



12 September 2014

Massachusetts Gaming Commission  
84 State Street  
Boston, MA 02109

STEPHEN A. WYNN  
chairman and chief executive officer

Dear Commissioners,

We appreciate the comments of the Commission set forth in the recommended conditions. After two years of hard work and the expenditure of over \$25 million involving consultants, attorneys, architects, engineers, and land planners, our dedication to this project is unequivocal. While we would enthusiastically accept any reasonable condition that brings us closer to being awarded the license in Everett, we must consider our overriding responsibility to the Commonwealth of Massachusetts to produce an enduring and viable enterprise, one which provides job security for our employees and a responsible return on investment for our shareholders. When the viability of the enterprise may be challenged by the imposition of certain conditions, we are compelled to answer honestly.

This response is submitted to the Commission respectfully with the hope that it will be received in a manner consistent with our role as the Commonwealth's operating partner. In fashioning our answer, we draw upon our long experience with the sincere hope that our responses will be received as constructive and in no way adversarial. Below I address two areas of special concern to the Commission. We have also attached specific responses to all conditions proposed by the Commission.

In this regard, we would first address your comments about the building's exterior presentation. There is no doubt that a glass curtain wall allowing for floor to ceiling wall to wall glass that looks upon the Mystic River and the Boston skyline is the most attractive solution for guest experience. We design our buildings with that guest experience foremost in our minds, so we begin by designing from the inside out with our primary focus on the guest. In the Everett location we are subject to height restrictions by the FAA due to our proximity to Logan Airport. Consequently, the hotel tower takes on a certain horizontal aspect. In the evening, it is important that we are able to light that building with the use of surfaces that are light in color and reflective of podium-based floodlighting. Glass, of course, will not reflect light and be visible in darkness. Only the reflective materials such as those we propose to clad the stair towers, roof parapet and the elevator columns that ascend the building will serve that goal. We have chosen to do this with a soft color called cambric, a warm white that we

have used successfully in Nevada to highlight the horizontality of our curved building.

The material that we use and which was mentioned in your recent public hearing is known as EIFS. This material has been used extensively in office buildings and high rise structures both from coast to coast in the United States and around the world. From a distance of ten feet, EIFS is indistinguishable from the much heavier alternatives which include limestone, granite, and marble. Additionally, these alternative stones, in fact, require an equal amount of maintenance as EIFS. If, in fact, EIFS is an inferior material under northeast weather conditions, that is one thing. We do not believe that is true, nor does the manufacturer of the product believe it is true. For the structure to be visible at night, reflective material will be required. If we were to delete the reflective material, the room tower would disappear at night and take on the mundane appearance of a simple office building, losing any individual character of its own. We appreciate the Commission's suggestion and believe the building will have a distinctive presence on the Everett shoreline of the Mystic River. And finally, reference was made to the Massachusetts AIA evaluation of our design. We urge the Commission to refer to our point by point response to the AIA critique. Basically, the AIA thought we should conform more to the neighborhood. This suggestion adds a note of humor to the moment. Perhaps we should have adopted the shape of a fuel storage tank or a big box retailer, notably the surrounding structures of our neighborhood.

Therefore, we beg the indulgence of the Commission in allowing us to confirm the viability of EIFS as an appropriate reflective cladding material for the stair towers, parapet and elevator core design. Incidentally, we have used this design to create a dramatic and what others have called a stunning tower of similar appearance at Encore in Macau. A photograph of that building is enclosed. The EIFS manufacturer has proven that it is more environmentally friendly and energy efficient.

The Commission has also proposed a number of conditions pertaining to traffic mitigation of various descriptions including Sullivan Square. We have engaged respected traffic consultants and, with their help, have for the past 18 months, with much public participation, progressed in the MEPA process to satisfy the requirements of law pertaining to traffic issues and appropriate mitigation. In a number of the negotiations with surrounding communities, we have submitted appropriate mitigation measures and, quite understandably, the representatives of those communities have, in an honest and understandable dialog, tried to extract additional money from us. When we reached an impasse, the law and Commission's regulations compelled us to engage in arbitration - clearly a process designed to impose objectivity and to avoid unfairness while protecting the relative interests of the parties. We did, in every arbitration, win the support

of the arbitrators and come to terms with the communities pursuant to applicable law and regulations. Acting in good faith, the matters were resolved.

Notwithstanding the process, we were unable to meet the irrational demands of the City of Boston. Further to that point, Boston, ignoring the law and adopting an arbitrary and unreasonable attitude, refused even to engage in the legally mandated procedure. They ignored the deadlines for arbitration and chose instead to snub the process. Our best and final offer (BAFO) was based upon extensive, honest, and sincere calculations in assessing the real mitigation required. Unfortunately, our efforts came to no avail in the face of the City's intransigence. Instead, Boston has sought to use the enormous leverage of the license itself to extract from us amounts of money and conditions that are inconsistent with common sense.

Our projections show gaming revenue in year one of approximately \$800 million, \$200 million of which would be paid to the Commonwealth of Massachusetts as gaming tax. The law mandates that 15% of those proceeds be allocated to traffic mitigation considerations. Such money, based upon Boston's insistence on the importance of long-term, significant improvements to Sullivan Square, would most perfectly be applied to those improvements. To ignore the fact that \$30 million in the first year of operations alone could be dedicated to such a purpose and instead to pretend it doesn't exist, in our view, ignores the enormous potential of such a revenue stream dedicated to the amelioration of traffic concerns. These available funds are in addition to the mitigation required by the Massachusetts Department of Transportation (MassDOT) through the MEPA process, which we have estimated to cost approximately \$40 million for all traffic (\$6 million for Sullivan Square) and which would be expended by us as part of the initial construction of our project. We would be remiss if we did not challenge Boston's demands and we now find ourselves in the uncomfortable position of challenging a condition proposed by the Commission.

Our offer to Boston made as a BAFO would have provided \$40 million dollars to the City (\$15 million of which could have been dedicated to Sullivan Square) over its 15-year term. The amounts in the BAFO were over and above the \$30 million annual contribution to the traffic mitigation fund at the state level and approximately \$6 million of improvements by Wynn to fully mitigate our anticipated affect on Sullivan Square traffic as determined in the MEPA process. These amounts are certainly more than Boston could expect from any private enterprise, never mind one offering the region one of the largest capital investments in recent history. We feel also that it is appropriate to mention that federal funds have been made available to Boston and yet Boston has not made any improvements to Sullivan Square, despite 15 years of conversation. Instead, the City has seized upon our appearance to pretend that such a responsibility should fall upon our shoulders. But we are firmly convinced that we have

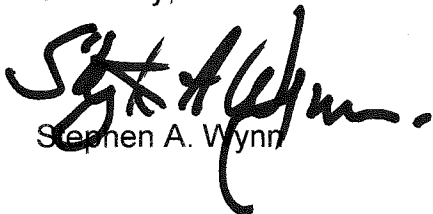
proceeded in good faith and extended beyond statutory requirements in this area.

In an attempt to go above and beyond the determinations made by our experts, and as a measure of our respect of the Commission's position, we will increase our BAFO by an additional \$1 million per year in the hopes that such an increase will settle this contentious issue. A reallocation of amounts payable under the BAFO actually creates a fund of \$24 million that could be applied to a Sullivan Square long-term solution. This is greater than the \$20 million requested by the Commission in its proposed condition. This settlement applies to all further considerations of this topic under the license as well to any notion of a look-back or additional revisitation of this subject, all of which are dealt with in detail in the attached document.

The notion that we should be penalized with added mitigation involving untold fines if we are successful and more people come to the facility, presents an impossible business risk. Furthermore, while we are implementing a robust transportation demand management program, our ability to control the behavior of our guests with regard to how they reach our facility is limited. People will do what they want to do despite the existence of alternative modes of transportation. And it would not be reasonable for us to be punished or penalized if they do. The suggestion that we should be penalized for success seems to us to challenge the health of the enterprise and our related responsibilities to the Commonwealth, our employees and shareholders.

At the end of the day, the greatest contribution that we can make as a business to the Commonwealth and the surrounding communities is to be successful and to serve the public. It is commonplace in every city in America for surrounding communities to adjust to increased economic activity and related issues, including traffic. These effects are but a small price to pay for economic growth and increased individual opportunity for citizens to have a better life. It is to those principles that we are dedicated and in such spirit that we respond to the Commission today.

Sincerely,



Stephen A. Wynn





**SUMMARY OF CONDITIONS**  
**WYNN MA, LLC**

	<b>Section 1</b>
<b>Definitions</b>	
	As used in this License, terms shall have the meaning defined in M.G.L. c. 23K and 205 CMR 101.00 <i>et seq.</i> , unless the context clearly requires otherwise. In addition, the following terms shall have the following meanings:
<b>DOR Directive</b>	<a href="#"><u>A directive or other documentation received from the Department of Revenue confirming that Chapter 62B, Section 2 is not applicable to table games and is only applicable to slot machine jackpots with identified odds. This is related to the Commission’s request for legislative amendment described in its Memorandum dated May 22, 2014.</u></a>
<b>Effective Date</b>	The Effective Date of the License shall be three (3) business days after <a href="#"><u>the later of (i) certification of a “no” vote on Question 3 in the November 4, 2014 general election and (ii) the receipt of the DOR Directive.</u></a>
<b>EOEEA</b>	Executive Office of Energy and Environmental Affairs.
<b>FEIR</b>	The Final Environmental Impact Report dated June 30, 2014, for the Project.
<b>LEED</b>	Leadership in Energy and Environmental Design, which is a rating system for the design, construction, operation, and maintenance of green buildings developed by the U.S. Green Building Council.
<b>License</b>	The Category 1 gaming license issued by the Commission to Wynn for operation of the Gaming Establishment.
<b>MBE</b>	Minority Business Enterprise.
<b>MEPA</b>	Massachusetts Environmental Policy Act, M.G.L. c. 30, §§ 61 through 62I, and the regulations promulgated by EOEEA pursuant thereto, 301 CMR 11.00 <i>et seq.</i>
<b>Opening Date</b>	The Date on which the Gaming Establishment commences operations and opens to the general public as approved by the Commission in accordance with G.L. c. 23K and 205 CMR 101 <i>et seq.</i>
<b>Project</b>	The construction and operation of the Gaming Establishment that is the subject of the License described in Wynn’s RFA-2 application and as approved by the Commission as part of the Category 1 gaming license.
<b>Secretary’s Certificate</b>	The MEPA Certificate issued by the Secretary of EOEEA on the FEIR and/or on the SFEIR (as applicable) for the Project.
<b>SFEIR</b>	The Supplemental Final Environmental Impact Report for the Project.
<b>Term</b>	The term of the license commences upon the Commission approval of the commencement of operation of the Gaming Establishment and continues for a period of 15 years thereafter.
<b>VBE</b>	Veteran Business Enterprise.

<b>WBE</b>	Women Business Enterprise.
<b>Wynn</b>	Wynn, MA, LLC, a Nevada limited liability company with principal address and offices located at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

DRAFT

		<b>Section 2</b>
	<b>General Conditions</b>	
1.	<b>Compliance with c. 23K and 205 CMR</b>	<p>Compliance with all of the requirements of M.G.L. c. 23K, as now in effect and as hereafter amended and 205 CMR 101 et seq., as now in effect and as hereafter promulgated or amended.</p> <p><a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a></p>
2.	<b>Compliance with law</b>	<p>Compliance with all applicable federal, state and applicable and lawful local laws, rules and regulations, now in effect or as hereafter promulgated or amended.</p> <p><a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a></p>
3.	<b>Compliance with MEPA</b>	<p>Compliance with all of the terms and conditions required by MEPA as provided in the Secretary's certificate and in any FEIR or SFEIR required by the EOEEA</p> <p><a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a></p>
4.	<b>Compliance with debt to equity ratio requirements</b>	<p>Compliance with any debt-to-equity ratio requirements established by the Commission's regulations or directives.</p> <p><a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a></p>
5.	<b>Payment of the License Fee</b>	<p>Payment of the License fee as established in G.L. c. 23K, § 10(d) and 205 CMR 121.01(1) within three (3) business days of the Effective Date.</p> <p><a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a></p>



6.	<b>Payment of Gross Gaming Revenue</b>	<p>Pay daily to the Commission the gross gaming revenue payment as provided by G.L. c.23K, §55, and 205 CMR.<sup>1</sup></p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
7.	<b>Payment of the Assessment Fee</b>	<p>Payment of assessments made pursuant 205 CMR 121.00 within three (3) business days <u>following receipt</u> of the <del>Effective Date</del> <u>DOR Directive</u>. Such assessments shall be offset by any installment payment made by Wynn under 205 CMR 121.02(1).</p> <p><u>Wynn's Response: Wynn accepts this condition with the proposed revisions.</u></p>
8.	<b>Payment of the Slot Assessment Fee</b>	<p>Payment within three (3) business days <del>of the Commission's vote to award the License to Wynn</del> <u>following receipt of the DOR Directive</u>, an installment fee pursuant to 205 CMR 121.02(1) in the amount of <del>\$6,330,513</del> <u>[TBD]</u>. This payment shall be considered an installment and credited to the Slot Assessment in the amount of <del>\$1,550,843</del> <u>[TBD]</u> and six (6) months of the Commission's Annual Assessment in the amount of <del>\$4,779,670</del> <u>[TBD]</u> as set forth in G.L. c. 23K, § 56(a) and (c); 205 CMR 121.01(3) (a) and (3) (b); 205 CMR 121.02(2) and (3).</p> <p><b>(Note: numbers subject to review pending final slot machine numbers.)</b></p> <p><u>Wynn's Response: Wynn requests to review the calculation but otherwise accepts this condition with the proposed revision.</u></p>
9.	<b>Bond</b>	<p>Within 30 days after the Effective Date, Wynn shall:</p> <p>(a) Deposit \$ <span style="background-color: yellow;">      </span>, representing 10% of the total investment proposed in the RFA-2 application into an interest bearing escrow account held by the Commission in accordance with M.G.L. c. 23K, §10(a); or</p> <p>(b) Secure a deposit bond, in a form and from an institution</p>

<sup>1</sup> A large number of the proposed conditions are explicitly set forth in the Gaming Act and/or its implementing regulations. While we appreciate the importance of these items and fully intend to comply with all applicable laws and regulations, we believe it is duplicative to list these in the license designation. In addition, as the Commission is in the process of developing and revising the regulations, the inclusion of these conditions creates a potential for conflict.

		<p>acceptable to the Commission, insuring that \$ <span style="background-color: yellow;">      </span>, representing 10% of the proposed capital investment shall be forfeited to the Commonwealth of Massachusetts if Wynn is unable to complete the Gaming Establishment, as determined by the Commission.</p> <p><u><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></u></p>
10.	<p><b>Compliance with G.L. c.23K, §15(3)</b></p>	<p>Compliance with the requirements of G.L. c. 23K, §15 (3) regarding land acquisition within 60 days of the Effective Date.</p> <p><u><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></u></p>
11.	<p><b>Compliance with Agreements</b></p>	<p>Wynn shall have an affirmative obligation to abide by and comply with the terms and conditions of the following:</p> <ol style="list-style-type: none"> <li>1. the host community agreement;</li> <li>2. surrounding community agreements;</li> <li>3. conditions imposed by the Commission in lieu of a surrounding community agreement with the City <del>4.</del> of Boston,</li> <li><del>4.</del> <u>5.</u> impacted live entertainment agreements;</li> <li><del>5.</del> <u>6.</u> lottery agreements;</li> <li><del>6.</del> <u>7.</u> any agreements related to the Licensee's RFA-2 application signed with local partners as of the Effective Date;</li> <li><del>7.</del> <u>8.</u> the memorandum of understanding between Wynn and the Massachusetts Community College Casino Career Institute attached to the RFA-2 application as exhibit 3-03-02;</li> <li><del>8.</del> <u>9.</u> affirmative marketing programs for those businesses identified in c. 23K, §21(a)(i),(ii), and (iii) for design and construction of the Gaming Establishment;</li> <li><del>9.</del> <u>10.</u> affirmative action programs identified under c.23K, §21(a)(22); <u>and</u></li> <li><del>10.</del> <u>11.</u> all federal, state and applicable and lawful local permits and approvals required to construct and operate the Gaming Establishment; <del>and all executed Signature Forms contained in section B of the RFA-2 application.</del></li> </ol> <p><u><a href="#">Wynn's Response: Wynn accepts this condition with the proposed conforming change to maintain consistency with prior licenses/designations.</a></u></p>

12.	<b>Affirmative Marketing Program – Design and Construction</b>	<p>The provision of a plan including public events and outreach within thirty (30) days of the Commission’s request after the Effective Date for the Commission’s review and approval creating an affirmative marketing program for those businesses identified in c.23K, §21(a)(21)(i) and (ii) (MBEs, VBEs and WBEs) for design and construction. The plan will include a robust public outreach component to those businesses identified in c.23K, §21(a)(21)(i) and (ii) for design and construction.</p> <p><a href="#"><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></a></p>
13.	<b>Affirmative Marketing Program – Goods and Services</b>	<p>The provision of a plan including public events and outreach within ninety (90) days of the Commission’s request after the Effective Date for the Commission’s review and approval creating an affirmative marketing program for those businesses identified in c.23K, §21(a)(21)(iii) for provision of goods and services procured by the Gaming Establishment. The plan will include a robust public outreach component to those businesses identified in c.23K, §21(a)(21)(iii) for provision of goods and services procured by the Gaming Establishment.</p> <p><a href="#"><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></a></p>
14.	<b>Affirmative Action Program</b>	<p>The provision of a plan including public events and outreach within thirty (30) days of the Commission’s request after the Effective Date of the License for the Commission’s review and approval creating an affirmative action program of equal opportunity to those residents identified in c.23K, §21(a) (22) on construction jobs. The plan will include a robust public outreach component to those residents identified in c.23K, §21(a)(22) (minorities, women and veterans).</p> <p><a href="#"><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></a></p>
15.	<b>Compliance with Construction Plans</b>	<p>Compliance with the construction plans, specifications, and timelines as approved by the Commission in accordance with G.L. c. 23K and 205 CMR.</p> <p><a href="#"><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></a></p>

16.	<b>Compliance with the Information in the RFA-2 and Evaluation Reports</b>	<p><del>Wynn shall have an affirmative obligation to abide by every statement made in its's Response: The development of any project of this magnitude evolves as the project evolves. This has been and will continue to be a dynamic process. We will abide by the concepts set forth in the RFA-2 application, including the evaluation reports prepared by the Commission as part of the Commission's evaluation process which are incorporated by reference into the License, as they evolve through the collaborative process between us and the Commission. The evaluation reports were prepared by third parties and we cannot subscribe to every particular contained in them.</del></p>
17.	<b>Creation of a Plan to Identify and Market Employment Opportunities to Unemployed Residents</b>	<p>The provision of a plan within ninety (90) days of the Commission's request after the Effective Date to work with the Massachusetts Department of Labor and Workforce Development and related state and local agencies, including consultation with the Massachusetts Department of Labor and Workforce Development, to create a plan for approval by the Commission to identify and market employment opportunities to unemployed residents of Massachusetts. The plan will include a robust public outreach component to identify and market employment opportunities to unemployed residents of Massachusetts.</p> <p><u><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></u></p>
18.	<b>Creations of a Regional Tourism Marketing Plan</b>	<p>The creation of a regional tourism marketing and hospitality plan in consultation with the regional tourism council and the Massachusetts Office of Travel and Tourism, and subject to approval by the Commission. Such plan shall include, but is not limited to, making space available in the Gaming Establishment for state and regional tourism information, links on Wynn's website to the regional tourism council website, a joint marketing program with the regional tourism council and the Massachusetts Office of Travel and Tourism, staff training in regards to the plan and sharing of visitor data with the regional tourism council and the Massachusetts Office of Travel and Tourism. Such plan shall be provided to the Commission for its approval at least ninety (90) days prior to the anticipated Opening Date.</p> <p><u><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></u></p>

19.	<b>Creation of a Plan to Identify Local Vendors</b>	<p>In conjunction with the Massachusetts Gaming Commission Vendor Advisory Team and any local grant awardee, the creation of a plan within ninety (90) days of the Commission’s request after the Effective Date for the Commission’s review and approval to assess Wynn requirements and to identify potential local vendors.</p> <p><a href="#"><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></a></p>
20.	<b>Institution of Credit and Collection Practices</b>	<p>Institution of credit and collection practices that comply with G.L. c. 23K and 205 CMR.</p> <p><a href="#"><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></a></p>
21.	<b>Compliance with Commission Free Play Standards</b>	<p>Compliance with any free play standards set by the Commission.</p> <p><a href="#"><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></a></p>
22.	<b>Litigation Update to the Commission</b>	<p>Within 30 days of the Effective Date and thereafter on an ongoing basis, Wynn shall file with the Commission and timely update a list regarding the status of all pending litigation to which Wynn is a party. For the purposes of this condition, litigation is defined as any matter in which (a) the damages may reasonably be expected to exceed \$100,000 and which is not fully and completely covered under an insurance policy with a licensed insurance carrier or (b) the legal or equitable relief requested seeks to revoke or suspend Wynn’s license or otherwise may affect Wynn’s ability to apply for or maintain a license for a casino or gaming establishment in the Commonwealth or any other jurisdiction. For purposes of this section Wynn shall include Wynn MA, LLC and Wynn Resorts, Limited.</p> <p><a href="#"><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></a></p>
23.	<b>Changes in Directors, Officers, or Qualifiers</b>	<p>Wynn shall comply with 205 CMR 116.04 and 116.06 relative to notification of anticipated, proposed, or actual changes.<sup>2</sup></p>

<sup>2</sup> [Please see Footnote 1.](#)

		<a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a>
24.	<b>Financial Transactions</b>	Wynn shall comply with 205 CMR 116.05 relative to notification of new financial sources. <sup>3</sup>  <a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a>
25.	<b>Transfer of Interest</b>	The transfer of any interest in the Licensee or the Licensee's interest in the Project is subject to the requirements of G.L. c.23K and 205 CMR currently in effect or promulgated in the future. <sup>4</sup>  <a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a>
26.	<b>Notification of Defaults</b>	Wynn shall promptly inform the Commission of any declared default or any material failure to meet any payment of interest or principal when due under any of its existing or future debt.  <a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a>
27.	<b>Notification of Refinancing of Debt</b>	Wynn shall promptly notify the Commission if it intends to enter into a transaction to refinance its existing debt or incur any additional capital debt obligations of \$50,000,000 or more, whether in a single transaction or cumulative transactions during any consecutive 12-month period.  <a href="#"><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></a>
28.	<b>Submission of Audited Financial Statements</b>	Within fourteen (14) days of their availability and throughout the Term of the License, Wynn shall submit to the Commission annual audited financial statements, if available; otherwise, it shall file consolidated audited financial statements with the Commission in the manner

---

<sup>3</sup> [Please see Footnote 1.](#)

<sup>4</sup> [Please see Footnote 1.](#)



		<p>provided by 205 CMR.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
29.	<b>Compliance with Bank Secrecy Act of 1970</b>	<p>Wynn shall submit at least 90 days prior to the anticipated Opening Date and adhere to a Plan for compliance with the United States Currency and Foreign Transactions Reporting Act (“The Bank Secrecy Act of 1970”) <del>which requires U.S. financial institutions, including casinos, to assist U.S. government agencies to detect and prevent money laundering.</del></p> <p><a href="#">Wynn's Response: The Bank Secrecy Act of 1970 is far more extensive than the specified description. We otherwise accept.</a></p>
30.	<b>LEED Gold Certification</b>	<p>Wynn shall commit to being LEED Gold or higher certifiable in the manner indicated in the FEIR and the most recent LEED Gold score sheet submitted by Wynn as part of its RFA-2 application, whichever is more recent.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
31.	<b>Compliance with Wage Scales Provided in RFA- 2</b>	<p>Wynn shall adhere as reasonably practicable to the average wage scales provided in its RFA-2 application.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
32.	<b>Application for Alcoholic Beverage License</b>	<p>Wynn shall apply for an alcoholic beverage license in accordance with G.L. c. 23K and 205 CMR.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
33.	<b>Compliance with All Permitting Requirements</b>	<p>Wynn shall take all reasonable steps necessary to obtain all required permits for commencement of the Project, and to continue related design work, and to put in place all necessary contracts such that the Wynn will be ready to commence work on the Project as soon as practicable after the effective date of the License. For the purposes of this paragraph, determination of reasonableness and practicability shall be determined through agreement between the Wynn and the Commission. Wynn shall report to the Commission on a monthly basis regarding its</p>

		<p>progress.</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
34.	<b>Notification of Selection of General Contractor</b>	<p>Wynn shall report to the Commission upon selection of a General Contractor and meet with the Commission to review MBE, WBE and VBE commitments and to ensure that the Contractor is aware of and accepts the MBE/WBE/VBE commitments set out in the RFA-2 application.</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
35.	<b>Construction labor report</b>	<p>Wynn shall provide to the Commission, on a quarterly basis, a detailed statistical report on the number, gender and race of individuals hired to perform labor as part of the construction of the gaming establishment.</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
36.	<b>Representation of Local and Regional Business in Retail Program</b>	<p><del>Wynn shall report to the Commission on Wynn's efforts to have appropriate representation of local and regional businesses in Wynn's retail program's</del> <u>Response: Wynn requires the flexibility to operate the Project as is necessary to maximize the interests of the Commonwealth, and Wynn's shareholders and employees.</u></p>
37.	<b>Maintenance of Workplace Population in Everett</b>	<p>Wynn shall report to the Commission regarding discussions with the City of Everett to maintain workforce population in the City of Everett.</p> <p><u>Wynn's Response: Wynn requires further explanation with respect to this condition.</u></p>
38.	<b>Plan for Entrance and Exit of Public Safety Vehicles</b>	<p><del>Wynn shall develop a plan's</del> <u>Response: Wynn will comply with all mitigation conditions respecting its traffic - please see Condition 3 in Section 2. Additionally, Wynn will make the specified payments to improve the ability of public safety vehicles to traverse through Everett and to and from the Project, including without limitation, during rush hour and during the Project's anticipated Friday P.M. peak hour and Saturday P.M. peak hours. Wynn shall provide such plan to the Commission no later than one year after the Effective Date and shall update such plan biannually</u></p>

		<p><del>thereafter</del> <a href="#">City of Everett and for the benefit of the City of Boston including payments for public safety.</a></p> <p><del>Wynn shall develop a plan to improve the ability of public safety vehicles to traverse through the area of Sullivan Square/Rutherford Avenue and Alford Street including, without limitation, during rush hour and the Gaming Establishment's anticipated Friday pm peak hour and Saturday PM peak hours. Wynn shall consult with the City of Boston and residents of Charlestown in developing such plan. Wynn shall provide such plan to the Commission no later than one year after the Effective Date and shall update such plan biannually thereafter or as otherwise directed by the Commission.</del></p>
39.	<b>Provision of Reports on Macau Operations</b>	<p>Wynn shall provide the Commission in a timely manner with copies of all reports on Macau operations by Wynn or any of its affiliates that are required to be filed in any U.S. jurisdiction.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
40.	<b>Notice of Change in Corporate Structure</b>	<p>Wynn shall provide the Commission with notice of any change in its corporate governance structure including but not limited to changes in the membership of the audit and/or compliance committees.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
41.	<b>Re-opener Provisions Re: the City of Boston</b>	<p>At any time prior to the Opening Date, Wynn and the City of Boston may negotiate and enter into a surrounding community agreement to mitigate impacts pursuant to 205 CMR 125.00. In the event that Wynn and the City of Boston enter into a surrounding community agreement, the parties will submit the agreement to the Commission. The Commission will determine if any of the conditions of the License should be amended or modified and if the Commission so determines, the Commission has the authority to make such amendments or modifications to the License conditions.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>

42.	<b>Re-opening of Conditions by the Commission</b>	<p><del>Nothing shall prevent the Commission from amending or modifying the License conditions upon a petition from the City of Boston, or a petition by Wynn or upon a motion by the Commission.</del> <u>Wynn's Response: This condition is unacceptable. In addition, this condition has not been proposed for any other applicant.</u></p>
43.	<b>Capital expenditures</b>	<p>Wynn shall make, or cause to be made, capital expenditures to its gaming establishment in a minimum aggregate amount equal to 3.5 per cent of the net gaming revenues derived from the establishment; provided, however, that it may make capital expenditures in an amount less than 3.5 per cent per year as part of a multi-year capital expenditure plan if such plan is submitted to and approved by the Commission as directed.<sup>5</sup></p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
44.	<b>Dual ownership</b>	<p>Wynn shall not operate, invest in or own, in whole or in part, another gaming licensee's license or gaming establishment in Massachusetts while it holds its own license.<sup>6</sup></p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
45.	<b>Cooperation in gaming-related investigations</b>	<p>Wynn shall cooperate with the Commission <del>and the Office of the Attorney General</del> in all gaming-related investigations.</p> <p><del>Wynn shall make readily available all documents, materials, equipment, personnel and any other items requested during an investigation; provided, however, that material that Wynn considers a trade secret or detrimental to Wynn if it were made public may, with the Commission's approval, be protected from public disclosure and Wynn may require nondisclosure agreements with the Commission before disclosing such material.</del> <u>Wynn's Response: Wynn accepts this condition with the proposed revisions. We note this condition was not included in the two licenses already issued.</u></p>

<sup>5</sup> [Please see Footnote 1.](#)

<sup>6</sup> [Please see Footnote 1.](#)

46.	<b>Cooperation in criminal matters</b>	<p>Wynn shall cooperate with the Commission and the Office of the Attorney General with respect to the investigation of any criminal matter; <del>provided, however, that Wynn shall, upon receipt of a criminal or civil process compelling testimony or production of documents in connection with a civil or criminal investigation, immediately disclose such information to the Commission. In accordance with G.L. c.23K, § 21(a)(8), that this clause shall not prohibit private persons or public entities from seeking any remedy or damages against Wynn.</del></p> <p><u>Wynn's Response: Wynn accepts this condition with the proposed revisions. We note this condition was not included in the two licenses already issued.</u></p>
47.	<b>Warrantless searches</b>	<p>Wynn shall allow the Commission or the IEB and state police officers assigned to the commission or the IEB to conduct warrantless searches of its gaming area.<sup>7</sup></p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
48.	<b>Duty to Inform</b>	<p>Wynn shall have a duty to inform the Commission of any action which it reasonably believes would constitute a violation of G.L. c.23K and/or 205 CMR, and shall assist the Commission and any federal or state law enforcement agency in the investigation and prosecution of such violation; provided, however, that no person who informs the Commission of such an action shall be discriminated against by Wynn as a consequence for having supplied such information.<sup>8</sup></p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
49.	<b>Office space and parking</b>	<p>Wynn shall provide an office for the Commission at the gaming establishment and the designated state police unit at the gaming establishment; provided, however, that the Commission shall establish the minimum requirements for square footage for the state police office, office furnishings</p>

<sup>7</sup> [Please see Footnote 1.](#)

<sup>8</sup> [Please see Footnote 1.](#)

		and parking spaces.  <a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a>
50.	<b>Employment report</b>	Wynn shall collect and annually report to the Commission a detailed statistical report on the number, job titles, benefits and salaries of employees hired and retained in employment at the gaming establishment. <sup>9</sup>  <a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a>
51.	<b>Employment of licensed or registered individuals</b>	Wynn shall employ only those persons licensed or registered by the Commission in accordance with G.L. c. 23K, § 30 and 205 CMR 134.00. <sup>10</sup>  <a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a>
52.	<b>Doing business with licensed or registered vendors</b>	Wynn shall do business only with those vendors licensed or registered by the Commission in accordance with G.L. c.23K, § 31 and 205 CMR 134.00. <sup>11</sup>  <a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a>
53.	<b>Demographic information</b>	<del>Wynn shall provide to the Commission aggregate demographic information with respect to the gaming licensee's customers in a manner and under a schedule to be defined by the Commission's Response: This condition is unacceptable as the requested information includes trade secrets and proprietary information. We note this condition was not included in the two licenses already issued.</del>  <a href="#">Wynn's Response: This condition is unacceptable as the requested information includes trade secrets and proprietary information. We note this condition was not included in the two licenses already issued.</a>
54.	<b>On site space and training of employees relative to problem gambling.</b>	Wynn shall provide complimentary on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and

---

<sup>9</sup> [Please see Footnote 1.](#)

<sup>10</sup> [Please see Footnote 1.](#)

<sup>11</sup> [Please see Footnote 1.](#)



		<p>intervention with customers exhibiting problem gaming behavior.<sup>12</sup></p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
55.	<b>Problem gambling</b>	<p>Wynn shall comply with all problem gambling related regulations and directives promulgated by the Commission including keeping conspicuously posted in the gaming area a notice containing the name and a telephone number for problem gambling assistance; provided, however, that the Commission may require Wynn to provide this information in more than 1 language.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
56.	<b>Self-exclusion from marketing or promotional communications</b>	<p>Wynn shall provide a process for individuals to exclude their names and contact information from its database or any other list held by Wynn for use in marketing or promotional communications.</p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
57.	<b>Public health strategies</b>	<p>Wynn shall institute additional public health strategies as required by the Commission during the term of the license.<sup>13</sup></p> <p><a href="#">Wynn's Response: Wynn accepts this condition in its entirety.</a></p>
58.	<b>Statistical reporting for MBE, WBE, and VBE</b>	<p>Wynn shall collect and annually provide to the Commission a detailed statistical report on the total dollar amounts contracted with and actually paid to minority business enterprises, women business enterprises and veteran business enterprises in: (i) design contracts; (ii) construction contracts; and (iii) contracts for every good and service procured by the gaming establishment; provided, however, that such statistical report shall also identify the amounts so</p>

---

<sup>12</sup> [Please see Footnote 1.](#)

<sup>13</sup> [Please see Footnote 1.](#)

		<p>contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms.<sup>14</sup></p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
59.	<b>Unattended minors</b>	<p>Wynn shall require its security personnel to conduct regular checks of parking areas for minors left in motor vehicles and immediately report any such finding to the Everett Police Department and on site state police.<sup>15</sup></p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
60.	<b>Conditions Binding on Successors and Assigns</b>	<p><del>All of the terms and conditions of the License shall be binding upon Wynn and its Affiliates and permitted successors and assigns.</del></p>

---

<sup>14</sup> Please see Footnote 1.

<sup>15</sup> Please see Footnote 1.

		<b>Section 3</b>
	<b>Conditions Required to Mitigate Impacts to the City of Boston</b>	
<b>1.</b>	<b>Mitigation Required by MEPA</b>	<p>Wynn shall complete all mitigation, including traffic mitigation, required pursuant to the MEPA process for the Project <del>and subsequent permitting including but not limited to the measures concerning impacts identified in the Secretary’s certificate, the FEIR dated June 30, 2014, the future SFEIR and the Secretary’s certificate for the SFEIR</del> and shall be responsible for all costs associated with such mitigation. <u>Wynn will vigorously pursue all mitigation (including initiating legal proceedings, if necessary, to obtain necessary permits). Within ninety (90) days following the Effective Date, Wynn will submit to the Public Improvements Commission the application to it relating to Wynn’s Sullivan Square mitigation.</u></p> <p><u>Wynn’s Response: Wynn accepts this condition subject to the proposed revisions.</u></p>
<b>2.</b>	<b>Interim Mitigation Plan</b>	<p><del>If the MEPA process does not require mitigation measures for Main Street and Rutherford Avenue access into Sullivan Square Wynn shall nonetheless mitigate the traffic impacts of the Gaming Establishment on the Main Street and Rutherford Avenue access into Sullivan Square as may be reasonably required by the City of Boston based upon the data provided and used as basis for its issuance of any required permits. (“Boston Vehicle Traffic Data”). Wynn will complete all measures necessary for the mitigation of such traffic impacts and mitigation required by MEPA (together “Interim Mitigation Plan”) and such measures will be in place prior to the Opening Date. Such measures shall include, without limitation, physical improvements and Transportation Demand Management (“TDM”) measures</del><u>Wynn’s Response: Wynn will comply with all mitigation conditions respecting its traffic - please see Condition 3 in Section 2. Please note that the foregoing condition was not imposed on any other licensee/applicant.</u></p>
<b>3.</b>	<b>Traffic Infrastructure Payments to Mitigate Traffic Issues in the City of Boston</b>	<p><del>Wynn shall pay to the City of Boston a one-time, upfront, non-refundable payment of Two Hundred Fifty Thousand Dollars (\$250,000.00), which amount shall be payable within sixty (60) days following the date that the License is awarded.</del></p> <p><del>Within 90 days of the Opening Date and each year thereafter on the anniversary of the Opening Date during the term of the License</del></p>

		<p>Wynn shall pay to the City of Boston an annual payment of One Million Dollars (\$1,000,000.00) (“Traffic Infrastructure Payment”). The purpose of these payments is to fund traffic infrastructure improvements not required by MEPA but necessary to mitigate traffic impacts created by the Gaming Establishment. The City of Boston may request that the payment(s) or any portion thereof be used to cover the costs associated with the Sullivan Square Infrastructure Project (“SSIP”) defined below and/or may deposit the payment(s) or any portion thereof or direct Wynn to deposit the payment(s) or any portion thereof into the Sullivan Square Infrastructure Fund (“SSIF”) established below:</p>
<p><b>4.</b> <b>3.</b></p>	<p><b>Public Safety Mitigation Payment Payments</b></p>	<p>Wynn shall pay to the City of Boston the following amounts (collectively the “Public Safety Payment”):’s Response: <u>We have taken the total BAFO contribution net of escalation from \$46 million to \$62,750,000. This is comprised of an upfront payment of \$2,750,000 of which \$1,500,000 is dedicated to a long-term solution for Sullivan Square and includes an annual payment of \$3,600,000 of which \$1,500,000 is dedicated to a long-term solution for Sullivan Square. In addition, this includes \$6,000,000 which mitigates Wynn’s transportation infrastructure impacts in the City of Boston, in accordance with MEPA.</u></p> <p><u>1. Upfront Payment</u></p> <p><del>A</del>Contingent upon the receipt of an unconditional, non-appealable Category 1 gaming license (“License”), Wynn has agreed to pay a one time, upfront, non-refundable payment of <u>Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000.00)</u>, which amount shall be payable <del>as follows:</del></p> <p><del>Two Hundred Fifty Thousand Dollars (\$250,000.00)</del> within sixty (60) days following the Effective Date <del>of the License;</del></p> <p><del>Two</del>(as defined in the Conditions to License). <u>The allocation of this upfront payment shall be One Million Five Hundred Fifty Thousand Dollars (\$1,500,000) upon the one year anniversary of the Effective Date of the License, and</u></p> <p><u>Thousand Dollars (\$1,500,000) for the SSIP (as defined in Condition 1 to Section 4), which amount shall be deposited into the SSIF, and One Million Two Hundred Fifty Thousand Dollars (\$250,000.00) upon the second anniversary of the Effective Date of the License; and 1,250,000) for Other Mitigation, which amount shall be deposited into the General Fund.</u></p> <p><u>2. Annual Payment</u></p>

		<p><u>Following the Opening Date, Wynn has agreed to an annual payment of Three Million Six Hundred Thousand Dollars (\$3,600,000.00), which amount shall be due on or before the ninetieth (90<sup>th</sup>) day following the Opening Date and on each annual anniversary thereof. The allocation of this annual payment shall be One Million Five Hundred Thousand Dollars (\$1,500,000) for the SSIP, which amount shall be deposited into the SSIF, and Two Million One Hundred Thousand Dollars (\$2,100,000) for Other Mitigation, which amount shall be deposited into the General Fund.</u></p> <p><u>“Other Mitigation” shall include the following: (i) staffing and other public safety initiatives related to increased pedestrian and vehicular traffic in the City of Boston related to the Wynn Resort in Everett following the Opening Date; (ii) improvements to facilities within Boston to facilitate water transportation and to fund staffing and other public safety initiatives related to increased use of water transportation in the Boston Harbor related to the Wynn Resort in Everett; (iii) support of Charlestown’s non-profits, parks, after-school activities, senior programs, job training programs, cultural events and related activities that promote Charlestown’s heritage, quality of life, recreational and cultural activities including, without limitation, the Charlestown Little League and Charlestown Youth Hockey programs; and (iv) any other impacts (including any transportation infrastructure impacts) related to the Wynn Resort in Everett.</u></p> <p><del>An annual payment of One Million Dollars (\$1,000,000.00) which amount shall be due on or before the ninetieth (90<sup>th</sup>) day following the Opening Date and on each annual anniversary thereof during the term of the License. The purpose of these payments is to enable the City of Boston to fund staffing and other public safety initiatives in the City of Boston during the construction phase of the Gaming Establishment and following the Opening Date.</del></p> <p><u>“General Fund” shall mean an interest bearing escrow fund held by an escrow agent approved by the Commission and in a bank located in the Commonwealth of Massachusetts. If requested by the City of Boston and approved by the Commission, funds in the General Fund may be applied to costs incurred with respect to any Other Mitigation. The City of Boston shall submit invoices for all such costs to the Commission for Commission review and approval. Upon approval of the requested reimbursement, the Commission shall advise the escrow agent to release funds in the approved amount.</u></p>
4.	<u>Public Safety</u>	<u>Please see Wynn’s response to Condition 3 in this Section.</u>

	<u>Mitigation Payment</u>	
5.	<b>Community Fund Payment</b>	<p>An annual payment of Three Hundred Fifty Thousand Dollars (\$350,000.00) (the “Community Fund Payment”), which amount shall be due on or before the ninetieth (90th) day following the Opening Date and on each annual anniversary thereof for the term of the License. The purpose of this payment is to support Charlestown’s non-profits, parks, after-school activities, senior programs, job training programs, cultural events and related activities that promote Charlestown’s heritage, quality of life, recreational and cultural activities including, without limitation, the Charlestown Little League and Charlestown Youth Hockey programs <a href="#">Please see Wynn’s response to Condition 3 in this Section.</a></p>
6.	<b>Water Transportation Payment</b>	<p><a href="#">Please see</a> Wynn shall pay to the City of Boston an annual payment of Two Hundred Fifty Thousand Dollars (\$250,000.00) (“Water Transportation Payment”), which amount shall be due on or before the ninetieth (90th) day following the Opening Date and on each annual anniversary thereof for the term of the License. The purpose of this annual payment is to enable the City of Boston to make certain improvements to facilities within the City of Boston to facilitate water transportation and to fund staffing and other public safety initiatives related to increased use of water transportation in the City of Boston Harbor related to the Project’s <a href="#">response to Condition 3 in this Section.</a></p>
7.	<b>Escalation of Payments</b>	<p>Beginning with the second annual payment, the <del>Transportation Infrastructure Payment, Traffic Reduction Incentive Payment (defined below), the Public Safety Payment, the Water Transportation Payment and the Community Fund</del> <a href="#">Annual</a> Payment shall be adjusted to reflect any increase in the cost of living based upon the CPI (as defined below), calculated as the average annual increase over the immediately prior twelve (12) month period. “CPI” shall mean the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Consumers, Boston-Brockton-Nashua, MA-NH-ME-CT All Items, 1982-84=100.</p> <p>In the event that the United States Department of Labor shall cease to promulgate the CPI, the <del>Transportation Infrastructure Payment, the Public Safety Payment, the Water Transportation Payment and the Community Fund</del> <a href="#">Annual</a> Payment shall be increased annually by one percent (1%) beginning with the later of the second annual payment or the year in which the United States Department of Labor ceases to promulgate the CPI.</p> <p><a href="#">Wynn’s Response: Wynn accepts this condition subject to the</a></p>



		<a href="#">proposed revisions.</a>
8.	<b>Business Development</b>	<p>During the construction phase of the Project and once the Project is operational, subject to Wynn’s obligations to the City of Everett and other surrounding communities, Wynn shall make a good faith effort to utilize City of Boston contractors and suppliers for the Project and shall afford such opportunities to City of Boston vendors when such contractors and suppliers are properly qualified and price competitive. Such efforts shall include actively soliciting bids from City of Boston vendors through local advertisements, coordination with the City of Boston Chamber of Commerce and such other reasonable measures as the City of Boston may from time to time request.</p> <p>In furtherance thereof, on and after the <a href="#">Effective Opening</a> Date and throughout the Term of the License, Wynn shall use good faith efforts to purchase annually at least Fifteen Million Dollars (\$15,000,000.00) of goods and services from vendors with a principal place of business in the City of Boston. Wynn shall work with the City of Boston to hold vendor fairs that provide City of Boston businesses with information concerning the process of providing goods and services to the Project. Wynn shall, on at least an annual basis, consult with the City of Boston Chamber of Commerce and such other business groups or associations as the City of Boston may reasonably request to identify opportunities in furtherance of the objectives set forth in this condition. Wynn shall, upon reasonable request, meet with the City of Boston to provide updates on Wynn’s efforts to comply with this condition. Notwithstanding anything herein to the contrary, Wynn’s obligations under this condition shall be subject to the availability of such goods and services at a level of quality that is consistent with the Project specifications and on commercially reasonable terms.</p> <p>Wynn shall work with and assist local businesses in the City of Boston to become “Wynn certified” in order to participate in this local purchasing program. Wynn certification represents a Wynn-specific vendor qualification program that requires vendors to be pre-qualified, which may include but not be limited to background checks and other screening methods utilized to qualify vendors.</p> <p>In recognition of the unique cultural, historical and entertainment attractions located in the City of Boston and throughout the region, Wynn shall develop and maintain a proprietary concierge program for the purpose of cross-marketing these attractions. Wynn shall allow the City of Boston to participate in this cross-marketing venture for the purpose of promoting its local businesses and other</p>

		<p>attractions. Prior to the Opening Date and throughout the Term of the License, Wynn shall cooperate with the City of Boston’s Chamber of Commerce to include City of Boston businesses in Wynn’s Concierge Program so that they may benefit from the Project.</p> <p><u><a href="#">Wynn’s Response: Wynn accepts this condition subject to the proposed revisions to ensure consistency with Wynn’s BAFO.</a></u></p>
<p>9.</p>	<p><b>Jobs Program</b></p>	<p>In recognition of the above, subject to its obligations to the City of Everett and other surrounding communities, Wynn shall undertake the following measures:</p> <p>Wynn will work in a good faith, legal and non-discriminatory manner with the Wynn’s construction manager to give preferential treatment to qualified City of Boston residents and, in particular, residents of Charlestown for contracting, subcontracting and servicing opportunities in the development and construction of the Gaming Establishment. Following the engagement of a construction manager, Wynn shall advertise and hold at least one event <del>every six (6) months</del> prior to the Opening Date for City of Boston residents at a venue located in Charlestown, at which it will publicize its construction needs and explain to attendees the process by which they may seek to be hired in connection with the construction of the Gaming Establishment.</p> <p>Prior to beginning the process of hiring employees (other than internally) for the Gaming Establishment, Wynn shall advertise and hold at least one event for City of Boston residents at a venue located in Charlestown, at which it will publicize its hiring needs and explain to attendees the process by which they may seek to be hired in connection with the Gaming Establishment <del>and shall hold one event annually thereafter</del>. In addition, Wynn shall work with non-profit entities to develop a job readiness training program that will be available to all residents of the City of Boston. In seeking to fill vacancies at the Gaming Establishment, Wynn will give preference to properly qualified residents of the City of Boston and, in particular, residents of Charlestown, to the extent that such a practice and its implementation is consistent with Federal, State or local law or regulation.</p> <p>Notwithstanding the foregoing, in recognition of Wynn’s host community agreement with the City of Everett and Wynn’s surrounding community agreements with the Cities of Malden and Medford, the preferences provided above shall be secondary to the preferences provided by Wynn in those agreements. The preferences provided in this condition shall be on a pooled basis with any other community that has entered or that enters into a</p>

		<p>surrounding community agreement with Wynn.</p> <p>Wynn shall consult in good faith with the City of Boston on an annual basis to identify prospective, qualified City of Boston employees to effectuate the terms and conditions herein.</p> <p><u>Wynn's Response: Wynn accepts this condition subject to the proposed revisions to ensure consistency with Wynn's BAFO.</u></p>
10.	<b>Responsible Gaming</b>	<p>Wynn shall coordinate in good faith with the City of Boston to promote responsible gaming and to develop resources available to residents of the City of Boston to address problem gambling. In furtherance thereof, Wynn <del>and</del> <u>shall direct</u> its employees and agents <del>shall to</del> use commercially reasonable efforts to not send any marketing materials to or otherwise communicate for marketing purposes with residents of the City of Boston who have opted to participate in Wynn's self-exclusion or self-limitation programs that enable individuals to opt out of receiving marketing materials. In addition, Wynn shall provide the City of Boston and its residents with access to all compulsive gambling services associated with the Gaming Establishment and shall make available to the City of Boston its resources and employees as may be reasonably necessary to publicize those services and conduct associated educational programs. Further, to address any unanticipated adverse impacts, the City of Boston may apply to the Commission or other state agencies for grants from the Community Mitigation Fund and/or Public Health Trust Fund established under the Act. Wynn shall reasonably support applications made by the City of Boston to the Community Mitigation Fund and/or the Public Health Trust Fund to address the unanticipated adverse impacts.</p> <p><u>Wynn's Response: Wynn accepts this condition subject to the proposed revisions to ensure consistency with Wynn's BAFO.</u></p>
11.	<b>Look Back Studies</b>	<p><u>Wynn's Response: This condition is unacceptable. If, at its expense, will conduct a look back study by an independent third party to analyze any significant adverse impact experienced by the City of Boston caused by (a) Gaming Establishment related public safety costs in excess of Public Safety Mitigation Payment above; (b) Gaming Establishment related traffic impacts with the exception of those on Rutherford Avenue and in Sullivan Square that cannot be mitigated by the Traffic Infrastructure Payments above; (c) Gaming Establishment related water, sewer, or storm water impacts; (d) Gaming Establishment related construction noise in the City of Boston in excess of levels permitted by federal, state or applicable and lawful City of Boston laws or codes; or (e) Gaming Establishment related construction or traffic impacts on Ryan Park.</u></p>

		<p><u>any time during the Term, the City of Boston agrees to work with and assist Wynn and its contractors and agents in good faith to obtain any and all permits, certifications, legislation or regulatory approvals from any governmental entities and officials, all funds remaining in the General Fund and all future amounts paid to the General Fund shall be paid directly to the City of Boston.</u><sup>16</sup></p> <p><del>The look back study will be conducted at three milestones 12 months after the commencement of construction, 15 months after the Opening Date and again 63 months after the Opening Date. For each milestone, the third party will analyze data relating to such impacts and will issue a report setting forth the third party's findings. The third party's report will be completed no later than 15 months after the commencement of construction ("Construction Period Report"), 18 months after the Opening Date ("1<sup>st</sup> Year Report") and 60 months after the Opening Date, ("5<sup>th</sup> Year Report") respectively, provided, however that the third party shall submit a draft of the report to Wynn, the City of Boston and the Commission for their review and comments no later than 14 months after the commencement of construction, 17 months after the Opening Date and 65 months after the Opening Date, respectively. The third party shall review the comments from Wynn, City of Boston and the Commission and issue each a final report within the applicable time period set forth above.</del></p> <p><del>Upon the issuance of the final Construction Period Report, the 1<sup>st</sup> Year Report and 5<sup>th</sup> Year Report, Wynn and the City of Boston will work in good faith to mutually agree upon the dollar value of the significant and adverse impact, if any, identified in the Construction Period Report, 1<sup>st</sup> Year Report or the 5<sup>th</sup> Year Report, respectively. If the parties cannot agree on any additional cost required to mitigate the significant and adverse impact described in the Construction Period Report, 1<sup>st</sup> Year or 5<sup>th</sup> Year Report, the matter will be submitted to binding arbitration within 30 days after the issuance of the report in accordance with the procedures outlined in 205 CMR 125.01 (e). The selected arbitrator shall be limited to selecting the additional cost to mitigate submitted by one of the parties. Wynn will pay the additional cost to mitigate selected by the arbitrator within 30 days of the arbitrator's decision. If the Wynn refuses to submit to arbitration, Wynn shall be obligated to pay the additional cost to mitigate requested by the City of Boston and if the City of Boston refuses to submit to arbitration, such refusal to submit to arbitration shall be deemed a waiver of the City of Boston's right to any compensation.</del></p>
--	--	--

<sup>16</sup> Wynn's BAFO contained a provision obligating the City of Boston to cooperate with Wynn. This provision is based on that obligation.

12.	<b>Reimbursement Of Expenses</b>	<p>In accordance with 205 CMR 114.03(2), Wynn shall reimburse Boston for actual, documented reasonable out-of-pocket expenses incurred by Boston for legal, financial and other professional services incurred by the City of Boston, acting reasonably, as the cost of determining the impact of the proposed Gaming Establishment on the City of Boston and in particular on Charlestown.</p> <p><u><a href="#">Wynn's Response: Wynn accepts this condition subject to a cap of \$250,000.</a></u></p>
-----	--------------------------------------	---

DRAFT

		<b>Section 4</b>
	<b>Conditions Required to Mitigate Traffic and Other Impacts Caused by the Construction and Operation of the Gaming Establishment</b>	
1.	<b>Definitions</b>	<p>As used in this section, the following terms shall have the following meanings:</p> <p><u>Sullivan Square Infrastructure Project</u> (“SSIP”): For purposes of the license issued to Wynn, the SSIP is defined as the design, construction and maintenance of all of the improvements to Sullivan Square and adjacent roads leading into and/or connected to Sullivan Square included in any plan that is approved and permitted by the City of Boston <u>and the Massachusetts Department of Transportation</u>, as the long term solution to alleviate traffic congestion in Sullivan Square and the roads leading into and/or connected to Sullivan Square. The SSIP includes, but is not limited to, <u>long term</u> improvements to the Sullivan Square rotary; all other roadways within 500 feet of the Sullivan Square rotary (including without limitation, Main Street, Rutherford Avenue, Cambridge Street, Alford Street, Mishawum Street, Maffa Way, D Street, and Spice Street), and any Rutherford Avenue underpass beneath the Sullivan Square rotary as well as any improvements approved and permitted by the City of Boston to Rutherford Avenue between Sullivan Square and City Square. As determined by the permits issued by the City of Boston, <u>and the Massachusetts Department of Transportation</u> the SSIP may be designed and constructed in its entirety or in phases.</p> <p><u>Sullivan Square Infrastructure Fund</u> (“SSIF”): <del>the escrow fund created under Section 3 to hold the SSIP Percentage Share payments and the Traffic Reduction Incentive Payments</del> shall mean an interest bearing escrow fund held by an escrow agent approved by the Commission and in a bank located in the Commonwealth of Massachusetts. If requested by the City of Boston, and approved by the Commission, funds in the SSIF may be applied to costs incurred with respect to any SSIP.</p> <p><u>Wynn’s Response: Wynn accepts this condition subject to the proposed revisions.</u></p>

2.	<b>SSIP Percentage Share</b>	<p><del>In addition to any costs for mitigation required under MEPA and in addition to the payments to the City of Boston described in Section 3, Wynn shall be responsible for a payment equal to 10% of the costs (“SSIP Percentage Share”) up to \$200 million of the Sullivan Square Infrastructure Project (“SSIP”), (such costs to be determined as part of the City of Boston’s design process progressed to at least the 25% design stage) provided that the SSIP is designed, constructed and permitted to accommodate the traffic impacts of the Gaming Establishment. Such SSIP Percentage Share shall not exceed a total amount of \$20 million. — Such payment shall be made directly to the SSIF escrow account. Wynn shall make an initial installment payment to the SSIF escrow account in the amount of \$10 million no later than 1 year after the Effective Date of the License.</del> <u>Wynn’s Response: Based on our proposed restructuring of the SSIP, this condition is not applicable.</u></p>
3.	<b>Interim Mitigation Plan/Traffic Reduction Incentive Payment</b>	<p><del>In order to mitigate increased traffic arising from the Gaming Establishment, and incentivize the use of alternate transportation methods Wynn shall be required to pay to the SSIF an annual payment equal to \$20,000 per additional vehicle trip (“AVT”) entering and leaving the Gaming Establishment using Sullivan Square during the Friday afternoon peak hour in excess of the number of vehicle trips entering and leaving the Gaming Establishment using Sullivan Square during the Friday afternoon peak hour shown in the data used by the City of Boston as the basis for its issuance of any required permits necessary for the Interim Mitigation Plan (“Boston Permit Vehicle Trip Data”) described in Section 3.2 for a period beginning on the Opening Date and ending on the 10<sup>th</sup> anniversary of the Opening Date (“Traffic Reduction Incentive Payment”). Wynn shall provide a plan for the Commission’s review and approval for a vehicle trip measurement system that will measure the number of trips entering and leaving the Gaming Establishment using Sullivan Square. No later than 30 days after the first anniversary of the Opening Date and continuing for ten (10) years thereafter, Wynn shall provide the Commission with a calculation showing the number of AVT during the Friday afternoon peak hour in excess of the Boston Permit Vehicle Trip Data and shall provide evidence of Wynn’s Traffic Reduction Incentive Payment to the SSIF in an amount equal to \$20,000 times the AVT during the Friday afternoon peak hour in excess of the Boston Permit</del></p>



		<p><del>Vehicle Trip Data</del> <u>Wynn's Response: As set forth in the cover letter, while Wynn will make every effort to encourage alternative transportation options, and has, in fact, eliminated all employee traffic through Sullivan Square, Wynn cannot control its guests. Wynn will comply with all mitigation conditions respecting its traffic - please see Condition 3 in Section 2. In particular, Wynn will implement a robust Transportation Demand Management ("TDM") program that will encourage both patrons and employees to travel to the project site via the many available non-automobile travel modes. Wynn will conduct a post-development transportation monitoring and survey program. Wynn will submit its TDM program to the Commission and will provide the Commission, on an annual basis, with all monitoring reports. Wynn will consider, in good faith, the Commission's suggestions regarding its TDM program.</u></p>
4.	<b>SSIF Escrow Account</b>	<p>All payments required to be made by Wynn into the SSIF shall be paid into an interest bearing escrow fund held by an escrow agent approved by the Commission and in a bank located in the Commonwealth of Massachusetts. The SSIF <del>escrow fund</del> <u>Escrow Fund</u> shall be available to reimburse the City of Boston for the costs incurred in the design, construction and maintenance of the SSIP up to the amount in the SSIF. <del>If requested by the City of Boston and approved by the Commission, funds in the SSIF Escrow Account may be applied to costs associated with the Interim Mitigation Plan.</del> The City of Boston shall submit invoices for the SSIP costs and/or any other costs allowed under this paragraph to the Commission for Commission review and approval. Upon approval of the requested reimbursement, the Commission shall advise the escrow agent to release funds in the approved amount. If the City of Boston does not commence the SSIP within 10 years of the <del>Opening</del> <u>Effective</u> Date, Wynn may petition the Commission for the return of any unused funds plus any interest accrued to Wynn.</p> <p>For purposes of this condition "Commencing the SSIP" is defined as beginning construction of/demolition for the SSIP, or any portion thereof deemed significant by the Commission, pursuant to a plan approved and permitted by the City of Boston.</p> <p><u>Wynn's Response: Wynn accepts this condition subject to the proposed revisions.</u></p>

5.	Transportation Demand Management	<p><del>Wynn will conduct an analysis of the automobile mode shares of employee and patron trips to and from the Gaming Establishment each year during the Term of the License on the anniversary of the Opening Date to determine if Wynn is meeting the goals in its Transportation Demand Management (“TDM”) Program as determined in the SFEIR or such other mode shares as the Commission may require in the final License following the MEPA process.<sup>†</sup> The monitoring shall be conducted by an independent organization approved by the Commission and paid for by Wynn and using the measurements described in the Interim Mitigation Plan/SSIF AVT Payment condition above. If such analysis determines that Wynn has not met the TDM goals on an annual basis for the applicable study period, Wynn shall, no later than the forty fifth (45th) day following the anniversary of the Opening Date submit to the Commission a plan describing the method by which Wynn shall within one year meet the TDM goals and maintain compliance with the TDM (the “TDM Remediation Plan”).</del></p> <p><del>The Commission shall review and approve or disapprove each such TDM Remediation Plan To ensure compliance with the TDM Remediation Plan the Commission may impose additional conditions on its approval of TDM Remediation Plan including, without limitation conditions requiring that Wynn shall (a) increase its use of</del> <u>s Response: As set forth in the cover letter, while Wynn will make every effort to encourage</u> <del>alternative transportation methods, (b) make payments for failure to meet the mode share requirements, (c) participate in or form a Transportation Management Association as contemplated in the FEIR or in an approved SFEIR, (d) implement variable pricing or usage restrictions on parking garages for the Gaming Establishment, (e) pay additional mitigation fees to the City of Everett, other surrounding communities, and/or the City of Boston, or (f) implement other appropriate remedies to incentivize and ensure Wynn’s compliance with the TDM Remediation Plan and the then applicable TDM goals for the Gaming Establishment. Any remedies imposed by the Commission shall be in addition to any other payments</del></p>
----	----------------------------------	---

<sup>†</sup> ~~In the FEIR, Wynn has set a goal of 29% of patrons to arrive to the site via non-automobile modes and 71% arriving via automobile and taxi. For employees, the goal is for 59% to arrive via non-automobile modes and the remaining 41% arriving via automobile. Nothing herein shall prevent the Commission from establishing a higher non-automobile mode share than set in the FEIR or an approved SFEIR.~~

		<p><del>required to be made by Wynn pursuant to the conditions of its License</del> options, and has, in fact, eliminated all employee traffic through Sullivan Square, Wynn cannot control its guests. Wynn will comply with all mitigation conditions respecting its traffic - please see Condition 3 in Section 2. In particular, Wynn will implement a robust TDM program that will encourage both patrons and employees to travel to the project site via the many available non-automobile travel modes. Wynn will conduct a post-development transportation monitoring and survey program. Wynn will submit its TDM program to the Commission and will provide the Commission, on an annual basis, with all monitoring reports. Wynn will consider, in good faith, the Commission's suggestions regarding its TDM program.</p>
6.	<p><b>Parking Garage: Number of Spaces</b></p>	<p><del>As part of the License, the Commission shall approve the size and number of spaces to be built in the parking garage proposed for the Gaming Establishment. The Commission reserves the right as part of the TDM Program or TDM Remediation Plan to restrict the number of spaces available for use in the parking garage.</del> Wynn's Response: This condition is unacceptable. Wynn will comply with all mitigation conditions respecting its traffic - please see Condition 3 in Section 2. Wynn requires the flexibility to operate the Project as is necessary to maximize the interests of the Commonwealth, and Wynn's shareholders and employees.</p>
7.	<p><b>Amendment of Traffic Mitigation Conditions</b></p>	<p><del>The Commission reserves the right to amend or modify any conditions of the License pertaining to transportation mitigation to accommodate changes in construction or mitigation plans. Wynn agrees to work with the Commission on such amendments or modifications in order to achieve the intent of these transportation</del> Wynn's Response: This condition is unacceptable. Wynn will comply with all mitigation conditions: respecting its traffic - please see Condition 3 in Section 2.</p>
8.	<p><b>Community Outreach</b></p>	<p>Wynn will engage in community outreach to the Charlestown neighborhood and consult with the neighborhood <del>the</del> regarding the progress of the project including any transportation mitigation or changes in transportation mitigation plans. Wynn shall report on such outreach to the Commission as part of its regular reporting.</p> <p>Wynn's Response: This condition is acceptable in its entirety.</p>

9.	<b>Public Involvement Plan for Hazardous Materials</b>	<p><del>Wynn will implement a Public Involvement Plan related to the cleanup of the site of the Gaming Establishment in accordance with 310 CMR 40.0000. A draft of the Public Involvement Plan, following the procedures described in 310 CMR 40.1405, will be provided's</del> Response: <u>Wynn will comply with the generally applicable public involvement provisions of 310 CMR 40.0000. Wynn will provide</u> to the Commission <del>for its review and approval promptly after the award of the License. Pursuant to 310 CMR 40.1405, the initial mailing list will include</del> <u>and</u> the Chief Municipal Officers of the Cities of Everett, Boston and Somerville, the Boards of Health in Everett, Boston and Somerville, and such other municipal officials or community organizations as the Commission requires, <u>with all submittals pursuant to said regulations.</u></p>
10.	<b>Failure to Obtain Required Permits from the City of Boston</b>	<p><del>If Wynn fails to obtain any permits required from the City of Boston for the traffic mitigation described in Section 3 and Section 4 in the City of Boston by July 1, 2015 the Commission may in the Commission's discretion revoke the License awarded to Wynn..</del> Wynn's Response: <u>Wynn will vigorously pursue all mitigation (including initiating legal proceedings, if necessary, to obtain necessary permits). Within ninety (90) days following the Effective Date, Wynn will submit to the Public Improvements Commission the application to it relating to Wynn's Sullivan Square mitigation.</u></p>

		<b>Section 5</b>
	<b>Other Conditions</b>	
1.	<b>Building and Site Design</b>	<p>The Commission strongly urges Wynn to reconsider the exterior design of the buildings and present a revised design to the Commission and, in any event, Wynn shall submit exterior material and finish selection and samples for review and approval by the Commission as part of the planned reporting to the Commission in accordance with the design and construction schedule to be approved by the Commission in accordance with 205 CMR.</p> <p><u><a href="#">Wynn's Response: Please see cover letter.</a></u></p>
2.	<b>Economic Development</b>	<p>Wynn will <del>commit</del><u>use good faith efforts</u> to hire no less than 75% of the Project employees from within 30 minutes of Everett as stated at the June 25, 2014 Host Community hearing in Everett.</p> <p><u><a href="#">Wynn's Response: This revision is consistent with Wynn's response to the Host Community Meeting questions.</a></u></p>
3.	<b>Hiring preference</b>	<p>Wynn will offer a hiring preference to qualified Suffolk Downs employees in the event that Suffolk Downs closes upon the award of the License to Wynn.</p> <p><u><a href="#">Wynn's Response: This condition is acceptable in its entirety.</a></u></p>
4.	<b>Medical and Dental benefits</b>	<p><u><a href="#">Wynn's Response: Wynn requires the flexibility to operate the Project as is necessary to maximize the interests of the Commonwealth, and Wynn's shareholders and employees. Notwithstanding, Wynn, consistent with its past business practices, will commit to provide its employees with competitive medical and dental benefits to unionized and non-unionized employees at the Project at least that are commensurate with the benefit programs offered at Wynn's Nevada gaming facilities; those provided in the region.</a></u></p>

