effective Date of this Agreement in a way that has a material adverse impact on the City. For clarification, (a) the City may comment on Project mitigation; (b) the City is not obligated hereunder to take any action relative to the Project other than completion and consummation of this Surrounding Community Agreement; and (c) the Mayor of the City is not precluded from speaking out against gaming generally or urban gaming in particular or from continuing as a plaintiff and petitioner in connection with the pending ballot initiative.

#### **SECTION 4. GENERAL PROVISIONS**

##### **A. RECITALS**

The Recitals set forth above are incorporated herein by reference as though fully set forth herein.

##### **B. BINDING AGREEMENT**

This Agreement is binding upon and enforceable against, and inures to the benefit of, the Parties hereto and their successors and assigns (including, without limitation, any successor owner or owners of the Project, but excluding mortgagees of the Project or those claiming through mortgagees of the Project, unless said mortgagee obtains title to the Property and proceeds with the development or operation of a gaming establishment on such property).

##### **C. TRANSFER OF INTERESTS**

The Developer shall have continually the right to grant a mortgage or mortgages on all or any portion of the Property, and to transfer its interest herein to any such mortgagee, to the purchaser at a foreclosure sale or otherwise in connection with the exercise of remedies under any such mortgage. In addition, the Developer shall have the right to transfer or assign its rights and interests under this Agreement, provided that:

- (a) at the time of such transfer or assignment, the Developer has made all payments then due and payable under this Agreement;
- (b) if a Gaming License has been issued for the Project or any portion of the Property, the transfer or assignment is in connection with a transfer or assignment of such Gaming License and such transfer or assignment is permitted or has been approved pursuant to Chapter 23K;
- (c) the successor or assignee shall expressly assume and agree to perform and comply with all of the covenants and agreements of this Agreement to be performed by the Developer; and
- (d) the Developer shall deliver to the City prior to or promptly after such transfer or assignment, a copy of the instrument or instruments evidencing any such assignment to and assumption by the successor or assignee.

The liability of the Developer or its successors or assigns (including, without limitation, mortgagees) arising under this Agreement shall be limited solely to the interests of the Developer in the Project, and no trustee, officer, director, manager, member, owner, agent, representative or employee of the Developer, or their respective successors or assigns, or any person or entity directly or indirectly holding any interests in any of the foregoing from time to time, or any such person's or entity's separate assets or property shall have or be subject to any personal or individual liability with respect to any obligation or liability hereunder, nor shall any person or entity be answerable or liable hereunder in any equitable proceeding or order beyond the extent of its interest in the Project. No holder of a mortgage on any or all of the buildings or portions of the Project, as the case may be, shall be liable to perform, or be liable in damages for failure to perform, any of the obligations of the Developer hereunder unless and until such holder acquires title to the Project by foreclosure or deed in lieu of foreclosure and pursues the completion of the Project in accordance with the provisions hereof.

#### D. NOTICES

All notices and other communications required or permitted under this Agreement shall be in writing, signed by a duly authorized officer or representative of the City or the Developer, as the case may be, and shall be (i) delivered by nationally recognized overnight delivery service, or (ii) mailed by certified or registered mail, return receipt requested, postage prepaid, to the Parties at the following addresses or such other addresses as each may have specified to the other by such a notice:

City:	Mayor of Somerville Office of the Mayor Somerville City Hall 93 Highland Avenue Somerville, Massachusetts 02143
with copies to:	City of Somerville City Solicitor Office of the City Solicitor Law Department Somerville City Hall 93 Highland Avenue Somerville, Massachusetts 02143
Developer:	Mohegan Sun Massachusetts, LLC One Mohegan Sun Boulevard Uncasville, CT 06382 Attention: President
with a copy to:	Mohegan Gaming Advisors One Mohegan Sun Boulevard Uncasville, CT 06382 Attention: General Counsel

Any such notice shall be deemed to have been given on the date received or refused during normal business hours. The City specifically acknowledges that the Developer may change its designated street address upon written notice to the City.

E. SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be determined to be invalid and unenforceable, the remainder of this Agreement, or the application of such terms to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

F. GOVERNING LAW

This Agreement shall be governed and construed by the laws of the Commonwealth of Massachusetts, without regard to conflict of law principles.

G. AMENDMENTS

This Agreement may be amended only by a written instrument signed by the Parties.

H. TERM

The term of this Agreement (“Term”) shall commence on the Effective Date and expire on the earlier of: (a) the expiration or earlier termination of the Gaming License, including any extensions thereof and subject to any assignment or reissuance thereof to a successor owner or operator of the Project; (b) the date on which Developer notifies the City that the Developer has been rejected as an applicant by the Commission during any phase of the Commission’s licensing process, with any appeals having been decided against the Developer and/or all appeal periods applicable to the licensing process having expired; or (c) the date on which the Developer notifies the City that an applicant other than the Developer (or any of the Developer’s successors or assigns) has received a Gaming License for so called “Region A”, as those terms are defined and used in Chapter 23K, with all appeals having been decided in that applicant’s favor and/or all appeal periods applicable to the license having expired, provided that the Developer has not previously been awarded a Gaming License for Region A.

I. EXECUTION IN COUNTERPARTS / MULTIPLE ORIGINALS

This Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument. The Parties have agreed to execute multiple original copies of this Agreement.

J. ENFORCEMENT

It is the intention of the Parties that the provisions of this Agreement may be enforced only by the Parties hereto, and that no other person or persons shall be authorized to undertake any action to enforce any provisions hereof without the prior written consent of the Parties.



K. OBLIGATIONS CONDITIONED UPON RECEIPT OF A GAMING LICENSE

Notwithstanding anything to the contrary herein, neither the Developer nor the City shall be obligated to perform any of the obligations set forth in Section 2 of this Agreement (including, but not limited to, the Annual Impact Payment, mitigation obligations, employment obligations, or any other requirements set forth in Section 2) unless and until the Developer receives a Gaming License, with all appeals having been decided in the Developer's favor and/or all appeal periods applicable to the license having expired.

L. DISPUTE RESOLUTION

1. The Parties reserve the right, either in law or equity, by suit, and complaint in the nature of specific performance, or other proceeding, to enforce or compel performance of any or all provisions of this Agreement. Any cause of action in relation to this Agreement may be heard only in any Commonwealth or federal court in Massachusetts having jurisdiction and venue over the action.

2. The Parties may seek to resolve a dispute regarding this Agreement (a "Dispute") if (i) a Party gives a written dispute notice to the other Party setting forth the grounds for the Dispute (a "Dispute Notice"), and (ii) the Party receiving the Dispute Notice gives written notice to the other Party consenting to resolve the Dispute.

3. Within ten (10) days of the date of the Dispute Notice, the Parties shall meet to negotiate in good faith to resolve the Dispute described in the Dispute Notice.

4. In the event that a Dispute is unresolved within sixty (60) days of the date of a Dispute Notice, the parties agree that the forum for resolving any dispute shall be in those courts specified in paragraph 1.

M. HEADINGS

The section headings in this agreement are for convenience of reference only and shall in no way affect, modify, define, or be used in construing the text of the agreement.

**[Signatures to follow on the next page]**

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed in their behalf by their respective officers thereunto duly authorized as of the day and year first above written.

**CITY OF SOMERVILLE**

**MOHEGAN SUN MASSACHUSETTS, LLC**

By: 

Joseph A. Curtatone, Mayor

By: 

Mitchell Etess, Manager

Duly Authorized

**Exhibit A**

**Developer’s Description of the Project**

The Project will be developed on a 39.9-acre site located off Furlong Drive and Winthrop Avenue in the City of Revere (identified below) on property owned by Sterling Suffolk Racecourse, LLC. Currently located on the site are horse barns and other structures used to support the Suffolk Downs thoroughbred horse racing track. The Project provides for more than 927,000 square feet of total built space that includes an approximately 171,812 square foot gaming floor with approximately 5,000 gaming positions. These gaming positions include more than 4,000 slot machines, 100 table games and a 20-table poker room.

The Project’s program also features more than 100,000 square feet of retail space and retail circulation and more than a dozen restaurants. There will be two hotels with approximately 500 hotel rooms – one hotel serving the gaming space, and a boutique hotel to accommodate conference attendees and other guests. The Project also contains 44,000 square feet of conference/meeting/flex/entertainment space that when configured as an entertainment venue can hold approximately 1,000 patrons.

The Project will incorporate state-of-the-industry green building elements, will be at least LEED-gold certified, and is striving for LEED-platinum status. The Project is being developed to limit building coverage to 50% of the lot area, with approximately 40% of the site designed to be open space. It is expected that approximately 7,800,000 patrons will visit annually. The Project will support about 2,500 construction jobs and about 4,000 permanent jobs.

**Approximate Project Location**



**Exhibit B****Summary of Developer's Expected Roadway Use in the City****City of Somerville**

- I-93 is the only corridor in Somerville expected to carry regional (external) Resort trips to/from the North.
- The projected Friday PM peak hour two-way Resort trips on I-93 in Somerville is approximately \_\_\_ vehicle trips, reflecting an approximately 2 - 3% change compared to existing traffic volumes.
- These regional (external) Resort trips on I-93 would be through trips rather than trips joining or leaving I-93 in Somerville.
- Route 28/McGrath Highway, Alewife Brook Parkway, and other radial roadways through Somerville (including but not limited to Broadway, and Highland Avenue and Somerville Avenue connecting to McGrath Highway) are expected to attract only limited patron trips from abutting towns such as Medford and Arlington.
- Somerville itself is expected to generate approximately 2.63% of the total Resort patronage, equivalent to approximately 197 patrons annually.
- Approximately 12% public transit use is projected for patrons from Somerville.
- During the critical Friday PM peak hour, approximately 48 two-way patron trips from Somerville are projected, generating approximately 21 two-way vehicle trips.
- The impact of 21 two-way patron vehicle trips over the entire local roadway network in Somerville is expected to be negligible.