

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

Suffolk, ss.

In the Matter of:)
)
Application of Mohegan Sun Massachusetts LLC)
)
Application of Wynn MA LLC)
)
Application for a License to Operate a Category 1)
Gaming Establishment pursuant to M.G.L. c.23K §19)
)
)

**DETERMINATION OF ISSUANCE OF A LICENSE TO OPERATE A
CATEGORY 1 GAMING ESTABLISHMENT IN REGION A**

I. Authority

Mohegan Sun Massachusetts LLC (“MSM”) and Wynn MA LLC (“Wynn”) (hereinafter referred to as “Applicant” or jointly as “Applicants”) each submitted to the Massachusetts Gaming Commission (hereinafter “Commission” or “MGC”) an RFA 2 application for a Category 1 Gaming License to operate a Gaming Establishment in Region A. The Commission has the authority to issue a single Category 1 Gaming License (“License”) in Region A pursuant to M.G.L. c.23K §19.

II. Background

On or before January 15, 2013, the Commission received an RFA-1 application from each Applicant. Each Applicant then underwent a thorough investigation by the Investigation and Enforcement Bureau (“IEB”). Pursuant to 205 CMR 101.01, a public meeting or an adjudicatory hearing was held before the full Commission at the conclusion of the investigation to determine the suitability of each Applicant. See 205 CMR 115.04. The Commission held a public meeting to determine the suitability of MSM on October 3, 2013 and the Commission held an adjudicatory proceeding to determine the suitability of Wynn on December 16, 2013. The Commission issued a **POSITIVE** determination of suitability for each Applicant, deeming each Applicant suitable to hold a gaming license and eligible to file an RFA 2 application for a Category 1 gaming license. See 205 CMR 115.05.

Each Applicant signed an agreement with the host community setting out the conditions under which a gaming establishment may be located within the host community and submitted the

executed Host Community Agreement to the Commission in accordance with 205 CMR 123.02(3). See G.L. c.23K, §15(8). A referendum vote pursuant to G.L. 23K, §15(13) was held in the Host Community for each Applicant and each Applicant “received a certified and binding vote on a ballot question at an election in the host community in favor of such license” See G.L. c.23K §15(13).

Each Applicant submitted an RFA-2 Application, in accordance with 205 CMR 118.01(2), to the Commission on December 31, 2013 (including all amendments and additions thereto, the “RFA-2 Application”). Pursuant to 205 CMR 118.04(1) (e), the Commission heard an informal presentation from each Applicant explaining its RFA-2 Application on January 22, 2014. The Commission held public hearings on March 25, 2014 for MSM and on March 26, 2014 for Wynn to receive comments from residents of communities impacted by the proposed Gaming Establishment. The Commission also accepted written submissions from the public. The Commission held Host Community public hearings in Revere on June 24, 2014, July 15, 2014 and August 11, 2014 for MSM and in Everett on June 24, 2014 and August 12, 2014 for Wynn to receive comments from the residents of the Host Community, pursuant to G.L. c.23K, §17(c) and (d).

MSM executed agreements with all designated Surrounding Communities and Impacted Live Entertainment Venues and with the Massachusetts State Lottery and has submitted those agreements to the Commission. Wynn has executed agreements or proceeded to an arbitrated agreement with all designated Surrounding Communities and Impacted Live Entertainment Venues except for the City of Boston. (See the discussion of Wynn’s inability to reach a surrounding community agreement with the City of Boston in section IIIa Findings, Mitigation, below.) Wynn has executed an agreement with the Massachusetts State Lottery. See G.L. c.23K §§15(9) and (10).

On May 8, 2014, Commission Chairman Stephen Crosby publicly recused himself from all matters related to the award of category 1 gaming establishment license in Region A. Chairman Crosby designated Commission James McHugh as Chairman of the Commission for Region A matters. See G.L. c.23K §3 (g). Commissioners McHugh, Cameron, Stebbins and Zuniga participated in the evaluation process and the final decision to award the category 1 license in Region A. Chairman Crosby did not participate in the evaluation process or the decision to award a license in Region A.

All of the Applicants for the License underwent the same evaluation process. See 205 CMR 118.04. Each section of each Applicant’s RFA 2 application was reviewed by professional consultants and independent evaluators who assisted the Commissioner responsible for that section in his or her review. Each Commissioner presented a report and his or her recommendation on the section for which he or she was responsible. The Commissioners reviewed all of the reports and discussed the recommendations made by each Commissioner at public meetings of the Commission on September 8, 9 10, 15, 16 and 17, 2014. On September 17, 2014, the Commission voted to enter into and executed an Agreement to Enter Into a Category 1 Gaming License (“Agreement”), effective as described in that Agreement. See 205 CMR 118.06.

III (a). Findings and Evaluation

In evaluating the Applicants for a Category 1 license, the Commission considered all relevant information brought to its attention, including information in the RFA-1 and RFA-2 applications of each Applicant, the presentations made by each Applicant to the Commission, the comments received by the Commission in writing and at the surrounding and host community meetings, filings with public agencies and any testimony taken regarding the Applicants at Commission public meetings. The RFA-1 and RFA-2 applications, the Applicant's presentations, and the evaluation reports and presentations created by the Commissioners are incorporated into this Determination to Issuance of a License to Operate Category 1 Gaming Establishment in Region A ("Determination") by reference.

The Commission considered, in accordance with G.L. c.23K, §18, the manner in which each of the Applicants proposed to advance the following statutory objectives:

1. Protecting the lottery from any adverse impacts due to expanded gaming including, but not limited to, developing cross-marketing strategies with the lottery and increasing ticket sales to out-of-state residents;
2. Promoting local businesses in host and surrounding communities, including developing cross-marketing strategies with local restaurants, small businesses, hotels, retail outlets and impacted live entertainment venues;
3. Realizing maximum capital investment exclusive of land acquisition and infrastructure improvements;
4. Implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed gaming establishment will generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming establishment;
5. Building a gaming establishment of high caliber with a variety of quality amenities to be included as part of the gaming establishment and operated in partnership with local hotels and dining, retail and entertainment facilities so that patrons experience the diversified regional tourism industry;
6. Taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations;
7. Providing a market analysis detailing the benefits of the site location of the gaming establishment and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming establishments;

8. Utilizing sustainable development principles including, but not limited to: (i) being certified as gold or higher under the appropriate certification category in the Leadership in Environmental and Energy Design program created by the United States Green Building Council; (ii) meeting or exceeding the stretch energy code requirements contained in Appendix 120AA of the Massachusetts building energy code or equivalent commitment to advanced energy efficiency as determined by the secretary of energy and environmental affairs; (iii) efforts to mitigate vehicle trips; (iv) efforts to conserve water and manage storm water; (v) demonstrating that electrical and HVAC equipment and appliances will be EnergyStar labeled where available; (vi) procuring or generating on-site 10 per cent of its annual electricity consumption from renewable sources qualified by the department of energy resources under section 11F of chapter 25A; and (vii) developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;
9. Establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that: (i) establishes transparent career paths with measurable criteria within the gaming establishment that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion; (ii) provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and (iii) establishes an on-site child day-care program;
10. Contracting with local business owners for the provision of goods and services to the gaming establishment, including developing plans designed to assist businesses in the commonwealth in identifying the needs for goods and services to the establishment;
11. Maximizing revenues received by the commonwealth;
12. Providing a high number of quality jobs in the gaming establishment;
13. Offering the highest and best value to create a secure and robust gaming market in the region and the commonwealth;
14. Mitigating potential impacts on host and surrounding communities which might result from the development or operation of the gaming establishment;
15. Purchasing, whenever possible, domestically manufactured slot machines for installation in the gaming establishment;
16. Implementing a marketing program that identifies specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for the utilization of: (i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the gaming establishment; (ii)

minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the gaming establishment; and (iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the gaming establishment and any businesses operated as part of the gaming establishment;

17. Implementing a workforce development plan that: (i) incorporates an affirmative action program of equal opportunity by which the Applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with disabilities; (ii) utilizes the existing labor force in the commonwealth; (iii) estimates the number of construction jobs a gaming establishment will generate and provides for equal employment opportunities and which includes specific goals for the utilization of minorities, women and veterans on those construction jobs; (iv) identifies workforce training programs offered by the gaming establishment; and (v) identifies the methods for accessing employment at the gaming establishment;
18. Whether the Applicant has a contract with organized labor, including hospitality services, and has the support of organized labor for its application, which specifies: (i) the number of employees to be employed at the gaming establishment, including detailed information on the pay rate and benefits for employees and contractors; (ii) the total amount of investment by the Applicant in the gaming establishment and all infrastructure improvements related to the project; (iii) completed studies and reports as required by the commission, which shall include, but need not be limited to, an economic benefit study, both for the commonwealth and the region; and (iv) whether the Applicant has included detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the gaming establishment; and
19. Gaining public support in the host and surrounding communities which may be demonstrated through public comment received by the commission or gaming applicant.

In order to evaluate the above factors the Commission considered each Applicant's approach to each of the following general categories: Overview of the Project; Finance; Economic Development; Building and Site Design; and Mitigation. See 205 CMR 119.03. The Commission generally adopts the following findings of fact and conclusions of law as they are set forth in each of the reports prepared by the individual commissioners as part of the deliberations. Those reports are hereby incorporated into this decision by reference. Ultimately, the Commission is satisfied that the project set out by Wynn in its RFA-2 application and included in the other referenced sources meets, and in many instances exceeds, the minimum requirements set forth in G.L. c.23K and 205 CMR. Further, the Commission is satisfied that Wynn has met the eligibility requirements set forth in G.L. c.23K, §15.

We set out our findings in each of the five aforementioned categories below.

A. Overview of the Project

The Commission generally accepts the following findings as set forth in the Overview report presented at the September 9, 2014 public meeting.

Overview of the Project		
	MSM	Wynn
Criteria		
Massachusetts Brand	<p>Mohegan Sun proposed traditional approach to develop a facility that is compatible with the regional community and is consistent with New England’s reserved cultural history. Their culture and history have provided them with a deep understanding and knowledge of the region. This integration with community has influenced both their design features and their outreach efforts. They have committed to the renewal of local historic institutions such as Suffolk’s Downs and Revere Beach. Mohegan Sun’s marketing approach reflects their emphasis on attracting a great percentage of customers from the New England region.</p>	<p>Wynn proposes to add destination entertainment to the multifaceted Massachusetts Brand. Wynn has committed to the restoration of a contaminated site and to renewing the connection of an under-utilized industrial waterfront to public access. This approach aligns with the Commonwealth’s recent emphasis on recapturing the economic and recreational value of its historic harbor sites. Wynn’s marketing strategy to attract a greater percentage of international visitors to their facility is consistent with their worldwide reputation.</p>
Destination Resort	<p>MSM’s approach to a destination resort rests on the concept of a “city integrated” resort, i.e., a facility that encourages a traveler experience that is fully integrated with the surrounding city. Modeled on the Harrah’s casino at the foot of Canal Street in downtown New Orleans, the approach emphasizes relationships with local restaurants, shops and other business to area travelers to the facility and then connect them with the surroundings. MSM has energetically pursued the relationships with local businesses</p>	<p>Wynn’s approach to the concept of a destination resort clearly focuses on a marketing plan designed to attract travelers from distant locations, principally those in Asia and bring them to the facility for an extended stay. The plan is comprehensive and well integrated into Wynn’s overall concept. The three principal components of that plan utilize Boston’s worldwide reputation as a destination city, luxurious accommodations designed to attract travelers and the Wynn brand which is known for the luxury the local facility embodies.</p>

	<p>that are key ingredients of its plan, though it is somewhat unclear how it intends to ensure that the gaming establishment will be the destination rather than another feature of a greater Boston destination that already exists.</p>	
<p>Outward Looking</p>	<p>MSM's approach to the outward look centers on the casino's relationships with existing businesses and attractions rather than a physical connection to the surrounding areas. Indeed, in deference to the partially residential neighborhoods for which it is planned, the facility and its various components are accessible at only two points in addition to the garage areas. That said, MSM has been aggressive in its efforts to connect with local businesses and attractions and those connections, if maintained, will facilitate an outward flow by casino patrons.</p>	<p>Wynn's approach to the outward look has three main components. The first is the multiple entry points to the shops, restaurants and other attractions in the arcade. Second is the outdoor space that will be landscaped in a fashion designed to attract walkers, picnickers and others, at least in fair weather and facilitate access to an extended harbor walk. Third is the use of water borne transportation to connect the facility to downtown Boston and the airport which holds the promise of greater expansion as time progresses.</p>
<p>Competitive Environment</p>	<p>This proposal can be summarized as a regional casino that targets and attempts to capitalize on customers and players closest to the facility. MSM and Brigade have entered into a marketing restriction agreement that lacks some clarity around its implementation. The restriction places a limit on the marketing to individuals within specified Massachusetts zip codes from other Mohegan properties but does not preclude such marketing. That threshold (limit) is set by the facility in Massachusetts. The practical application of this agreement is not well articulated. This restriction in conjunction with other elements of the</p>	<p>While this proposal partially capitalizes on the proximity to the nearby population, Wynn heavily focuses on attracting high-end plan as well as the player from outside of the defined regional market area. Wynn's track record and its marketing and operations plans support its projections. Wynn's marketing and business plan emphasizes differentiation and segmentation (which complements prior decisions made by the Commission and positions the Commonwealth to be competitive in the Northeast). Wynn is very familiar with this approach in highly competitive environments (Las Vegas, Macau) and intends to replicate that model in what is becoming a competitive regional market in the Northeast US. With this proposal the Commonwealth would be in a better</p>

	<p>financial, marketing and operations plans (slots product mix, pre-opening expenses, etc.) imply that the primary focus of this operation will be on nearby and existing players. MSM asserts that the possible introduction of gaming in New Hampshire would represent a significant downturn for the operation but appears to have failed to reflect it in its financials.</p>	<p>position to capitalize on attracting players from outside of New England and thus realize a higher economic development to the Commonwealth. Further, Wynn's financials include margins that would allow it enough flexibility to respond to changing conditions in a competitive environment.</p>
<p>Meeting Unmet Needs</p>	<p>MSM proposes to work with area attractions and entertainment venues to broaden, not compete with, existing product offering. An entertainment service agreement has been signed with CitiCenter to promote entertainment events as well as the intention of entering into partnership agreements with other area entertainment venues. MSM proposes to include a 38,000 square foot multi-use space in the resort that can be programmed for convention, trade show and/or entertainment events. A marketing relationship will be sought with Massachusetts Convention Center Authority (MCCA) to promote convention and meeting activity. MSM intends to build a collaborative marketing initiative similar to the Mystic County program developed by MSM in conjunction with local attractions and tourism agencies in CT to create awareness and increase the tourism draw of the Revere/Boston area. Revere Beach will be featured as a regional destination through transportation and marketing support. Further, MSM intends to draw visitors to the region and</p>	<p>Wynn proposing to add a luxury oriented destination resort as a complementary offering to Boston's and Massachusetts' existing tourism offering. Wynn sees an opportunity to increase visitor spending on entertainment in the Boston area. Strategic alliances will be sought with TD Bank Garden and Boston Symphony Orchestra to market new visitor opportunities, with the Boston Harbor Association and Boston Harbor Alliance to provide needed water transportation services and with an identified long list of target partnerships for sporting events (Red Sox, Bruins, etc.) and state and local tourism organizations as part of the partnership. Wynn also plans to create partnerships with cultural, dining, historic and entertainment attractions across the Commonwealth to enhance their customer's stay and increase local spending. In addition, Wynn will partner with Bunker Hill Community College to focus on workforce training and Wynn's 5-Star level of service training similar to a program at Temple University and create a career pathways training program for area residents.</p>

	encourage them to explore Revere and other communities and amenities along the North Shore including Salem, Rockport, Gloucester and Lynn.	
Collaborative Marketing	MSM anticipates a collaborative marketing approach with state agencies, Greater Boston Convention and Visitors Bureau and MOTT. Further, MSM emphasizes its proximity to Logan airport and other regional amenities as additional factors that would drive visitors from outside of Massachusetts. This is further complemented with MSM's existing database of customers. However, the marketing plan, operations plan, and defined market area demonstrate that the majority of revenues would be generated from the regional market and specifically within a 1 hour drive to the facility.	Wynn relies on 275 marketing employees (based internationally) to drive business to its property and thus the region. The financials and operations plan support the stated objective of aggressively marketing outside of Massachusetts. Although silent on specific marketing efforts utilizing existing state organizations (i.e. MOTT), Wynn's target and emphasis on the international traveler and the high end player aligns with the Commonwealth's goal of economic development tourism by bringing dollars from outside the market area.
Diverse Workforce and Supplier Base	MSM stressed their current status as a minority owned and operated facility and diverse workforce (41%) despite operating in regions that are less diverse than Boston. MSM will create a MSM Diversity Plan similar to the plan created at other facilities and will organize a Diversity Committee to oversee implementation. Through MSM's Host Community Agreement ("HCA") and Surrounding Community Agreements ("SCAs"), MSM plans to focus recruitment and hiring in local area with specific target of Spanish speaking population. MSM will create a plan to recruit diverse suppliers and engage organizations such as Greater New England Minority Supplier Development Council,	Wynn demonstrates a track record in workforce (the Las Vegas operation comprises 60% diverse employees). Wynn identifies diversity among its workforce and non-discrimination in all hiring practices as a core value. Wynn's track record of diversity in management/leadership positions was also noted as a perfect score achieved with Human Rights Council's Corporate Equality Index. In Massachusetts, Wynn plans to create local recruitment partners and provide general recruitment materials and targeted marketing campaigns. Wynn has also created detailed training and development practices including: leadership training; skills training; new-hire orientation; tuition reimbursement and internal career counseling. Wynn highlighted key diverse management leadership members and its support of citizenship classes and hosting of

	<p>Boston Minority Business Development Center and the Corporate Council of Center for Women and Enterprise. MSM also expressed its support for the UMass Boston Commonwealth Compact. MSM will create an inclusion policy stipulating that all contracts over \$100K include a bid from a minority, woman or veteran owned business and develop a minority vendor list. MSM mentioned its intent to work closely with MGC Director of Workforce Supplier and Diversity Development.</p>	<p>citizenship swearing-in events. Wynn also cited its perfect score with the Human Rights Council’s Corporate Equality Index. Finally, Wynn pledged to work with Massachusetts Supplier Diversity Office to help existing and newly formed companies compete for work during the \$1 billion construction and on-going \$80 million local operation spend.</p>
<p>Broadening the Region’s Tourism Appeal</p>	<p>MSM will focus on drawing visitors to the region and encouraging them to explore Revere and the historic beach in addition to other communities and amenities along the North Shore including Salem, Rockport, Gloucester and Lynn. To meet this objective, it will focus on its existing database of 5 million members. MSM has employed a similar regional strategy in CT and highlighted success of similar efforts in the Philadelphia area. MSM also identified international and out of state visitors as potential patrons of the proposed casino, although MSM appears to place a greater emphasis on regional visitation. More than 95% of projected visitation is generated from within a 120 minute drive of Revere. Despite the significant database, there seemed to be limited focus on the markets of RI, CT and NY. To help accomplish its goal of increased visitation, MSM will partner with organizations such as the Greater Boston Convention</p>	<p>Wynn sees an opportunity to increase current entertainment and recreation spending as a percentage of total visitor expenditures in Massachusetts (6% of \$16.9 billion) by offering a unique entertainment destination. Wynn believes that the 6% proportion from entertainment is well below the entertainment contribution identified in other major metropolitan regions in the United States. Wynn will focus on drawing on an established existing customer database that comprises higher income earners who tend to stay longer at Wynn hotels. Wynn’s national and international (China, Hong Kong, Macau, Singapore, Taiwan, Japan, Canada, and California) sales and marketing offices will be utilized to draw visitors from outside the region and the country. Wynn’s strategy relies on creating partnerships with cultural, dining, historic and entertainment attractions across the Commonwealth such as TD Bank Garden, the Boston Pops and Boston Symphony Orchestra to enhance its customer’s stay and increase local spending. Wynn will use its Red Card room key or Wynn App to incentivize visits to other amenities including the</p>

	<p>and Visitors Bureau, North of Boston Convention and Visitors Bureau and MOTT. MSM also plans to partner with the Massachusetts Convention Center Authority to help attract conventions and meetings to Boston. MSM will use in-room promotions to highlight area attractions, provide a dedicated tab on the MSM website and rotate exhibit and promotion of local attractions and businesses throughout the MSM property as well as providing ground shuttle service to area amenities. MSM social media capabilities and on-going direct mail campaigns will further promote the project. MSM will use its Momentum Rewards point program with local businesses to allow members to patronize local businesses.</p>	<p>Museum of Fine Arts, New England Aquarium etc. Wynn's established Red Card loyalty program will be used to support international marketing efforts. Wynn will also work to create an "In State" marketing program to encourage more residents to spend more recreational dollars in Massachusetts. Wynn's projected marketing spend supports these marketing initiatives.</p>
--	--	--

B. Finance

The Commission finds that both Applicants proposed to advance the objective of c. 23K §18 (3) in a satisfactory way in that each applicant exceeded the minimum capital investment of \$500 million. See also 205 CMR 122.00 (governing the manner in which the capital investment is calculated.) However, the Commission notes that Wynn's capital investment, when calculated in accordance with 205 CMR 122.00, was almost twice the amount of MSM's capital investment.

The Commission finds that the Applicants proposed to advance the objective of c. 23K §18 (7) in that each applicant provided a market strategy that detailed the benefits of each applicant's particular location and how that location would lead to the recapture of gaming related spending by Massachusetts residents in out of state gaming establishments. The Commission finds that Wynn's market strategy showed a greater ability and a more robust plan to attract visitation from outside of Massachusetts. The Commonwealth's preferred model is for gaming establishments to attract new business to the Commonwealth, thus Wynn's market strategy is more in line with the Commonwealth's preferred model.

The Commission finds that the applicants proposed to advance the objective of c. 23K §18 (11) by providing plans to maximize revenues received by the Commonwealth. The Commission finds that each Applicant's plan was consistent with that Applicant's business plan and view of the market.

The Commission finds that the applicants proposed to advance the objective of c.23K §18 (13) regarding the highest and best value to create a secure and robust gaming environment in the Commonwealth. The Commission finds that both Applicants provided reasonable parking, slot, table, hotel, and retail plans that created gaming establishments that were also hotel, dining, entertainment, and retail venues. MSM’s plan provided for outsourcing much if not all of the food and beverage options which could pose operational challenges. Wynn’s plan retained control of food and beverage offerings, but the Commission felt that more food and beverage seats may be required given the number of gaming positions planned and number of potential visitors.

The Commission finds that the Applicants proposed to advance the objective of c. 23K §18 (15) regarding the purchase of domestically manufactured slot machines; however, the detail provided was minimal and the Commission expects the licensee to provide greater detail prior to opening the gaming establishment.

In addition, the Commission generally accepts the following findings of fact as set forth in the Finance report presented at the September 8, 2014 public meeting.

Finance			
		MSM	Wynn
Criteria			
Financial and capital structure			
	Ability to obtain project capital	Complex capital structure with multiple funding sources. Stated equity-\$235 million- includes large sunk project costs. Minor equity left (after sunk costs and license fee) to initiate development (\$45million or ~5% of total remaining project costs). Preferred equity behaves like subordinate debt (annual interest rate). No evidence provided in original submission for \$155 million needed (subsequently Brigade “back stop and unaudited financial information was provided).	Straight forward capital structure- equity and senior debt. Stated equity of ~\$605 million Significant equity (after sunk cost, license fee and operating cash flow) amount to initiate development (\$478 million or ~33% of total remaining project costs).
	Current financial strength	Brigade was not assessed-but has proven access to capital. Mohegan-financial ratios	Sound current financial position- financial ratios Wynn-concentration of

		indicate significant challenges Mohegan-concentration of operations in CT (increasingly competitive market).	operations (profit) in Macau (increasingly competitive market). Demonstrated ability to compete in highly competitive markets (Las Vegas and increasingly Macau).
	Expected returns	MSM's plan produces commercially reasonable ROI. MSM's plan produces a positive ROI after 15% discount.	Wynn's plan produces commercially reasonable ROI. Wynn's plan produces a positive ROI after 15% discount.
Investment Plan			
	Required capital	Proposal just meets the minimum requirement-\$527 million. Of the \$1.1 billion total project cost, ~32% (~\$357 million) accounted for by financing, construction, land rent and monies spent to pursue a casino license.	Significantly exceeded the minimum requirement ~\$1,047 million. Of the \$1.6 billion total project cost ~9% (~\$150 million) accounted for by financing, land purchase and monies spent to pursue a casino license.
	Project timelines	MSM provided a reasonable timeline for opening the facility given the size and scope (complexity) of the development and the site location.	Wynn provided a reasonable timeline for opening the facility given the size and scope (complexity) of the development and the site location.
	Consistency with financials	Consistent with business and operational plans submitted-positioned to penetrate local market. \$10 million allocated for pre-opening expenses.	Consistent with business and operational plans submitted-positioned to attract high-end and out-of-state customers. \$61 million allocated for pre-opening expenses.

Market Assessment		<p>Not consistent with the Commission's market assessment. MSM's Boston area projection alone is higher than the Commission's market wide projection. MSM's projection is significantly higher in Boston sub-market areas but unable to penetrate CT, RI and Western Massachusetts.</p> <p>Limited ability to attract visitation from outside region. Market view not consistent with experience in the same market.</p> <p>Market view not consistent with Commonwealth's chosen casino model.</p>	<p>Not consistent with the Commission's market assessment. Wynn's Boston area projection is lower than the Commission's market assessment. Wynn's projection is significantly lower in Boston sub-market areas, slightly lower in the rest of the market area. Significant ability to attract visitation from outside the region (including international). Market view aligns with Commonwealth's chosen casino model.</p>
Operations Plan			
	Internal controls	<p>MSM referenced experience at CT and PA properties and provided MSM Pocono Downs internal control manual and job descriptions.</p> <p>MSM recognizes the importance of internal controls and has experience in working in a regulated environment.</p>	<p>Wynn provided the following documents that would be utilized in Massachusetts: internal audit practice/plan, operating charter, policies and procedures, compliance reports, internal control matrix, remediation and reporting procedures, cage accountability and audit, surveillance and security policies and procedures. Wynn recognizes the importance of internal controls and has experience in working in a regulated environment.</p>
	Consistency of business plan	<p>Parking, slot, table, hotel, retail plans reasonable.</p> <p>Marketing plan consistent with view of market with added value of Momentum database</p>	<p>Parking, slot, table, hotel, retail plans reasonable.</p> <p>Marketing plan consistent with view of market-high end segment in Northeast and</p>

		<p>customers. More F&B seats may be required, no buffet. Outsourcing of all F&B outlets is not typical and could pose operational challenges. Concept of marketing restriction zone; not fully defined; Brigade’s interest not necessarily “perfectly aligned”, not aligned with the Commonwealth’s gaming objectives.</p>	<p>domestic and international premium customers (experience supports this view). Local market does not have prominent focus in marketing plan. More F&B seats may be required, no buffet.</p>
	Financial projections	<p>Aligned with business plan and view of market. Slot and table game payroll lower than expected-could be justified by lower pay rates proposed. Community payments, land rent and management fees are higher than what would be expected. MSM has assumed that there would be \$528 million in debt outstanding at the end of the 15 year license period.</p>	<p>Aligned with business plan and view of market. Table payroll lower than expected-explained by VIP table game play proposed. Wynn has assumed that there would be no debt outstanding at the end of the 15 year term.</p>

C. Economic Development

The Commission finds that both Applicants met the objectives of c.23K §18 (2) and (10) to promote local business in the host and surrounding communities. Both Applicants identified a number of partnerships to pursue (e.g., local restaurants, chambers, hospitality groups).

The Commission finds that the Applicants met the objectives of c. 23K §18 (4) and (12) based upon findings in the economic development section and findings in the finance section regarding the number and types of jobs during construction of the gaming establishment as well as number and type of jobs expected in the gaming establishment once it is operational. Each Applicant provided plans that described the number of operational jobs created, the number of construction jobs created and how each applicant would coordinate with various employment centers and

other organizations to reach the unemployed in the region. Both Applicants demonstrated experience with unemployed/underemployed groups and each Applicant has a strong history of diversity in employment

The Commission finds that the Applicants met the minimum objectives of c. 23K §18 (9) (16), (17) and (18) by providing information regarding contracting with MBE/WBE/VBEs during construction, creating an affirmative action plan to provide equal employment opportunity and contracting with organized labor, including in particular project labor and labor harmony agreements.

Both Applicants identified a number of local businesses and tourism organizations with whom they have engaged or hope to engage in cross marketing and partnership opportunities. MSM's marketing focused on international targets and the proposed gaming establishment's proximity to Logan airport and its visitation projections included some visits from the area outside of an approximately 2 hour drive from the proposed gaming establishment. Wynn's marketing focus placed a heavier emphasis on international travelers with target markets identified and expressed the intent to capitalize on existing relationships with international marketing offices. The Commission finds Wynn's marketing plan to be the stronger of the two.

In addition, the Commission generally accepts the following findings as set forth in the Economic Development report presented at the September 9, 2014 public meeting.

Economic Development		
	MSM	Wynn
Criteria		
Job Creation	MSM demonstrated a broad based understanding of workforce development needs and an awareness of the Massachusetts operating environment. MSM has established policies and procedures which guide training and development initiatives and contribute to companywide high retention rates. MSM has also demonstrated experience with the unemployed/underemployed groups and has a strong history of diversity in employment, referencing 41% of companywide jobs held by minorities. Job creation projections and associate payroll, while good, are less impactful than Wynn for both construction and operations. MSM's plans to rely on a yet to be engaged general contractor to follow through	Job creation projections and associated payrolls are significant for both construction and operations. Wynn has established policies and procedures which guide training and development initiatives and contribute to a companywide high retention rate. Wynn has also demonstrated experience with unemployed/underemployed groups and has a strong history of diversity in employment, referencing 62.3% of Wynn/Encore jobs held by minorities. Wynn demonstrated a broad-based understanding of workforce development needs, however, provided a lack of detail on awareness of Massachusetts landscape with no clear indication or process detailing its approach to

	on diversity commitments for construction was identified as a concern.	staffing.
Support for External Business Components	MSM noted the importance of buying locally and maintaining diversity in its supplier base with a commendable outreach to potential partners in the region. MSM has detailed pre-construction activity that demonstrates intent with respect to MBE/WBE/VBE participation, with a diversity plan, established partnerships, and detailed plans to ensure participation. MSM identified the significant economic benefits a gaming facility could have on the host community (and surrounding area) through employment/payroll, purchasing of goods and services and visitation to the area from casino visitors. However, overall projected impacts are less than Wynn.	Wynn noted the importance of buying locally and maintaining diversity in its supplier base and has identified a number of partnerships to pursue (e.g., local restaurants, chambers, hospitality groups). Wynn has identified a contractor with a history of MBE/WBE/VBE participation and pre-construction activity reinforces these initiatives. Wynn identified the significant economic benefits a gaming facility could have on the host community (and surrounding area) through employment/payroll, purchasing of good and services and visitation to the area from casino visitors.
Tourism support	MSM identified a number of local businesses and tourism organizations with whom it has engaged or hopes to engage in cross marketing and partnership opportunities. The marketing focus described includes international targets and intent to capitalize on proximity to Logan airport however, visitation projections indicate nominal visits from outside immediate region (more than 2 hours' drive).	Wynn identified a number of local businesses and tourism organizations with whom it has engaged or hopes to engage in cross marketing and partnership opportunities. The marketing focus is international with target markets identified and an intent to capitalize on existing relationships with international marketing offices. However, while no detail is provided on how the international offices would be used to drive visitation, financial projections are consistent with the international focus.

D. Building and Site Design

The Commission finds that both Applicants proposed to advance the objectives of c.23K §18 (5) by providing detailed information on the building and site design of each of the Applicant's proposed gaming establishments. The Commission questioned whether Wynn's proposed design provides a distinctive solution that makes the most of the opportunity presented. The tower does '

not have the innovative energy characteristic of Wynn’s Las Vegas hotels and the best of new construction in the Boston region. Both Applicants provided site plans, renderings, and floor plans of the proposed establishment. Both Applicants provided descriptions of the dining, entertainment, hotel and retail offerings that would be available in addition to the gaming floor.

The Commission finds that both Applicants proposed to advance the objectives of c.23K §18 (8). MSM committed to LEED Gold certification while Wynn committed to be LEED Gold certifiable. MSM agreed to meet the Massachusetts Stretch Energy Code while Wynn agreed to exceed the Massachusetts Stretch Energy Code. The Commission will require as a condition of licensure that the licensee agree to meet the LEED Gold standards described in the LEED Gold scorecard provided in the licensee’s application.

In addition, the Commission generally accepts the following findings as set forth in the Building and Site Design report presented at the September 8, 2014 public meeting.

Building & Site Design		
	MSM	Wynn
Criteria		
Creativity in design and overall concept excellence	MSM proposes to redevelop approximately 40 acres currently occupied by the Suffolk Downs stables into an urban resort casino located next to the MBTA Blue line Beachmont Station. The proposal draws inspiration from the legacy and history of Revere Beach. The building program and design respond to a variety of adjacent site conditions including the racetrack, commercial retail, a busy artery, two-story homes and a neighborhood retail district. A large prominent pedestrian entrance is situated at the corner closest to the MBTA station providing a strong visual connection, a modest public plaza and access to the interior retail arcade. A separate vehicle court entrance is located on the opposite corner across from a retail strip mall. The primary program elements are located above street level, on top of a three story parking structure. Building massing is modulated, stepping	Wynn proposes to redevelop approximately 26 developable acres of former industrial land along the Mystic River into a luxury resort casino that embraces its waterfront location. The proposed development is consistent with the City of Everett’s vision for the Mystic River waterfront. It introduces public access and amenities to a previously inaccessible heavily contaminated site along the water’s edge and provides connections to the Mystic River pedestrian network. The proposal entails extensive environmental cleanup; river dredging for marine access; a dock to facilitate water transportation; and generously landscaped outdoor spaces (although the outdoor amphitheater described in the application does not appear in the FEIR documentation). Given the site constraints in terms of access, acreage and context, Wynn proposes a clear and appropriate site strategy that is responsive to the waterfront at

	<p>back from the street and adjacent residential homes and following the curve of the racetrack with hotel rooms distributed into two low rise towers. Sales Creek, which cuts across the site is enhanced and integrated into the development, along with landscaped berms that partially conceal the structured parking at the base and a linear park and walking trail that parallels Winthrop Avenue. The curving, contemporary structure is distinguished by a series of large concrete canopies suggestive of beach umbrellas which extend along the circulation spine of the building. The façade, primarily inward looking, provides glimpses of interior activity through the glass enclosed pedestrian lobby. Sustainability features include a Photo Voltaic field and rooftop garden and greenhouses. Although the design is inward looking with only one pedestrian entrance; incorporates very limited public open space; and presents a limited connection to Revere Beach, it offers the promise of a distinctive modern resort casino. MSM presents a creative design that recognizes its place within its surroundings.</p>	<p>the ground plan and offers a sky lit retail concourse and winter garden. The proposed building incorporates a mix of architectural styles including a low traditionally detailed retail concourse with domed roofs and a 27 story hotel tower that appears inconsistent with the base. While the promise of a luxury resort, reclamation of the waterfront for public use and aspects of the proposed design are appealing, it is unclear whether the proposed design provides a distinctive solution that makes the most of this opportunity. Wynn presents a development plan with many positives but the hotel tower does not have the innovative energy characteristic of its Las Vegas hotels and of the best new construction in the Boston area.</p>
<p>Gaming establishment of high caliber with quality amenities in partnership with local facilities</p>	<p>MSM provides amenities complementary to and consistent with a resort casino intended to appeal to a cross section of the marketplace. MSM’s proposal is distinguished by a large gaming area adjacent to retail, hotel and conference spaces; two hotel offerings-a 3 star “boutique hotel” and a 4-star “casino hotel”; and development of some of the roof as outdoor space for patrons. MSM</p>	<p>Wynn emphasizes its approach to the luxury market including upscale retail tenants, nightclub and 5 star hotel suites consistent with its experience in other markets. Coupled with this approach is a site location accessible by water and a well-developed landscape connected to the waterfront and open to the public. The Wynn proposal consciously separates the gaming floor from the hotel and retail</p>

	estimates total cost of construction at \$570 million.	experience. Its retail concourse is punctuated by a winter garden to provide seasonal interest. Wynn takes the lead on this criterion for its repurposing of a difficult, toxic site advancing regional waterfront goals and by separating its gaming floor from non-gaming amenities. Wynn estimates total cost of construction at \$1 billion.
Compatibility with surroundings	The most complex concern in this criterion is traffic mitigation. MSM traffic mitigation measures for major impacted roadways are complete and workable. MSM is situated adjacent to the MBTA Blue Line Beachmont station and takes full advantage of promoting this transit connection. MSM is located adjacent to a residential neighborhood to the north and east and suggests sufficient measures to control both noise and lighting impacts. MSM has access to adequate water and sewer service. MSM makes use of a neglected site and improves storm water runoff volume and quality. MSM responded well to traffic mitigation and adequately addressed other issues in this criterion.	The most complex concern in this criterion is traffic mitigation. Wynn measures for Sullivan Square remain incomplete. Wynn offers shuttles to nearby Orange Line stations and proposes to build a fleet of water shuttles with 49 passenger capacities serving downtown Boston, Logan airport and the Convention Center/Innovation District. Wynn is located in an industrialized area with no abutting residential properties and its noise and lighting measures are consistent with this environment. Wynn has access to adequate water and sewer service. Wynn makes use of a neglected site and improves storm water runoff volume and quality. Wynn’s proposal has a major weakness with respect to the traffic mitigation solutions at Sullivan Square. Wynn responded adequately to the other questions and contributes in a positive way to the surroundings with the proposed site cleanup and waterfront development.
Sustainable development	MSM’s approach to energy and sustainability reflects MSM’s experience in CT and related tribal culture and values. MSM’s approach is enhanced by its specific commitment to pursue LEED Gold certification under the auspices of the U.S. Green Building Council (“USGBC”). Additionally, MSM	Wynn’s approach to energy and sustainability is notable for its emphasis on improved efficiency and operations. Wynn commits to achieving a project that would be certifiable under the U.S. Green Building Council LEED NC 2009 guidelines at the level of Gold or better. Additionally, Wynn has

	<p>has stated its commitment to comply with the Massachusetts Stretch Energy Code and to meet 20% of their electrical requirements via renewable energy or certificates. MSM's approach to site elements (including Sales Creek), storm water management, water reduction, and ongoing operations is consistent with its overall sustainability strategies. Additional sustainability commitments of note include: thermal water storage to shave peak loads; partnership to provide waste for off-site biofuel generation; a green roof with greenhouse for local food production; and a robust education program including building tours. MSM generally provided complete responses to the questions in this criterion. MSM engendered confidence with approaches to sustainability and energy use. MSM distinguished itself with its commitment to pursue certification by the USGBC, its increased commitment to renewable energy sources and its agreement to support biofuel.</p>	<p>indicated its commitment to exceed the requirements of the Massachusetts Stretch Energy Code (very recently adopted in Everett) and to meet 10% of their electrical requirements via renewable energy or certificates. The proposed cleanup of hazardous materials on the site represents a significant contribution and commitment to improving the environment. With respect to ongoing operations, Wynn will utilize a sophisticated optimization plan integrating energy management across all systems to maintain building efficiencies; will continuously improve lighting efficiencies; will use absorption chillers to reduce peak electricity use and shift load; and plans to develop a robust and fully integrated public and employee education program. Wynn provided less detail in response to these questions. Wynn engendered confidence with approaches to sustainability and energy use.</p>
<p>Security, monitoring, surveillance and emergency procedures</p>	<p>MSM has experience in other properties that is relevant to the questions of this criterion. MSM detailed surveillance procedures, security policies, regulatory accommodations and emergency response. MSM has recent experience with respect to regulatory Computerized Accounting and Auditing systems stemming from the PA Gaming Authority. It is anticipated that MSM will meet all requirements based upon the experience and success of its other properties.</p>	<p>Wynn has experience in other properties that is relevant to the questions of this criterion. Wynn detailed surveillance procedures, security policies, regulatory accommodations and emergency response. Wynn does not have experience with Computerized Accounting and Auditing systems. It is anticipated that Wynn will meet all requirements based upon the experience and success of its other properties. Wynn was generally brief in its responses although much detail was provided in some</p>

	MSM provided more direct responses and relevant detail.	instances in the form of off the shelf manuals from other properties that were not annotated for the specific details requested.
Permitting	The two most important permitting issues relate to traffic mitigation and the enhancement and protection of Sales Creek. MSM is progressing well in development plans in both these areas. Traffic mitigation is being developed through the MEPA process and will be permitted by the Revere Conservation Commission, with the possibility of an appeal to DEP. There are no other significant permitting issues. Permitting could be completed by the end of February 2015, followed by a 30 month construction period with an opening in September 2017. Two factors could delay the permitting process. They include protracted traffic permitting and wetland permitting.	The four most important permitting issues relate to traffic mitigation, compliance with the Everett Municipal Harbor Plan (Chapter 91 license), dredging and marine works and site cleanup. There have been significant concerns raised by MassDOT and others about the traffic mitigation plan as presented in the draft and final EIRs. These concerns will need to be addressed by Wynn in a supplemental Final EIR although there remains concerns about the completeness of the mitigation, especially at Sullivan Square in Boston. Wynn is in compliance with the Municipal Harbor Plan and is well along in finalizing plans for dredging, marine works and site hazardous material cleanup. The regulatory agencies (DEP, Corps of Engineers) have been kept informed and there are no anticipated issues with obtaining water related permits. Wynn will need to comply with the National Environmental Policy Act (NEPA) related to dredging and federal highway improvements. There are no other significant permitting issues. Permitting, despite its complexity, is well along and could be completed by the end of July 2015 followed by a 36 month construction period, with an opening in July 2018. Two factors could delay the permitting process. They included protracted traffic permitting and public involvement in the planning for the site's hazardous materials cleanup.
Other	MSM provided satisfactory	Wynn provided satisfactory

	<p>responses to the two questions in this criterion. MSM provided sufficient evidence of control over the proposed site. MSM provided a metes and bounds survey clearly delineating its site showing it controls the full extent of the land needed.</p>	<p>responses to the two questions in this criterion. Wynn provided sufficient evidence of control over the proposed site. Wynn does not yet have agreements on adjacent properties that are required for the preferred alternative. Wynn states that it is in discussions with the MBTA for this property but there is a mandated regulatory process in Massachusetts for the transfer of state owned property that has not begun and introduces uncertainty.</p>
--	--	---

E. Mitigation

The Commission finds that the Applicants proposed to advance the objective in c.23K §18 (1) to protect the Lottery by the execution of agreements with the Lottery on terms and conditions acceptable to both parties.

The Commission finds that the Applicants proposed to advance the objective in c. 23K §18 (6) to take additional measures to address problem gaming through their agreement to comply with any regulations adopted by the Commission. MSM demonstrated a solid understanding of the complexity of problem gambling and proposes an aggressive mitigation plan. Wynn’s response indicated that it would follow general industry standards and practice in this area.

Insofar as the mitigation objective described in c. 23K §18 (14) is concerned, the Commission notes that MSM entered into 12 surrounding community agreements and did so without resorting to the Commission’s arbitration process. Wynn entered into 6 surrounding community agreements, with 2 surrounding community agreements resulting from the arbitration process. Wynn did not successfully conclude a surrounding community agreement with the City of Boston.

The Commission, by a decision dated May 15, 2014, after a hearing on the matter on May 8, 2014, held that the MSM proposed gaming establishment was located in the City of Revere and that the City of Boston was not a host community for the purposes of the MSM application. In the same decision, the Commission held that the Wynn proposed gaming establishment was located in the City of Everett and that the City of Boston was not a host community for purposes of the Wynn application.

On June 27, 2014, the City of Boston filed a petition asking the Commission to stay licensing proceedings in Region A. On June 30, 2014, the City of Boston filed notice with the Commission that it would not continue surrounding community agreement negotiations or commence surrounding community agreement arbitration until after the Commission ruled on the City of Boston’s petition to stay licensing proceedings in Region A. On July 2, 2014, after a

hearing, the Commission denied the City of Boston’s petition to stay licensing proceedings in Region A; on July 10, 2014, the City of Boston notified the Commission that it would not continue negotiations or enter into arbitration with Wynn regarding a surrounding community agreement. The City of Boston did, however, enter into a surrounding community agreement with MSM. On July 15, 2014, the Commission determined that pursuant to Commission regulation 205 CMR 125.01(6) that the City of Boston was deemed to have waived its surrounding community status. Once that determination was made, the Commission had the ability pursuant to 205 CMR 125.01 (6) to determine appropriate mitigation for impacts of the Wynn proposal on the City of Boston. Those impacts and the mitigation measures are addressed in the conditions proposed for the Wynn application, discussed in more detail below.

Against that backdrop, the Commission finds that MSM proposed to advance the objective of c. 23K §18 (14) in a satisfactory way through its execution of host and surrounding community agreements. The Commission further finds that Wynn proposed to advance the objective of c. 23K §18 (14) in a satisfactory way through its execution of host and surrounding community agreements and through its acceptance of the conditions the Commission imposed regarding mitigation obligations to the City of Boston, although Wynn and the City remain free to agree on mutually satisfactory supplementary or replacement mitigation measures.

The Commission finds that the Applicants proposed to advance the objectives in c. 23K §18 (19) through the approval received on the host community referendum, through comments received at host and surrounding community meetings and the comments received by the Commission in letters and emails from residents and businesses in the host and surrounding communities. MSM received two positive votes in its host community referendum while Wynn received the highest percentage vote at its host community referendum of any host community vote in the Commonwealth.

In addition, the Commission generally accepts the following findings as set forth in the Mitigation report presented at the September 9, 2014 public meeting.

Mitigation		
	MSM	Wynn
Criteria		
Community Support	MSM has taken a serious proactive approach to community outreach. While MSM had a short time in which to introduce itself to the citizens and surrounding communities, it has done so vigorously with the help of Sterling Suffolk Racecourse as a longtime employer and the presence in the community. MSM reached agreement with all of its surrounding communities and has received	Wynn conducted a comprehensive outreach effort in the host community that resulted in the highest percentage vote at any host community election in the Commonwealth. Wynn partnered with a number of community and non-profit organizations and reached surrounding community agreements in all cases except Boston. Two negotiations led to arbitration and Wynn’s proposals were selected in

	<p>strong support from its host community. MSM received two favorable votes from its host community. However, MSM has also received significant opposition from East Boston and elsewhere particularly related to the move to Revere after the failed November 2013 referendum in East Boston. Some opposition has been voiced focused mostly on concerns with gambling as an activity and industry.</p>	<p>both cases. Wynn was unable to negotiate a surrounding community agreement with Boston and Boston declined to participate in the arbitration process. In cases where there were unlikely to be direct impacts, Wynn entered into nearby community agreements. Nearby neighborhoods and some communities have expressed opposition to the proposed project, citing transportation and other potential negative impacts.</p>
Traffic and Offsite Impacts	<p>MSM has committed to constructing transportation improvements at various locations in Revere, Boston and Chelsea to mitigate their off-site impacts, encourage alternative modes of transportation and improve deficiencies in the existing transportation system. The proposed transportation related improvements adequately address projected impacts. MSM provided a comprehensive study demonstrating no impacts to housing and school populations. The Commission's consultant analysis found that there is unlikely to be significant adverse impacts to housing in the area.</p>	<p>Wynn has committed to constructing transportation improvements at various locations in Everett, Medford, Boston, Revere, and Chelsea. Most of the proposed improvements will mitigate its traffic related impacts, improve existing deficiencies in the transportation system and encourage the use of alternate modes of transportation. However, the short term improvements proposed in Sullivan Square are inadequate and Wynn has not committed to participate in a long term solution. Wynn provided minimal information on impacts to housing and school populations. The Commission's consultant analysis found that there is unlikely to be significant adverse impacts to housing in the area.</p>
Measures to Promote Responsible Gaming and Address Problem Gambling	<p>MSM outlined a clear commitment to address problem gambling and promote responsible gaming. MSM proposed many creative strategies in its operations including signage, code of conduct, staff training and collaborative efforts with outside organizations. Overall MSM demonstrated a solid understanding of the complexity of problem gambling and proposes an aggressive mitigation plan.</p>	<p>Generally, Wynn's response to questions about measures to promote responsible gaming and address problem gambling lacked depth and detail. Based on Wynn's responses, it was evident that it would comply with Commission regulation and otherwise follow standard industry practice in areas of promoting responsible gaming and addressing problem gambling at its property. There was no evidence of a commitment to exceed those standards. Wynn</p>

		expressed a clear intention to assist the Commission in establishing policies and regulations for problem gambling and responsible gaming.
Protect and Enhance the Lottery	MSM has executed a Sales Agent Agreement with the Massachusetts State Lottery and has committed to installing terminals to promote the lottery. Lottery officials confirmed a productive working relationship with MSM.	Wynn has executed a Sale Agent Agreement with the Massachusetts State Lottery.

III (b) CONDITIONS

After adopting the findings of facts noted above, the Commission proposed that each Applicant be subject to certain conditions if a license were to be issued to that Applicant. These conditions included the standard conditions required of each Applicant, such as, but not limited to, compliance with the Massachusetts Environmental Policy Act (“MEPA”) and compliance with the terms and conditions of the host community agreement, each surrounding community agreement and agreements with Impacted Live Entertainment Venues. Further conditions specific to the individual Applicant and its application were also proposed. Each Applicant was asked to respond to the conditions proposed for its application. Each Applicant was advised that its response could consist of accepting a condition, rejecting a condition, proposing an alternate condition or some combination. Each Applicant responded to the conditions in writing and made an oral presentation to the Commission. The conditions provided to each Applicant and each Applicant’s response are attached to this Determination of the Issuance of License as Exhibit 1A (MSM) and 1B (Wynn). Each Applicant further had the ability to address the Commission orally on September 16, 2014. A copy of the portion of the transcript from September 16, 2014 in which each Applicant presented orally to the Commission is attached to this Determination of the Issuance of a License as Exhibit 1A (1) (MSM) and 1B (1) (Wynn).

IV. Comparative Discussion

The decision as to which of the applicants should receive the one (1) category 1 gaming establishment license in Region A is a difficult one. It calls for the Commission to weigh two (2) unique and very different competitive proposals located in the same general geographic area of the Commonwealth, i.e., within the greater Boston metropolitan area. The Commission must also assess each proposal in light of the goals set by the Legislature in c.23K which in broad terms are to maximize new sources of revenue in order to generate taxes that will fund enumerated activities and objectives, including tourism, unrestricted local aid, transportation, public health and education; increase economic development through quality jobs and the expansion and protection of local business; mitigate the impacts of a gaming establishment in the host and surrounding communities and through programs to address problem gaming; and create a robust gaming market through the creation of outward facing quality gaming establishments

with dining and other forms of amenities designed to provide unique entertainment venues for the public.

1. **Overview**

MSM: MSM's proposal was compatible with the regional community and showed a deep understanding and knowledge of the region. The integration with the community influenced both its design and its outreach efforts, in particular MSM's commitment to local institutions such as Suffolk Downs and Revere Beach. MSM's approach was to create city integrated gaming establishment that would draw visitors and then connect them with local businesses and attractions. MSM was aggressive in its efforts to connect with local businesses and attractions, particularly in its efforts to involve local businesses in its Momentum Rewards program. While MSM identified international and out of state visitors as part of its marketing plan, MSM's proposed gaming establishment is a regional gaming establishment that draws its customers primarily from the areas closest to the facility, in particular those customers within a 1 to 2 hour drive to the gaming establishment. MSM's financial, marketing and operations plans supported this premise.

MSM stressed its status as a minority owned and operated facility with a diverse workforce (41% diverse employees). MSM will create a diversity plan for the gaming establishment that will be overseen by a diversity committee.

MSM proposes to locate its gaming establishment in an urban setting near historic Revere Beach.

Wynn: Wynn's proposal was to create a destination resort gaming establishment with luxurious accommodations designed to attract travelers from distant locations, principally from Asia, for an extended stay. Wynn's marketing plan focuses on attracting high end players from outside of the regional market area and is supported by 275 marketing employees based internationally as well as 100 domestically based employees to drive business to the gaming establishment. Wynn's financial, marketing and operations plans supported this premise. Wynn plans to enter into partnerships with local cultural, dining, historic and entertainment attractions across the Commonwealth to enhance their customer's stay at the destination resort gaming establishment.

Wynn has a demonstrated track record of diversity in its workforce (60% diverse workforce). Wynn plans to create local recruitment partners and targeted marketing campaigns to attract a diverse workforce.

Wynn proposes to locate its gaming establishment in an urban location on the Mystic River formerly used for chemical manufacturing and processing and requiring a significant investment in environmental remediation.

Both MSM and Wynn have strong proposals that are based on each's unique approach to the development of the gaming establishment and their very different physical locations. Both have chosen properties close to or on the water in urban environments. Wynn's proposal will entail the remediation of a highly contaminated property. Both MSM and Wynn showed a strong

commitment to diversity in their existing facilities and provided plans to support diversity in their proposed gaming establishments.

While the Commission believes that both the MSM and Wynn proposals were strong and addressed the objectives of c.23K in unique but different ways, the Commission finds that Wynn's proposal is focused on attracting and will attract a greater percentage of customers from outside of the region and the country and, as a result, produce greater new and additional revenues. On balance, the Commission finds that Wynn's proposal is the stronger of the two in the Overview category.

2. **Finance**

MSM: MSM submitted a comprehensive proposal. It demonstrated that it has access to the funds necessary to develop and operate its proposed casino project. This was further supported by MSM's response to the conditions proposed by the Commission and the enhancement MSM made to those proposed conditions. The proposed gaming establishment is heavily focused on penetrating the eastern Massachusetts and New Hampshire markets. This market approach is not consistent with the Commonwealth's decision to limit the number of gaming establishment licenses permitted under c. 23K and the imposition of a low gaming tax rate and minimum investment threshold. The proposal does not recognize the full market opportunities of a Region A location.

While MSM has demonstrated the necessary financial capability to develop and operate its proposed gaming establishment, its funding plan is complex, with multiple parties with investment in and operational responsibilities for various components of its proposal. Many of the components of MSM's proposal will be operated by third parties and not directly under MSM's control. The funding plan is highly leveraged. This complexity will likely reduce the degree of flexibility that MSM requires to efficiently and effectively respond to marketplace changes and are bound to occur over the 15 year term of the license.

Wynn: Wynn submitted a comprehensive proposal and provided credible plans based on its experience in operating casinos in highly competitive markets. The proposal focuses on the "high end" market segments in the local, regional and international markets. This market focus is consistent with the Commonwealth's decision to limit the number of casino licenses permitted and the imposition of a low gaming tax rate and minimum investment threshold. The proposal recognizes the full market potential of a Region A location.

Wynn has demonstrated the necessary financial capability to develop and operate its proposed gaming establishment. The funding plan, which contains an equity investment of approximately ~33% by Wynn itself, is straightforward and there is consistency among investment, marketing and operations plans. Wynn will directly operate virtually all components of its proposal. Third party operators will be limited to non-core complex components, such as retail and/or will be incorporated into the gaming establishment if they add market appeal.

Wynn's financial strength including the amount of equity committed to the project provide the project with the needed flexibility to efficiently and effectively respond to marketplace changes that are bound to occur over the 15 year term of the license.

Both MSM and Wynn have experience in operating successful casinos. Wynn has more experience operating casinos in highly competitive markets. MSM's proposal did not take full advantage of opportunities presented by a Region A location while Wynn's proposal took full advantage of the Region A opportunities.

Of the two applicants, Wynn presented a stronger financial structure, with less leverage and more equity investment. Wynn's proposal also provided that Wynn would control the majority if not all of the components in the proposal, while MSM would have third parties control many of the components in its proposal. On balance, the Commission finds that even after MSM's agreement to the Commission's conditions, Wynn's proposal is stronger financially and better supports the Commonwealth's goals of bringing new customers and revenues to the Commonwealth.

3. **Economic development**

MSM: MSM proposes to create 2538 FTE jobs with an annual payroll including benefits in year 5 of \$107.5 million.

MSM demonstrated understanding of workforce development needs and employee career pathways. It has targeted workforce training initiatives through a Memorandum of Understanding (MOU) with the Massachusetts Casino Career Training Institute ("MCCTI") thus demonstrating an awareness of the workforce landscape in the Commonwealth. MSM intends to provide a strong benefits package at an average of 46.2% of wages/salaries per FTE. The benefits package includes medical/dental, employee meals, 401K, tuition reimbursement, and vacation. MSM detailed its experience with diversity in hiring practices (41% companywide with an almost equal representation of male/female).

MSM provided a description of its vendor outreach process, e.g., vendor database, community outreach events, job forums, vendor forums and trade shows. It also described a process for contracting for goods and services which included face to face meetings and having a vendor licensing specialist on staff as well as identifying local businesses (about 400) that MSM has targeted for partnership arrangements through its Momentum Rewards program.

MSM has detailed preconstruction activity that demonstrates intent with respect to MBE/WBE/VBE with a diversity plan, established partnerships and detailed plans to ensure participation.

MSM identified the economic benefits that a gaming establishment could have on the Host Community and the surrounding area through employment, payroll, purchasing of goods and services and visitation to the area by visitors to the gaming establishment.

MSM demonstrated its intention to cross market with local partners and already has a number of agreements in place with local entities, such as Citi Center, Milford Performing Arts Center and about 400 local businesses. MSM identified a number of initiatives to pursue for cross marketing with local tourism such as the Greater Boston Convention and Visitors Bureau, North of Boston Convention and Visitors Bureau, Massachusetts Convention Center Authority. MSM identified international marketing targets and an intent to capitalize on the proximate location of Logan Airport as well as identified partnerships to pursue international markets.

Wynn: Wynn proposes to create 3287 FTE jobs with an annual payroll including benefits in year 5 of \$186.4 million plus yet to be determined healthcare benefits. .

Wynn demonstrated an understanding of workforce needs and career pathways. Wynn has targeted workforce training initiatives through an MOU with MCCTI and Bunker Hill Community College. Wynn provided detail on training and development initiatives including orientation, leadership training and skills training. Wynn intends to provide a strong benefits package at an average of 25% of wages/salaries per FTE. Wynn demonstrated its experience with diversity in hiring practices(62% minority and 46.2% women at Wynn/Encore in Las Vegas).

Wynn provided a description of the vendor outreach process which included vendor fairs, introduction between local distributors and manufacturers, local business education, and a process for contracting for goods and services that included an alliance with Initiative for Competitive Inner City as well as identifying a number of local businesses that Wynn intends to target for partnership arrangements.

Wynn's diversity plan, detailed initiatives/plans and preconstruction activity supports its targets. Wynn identified the significant economic benefits a gaming establishment could have on the Host Community and surrounding area through employment, payroll, purchasing of goods and services and visitation to the area by visitors to the gaming establishment.

Wynn demonstrated an intention to cross market with local partners and already had a number of agreements in place with local entities such as TD Garden and the Boston Symphony. Wynn provided detail on cross marketing initiatives for a number of identified tourism partners such as the Greater Boston Convention and Visitors Bureau, MassPort and the Massachusetts Office of Travel and Tourism to target the conventions/meetings markets especially international conventions/meetings. Wynn identified international marketing targets and plans to leverage their 32 affiliated international marketing offices and 8 international marketing offices.

The Commission finds that Wynn presented the more compelling proposal. Wynn's proposal provides for approximately 700 more FTE jobs than the MSM proposal and an additional \$79 million in payroll; the Wynn payroll is likely to be even higher once the contribution to the union healthcare benefits is factored in. Wynn demonstrated a larger overall economic impact on the area when the employment, payroll, purchasing of goods and services and visitation numbers are considered together. Both MSM and Wynn intend to market to international markets. However,

Wynn's proposal contained more emphasis on international marketing, in particular the use of a significant number of existing affiliated international marketing offices.

4. **Building & Site Design**

MSM: MSM proposes a resort casino estimated to cost \$570 million that is contemporary with building configuration and material choices that are consistently sensitive to its surroundings. The overall design is suggestive of the resort legacy for which Revere Beach is known. MSM is committed to pursue LEED Gold certification. The design incorporates sustainability features and commits to 20% of its electricity via on site generation of renewable energy and purchase of renewable energy certificates. Other features include a robust sustainability education program, an aggressive water conservation program and a cleanup of Sales Creek with enhanced landscaping features.

MSM proposes traffic management and mitigation measures that are complete and workable. The site is accessible to the larger roadway network at three locations and two vehicular entrances/exits are provided for on-site patron parking. MSM has developed two alternatives for improving traffic flow along Route 1A and both improve conditions at the Boardman Street intersection. MSM also takes advantage of its proximity to MBTA's Blue line Beachmont station with an attractive and prominent pedestrian entry at the site's northeast corner. MSM will enhance the station which, when coupled with the gaming establishment's entrance, will stimulate the use of public transit.

Wynn: Wynn has chosen to redevelop a heavily contaminated waterfront site formerly occupied by a chemical manufacturer and current barred from public use and enjoyment. Wynn proposes to clean up the site, dredge the river, create a richly landscaped open space welcoming public use and complete the link to the Mystic River Reservation. The proposal conforms to the Everett Municipal Harbor Plan and the Lower Broadway District Urban Renewal Plan and will be a potential catalyst for a changing waterfront. The resort, aside from cleanup, is estimated to cost \$1.1 billion.

The design emphasizes the luxury market featuring a 5 star hotel and amenities consistent with the Wynn brand. It adapts to its site-the building occupies the majority of the site while still allowing for continuous open space along the waterfront. An attractive retail galleria extends to the southern part of the site with hotel tower on the north side above the floor of the gaming area, all above a four level underground garage. The project will be LEED Gold certifiable and demonstrates compliance with sustainability goals and use of renewable energy sources via on site generation and renewable energy credits.

Wynn addresses transportation issues with varying degrees of detail. The project site will be served by a single main driveway with a secondary driveway for service vehicles and employee shuttles. Patrons will access the garage through a single entrance/exit. Wynn's proposed traffic mitigation measures are generally adequate except at Sullivan Square in Charlestown which is expected to carry about two thirds of the traffic to the proposed gaming establishment. Wynn does cite proximity to public transportation and proposes use of shuttle buses plus its own water shuttles connecting with downtown locations.

In sum, the MSM design fits well with the site and adjacent neighborhoods, is attractively styled and demonstrates compatibility with its surroundings. The MSM proposal appropriately addresses any traffic impacts caused by the gaming establishment and given its location, includes a strong public transportation component. MSM is committed to LEED Gold certification and commits to a larger percentage of on-site energy generation. However, MSM proposes spending only slightly more than the \$500 million required by c. 23K

The Commission believes that the Wynn proposal does not have the innovative energy characteristic of Wynn's Las Vegas hotels and of the best new construction in the Boston region. For that reason, the Commission requested, though it did not require, that Wynn reconsider its proposed hotel design. Wynn's near term improvements to Sullivan Square are incompletely developed because mitigation does not address the eastern or northern portions of the Sullivan Square rotary. There is uncertainty about the design, funding and timing of a long term solution and Wynn has not committed to participate in its design or construction. Wynn is committed to be LEED Gold certifiable and commits to a lesser percentage of on-site energy generation. Wynn proposed to spend more than double the \$500 million required by c. 23K.

The Commission believes both proposals are unique and are designed to accommodate their unique locations. Based on the sensitivity to its surroundings and more complete mitigation plan submitted by MSM, the Commission finds MSM's proposal to be the better of the two in this category.

5. Mitigation

MSM: MSM has taken a serious proactive approach with extensive public outreach and solicitation of community support. MSM had a short time to introduce itself to the citizens and surrounding communities. It has done so vigorously with help from its landlord, Sterling Suffolk Racecourse. MSM was successful in two host community referenda in Revere. There was, however, significant opposition to Sterling Suffolk's proposed project in East Boston which resulted in a partnership with MSM and a relocation of the project to Revere. MSM has reached surrounding community agreements with all surrounding communities and has offered generous payments in each case.

MSM has committed to constructing transportation improvements at numerous locations to mitigate offsite impacts, encourage alternate modes of transportation and improve deficiencies in the existing transportation system. The proposed mitigation adequately addresses proposed impacts. MSM further provided comprehensive responses and analysis of the potential impacts to housing, schools and emergency services and had committed appropriate levels of mitigation to address impacts.

MSM makes a commitment to address problem gambling and promote responsible gaming in its Responsible Gaming Plan. MSM has a demonstrated history of addressing responsible gaming and support problem gambling research and awareness. MSM has confirmed its understanding of the complexity of problem gaming and proposes an adequate mitigation plan.

MSM has executed a formal agreement with the Massachusetts State Lottery. Lottery officials confirmed their appreciation of MSM's attention to this matter.

Wynn: Wynn conducted a comprehensive outreach effort to the host community and received the highest percentage vote of any host community referendum in the Commonwealth. Wynn partnered with a range of local, regional, community and non-profit organizations and reached surrounding community agreements, two by arbitration, with all surrounding communities except the City of Boston.

Wynn committed to the design and construction of transportation improvements at various locations. Most of the proposed measures will mitigate traffic related impacts, improve existing deficiencies in the transportation system and encourage the use of alternate modes of transportation. The proposed mitigation at Sullivan Square is inadequate and incomplete because the proposed improvements do not fully mitigate the additional traffic. Wynn provided minimal information on impacts to housing and school populations.

Wynn has agreed to comply with Commission regulations under development and industry standards for responsible gaming and problem gambling. There was no commitment to exceed those standards. Wynn has expressed a clear intention to assist the Commission with establishing regulations in the area of responsible gaming and problem gambling.

As of the time of the Commission's public evaluation of Wynn's proposal, Wynn executed a formal agreement with the Massachusetts State Lottery.

As part of the condition section of the Commission's evaluation, the Commission proposed additional conditions, which if Wynn were awarded a license, would be conditions of the license. The predominate number of conditions addressed Wynn's inability to enter into a surrounding community agreement with the City of Boston and Wynn's insufficient mitigation of the traffic impact to Sullivan Square. As described in the exhibits to section III(b), the Commission required conditions in place of a surrounding community agreement, subject to the City of Boston and Wynn negotiating a surrounding community agreement at some future date. Wynn agreed to these conditions. The Commission further required conditions to mitigate traffic impacts to Sullivan Square which included the creation of a fund to cover the costs of further improvements to Sullivan Square. One of the Commission's conditions required the payment of a per vehicle fee for vehicles passing through Sullivan Square which exceeded the number of vehicles permitted by the appropriate permitting authority. Wynn agreed to these conditions, but requested that the per vehicle fee be capped at a fixed amount. The Commission agreed to Wynn's request.

The most significant issue for the Commission in this section was traffic mitigation. MSM provided appropriate mitigation in the area surrounding its gaming establishment and provided for use of public and alternate modes of transportation. Wynn's initial traffic mitigation plan was adequate except for Sullivan Square which would receive the largest traffic impact from the proposed gaming establishment. Wynn's agreement to the Commission's traffic mitigation conditions improved the mitigation plan for Sullivan Square. On balance, after consideration of the conditions, both MSM and Wynn are acceptable in this category.

6. Conclusion

The Commission had before it two (2) applicants whose applications overall met the requirements and advanced the objectives set out in G.L. 23K and 205 CMR 101.00 et seq. Wynn was overall very good and MSM was sufficient in the Overview of the Project category. While MSM and Wynn presented a unique view of their projects, Wynn's focus on a luxury resort gaming establishment which would attract customers from outside the region and internationally made it the more compelling proposal in this category.

Both MSM and Wynn presented detailed investment, market and operations plans; however, MSM's plan was complex and highly leveraged. Further, MSM would not have control over all areas of the project which could mean that it would not have flexibility to meet market challenges. Wynn's plan was simple and had more equity invested. Wynn controlled all significant aspects of the project giving it flexibility to meet market challenges. For that reason, Wynn excelled in the Finance category.

In the Economic Development category, MSM and Wynn presented job creation and payroll numbers for construction and operational job categories. Wynn's job numbers and payroll numbers exceeded MSM's by a significant amount. Based on the better job creation and payroll numbers and outside spending budget, Wynn excelled in the Economic Development category.

In the Building and Site design category, MSM and Wynn presented unique plans that included gaming, dining and hotel facilities. MSM presented a more regional gaming establishment designed to attract customers from the nearby area. MSM's design was more sensitive to its surroundings. Wynn's proposal lacked the energy found in the Wynn Las Vegas properties. For that reason, MSM presented a more compelling proposal in the Building and Site Design category.

MSM and Wynn provided plans to address the criteria in the Mitigation category. Both MSM and Wynn agreed to address traffic issues as required; in particular, Wynn agreed to additional conditions to address traffic impact to Sullivan Square. Both MSM and Wynn entered into an agreement with the Massachusetts State Lottery. For those reasons, MSM and Wynn are sufficient in the Mitigation category.

In the end, the Commission valued more highly the categories in which Wynn excelled or was very good, namely Overview of the Project, Finance and Economic Development and for that reason, awards the license for a category 1 gaming establishment to Wynn.

V. Award

In light of the foregoing, the Commission has determined that the Category 1 gaming establishment license in Region A is **GRANTED** to Wynn MA LLC. As such, the application for a Category 1 license in Region A submitted by Mohegan Sun Massachusetts LLC is hereby **DENIED**.


The gaming establishment is defined as described in Exhibit 1 to the Agreement to Award a Category 1 Gaming License between Wynn MA LLC and the Commission dated September 17, 2014, attached to this Determination of Issuance of a License as exhibit 2.

The term of the license awarded to Wynn commences upon the Commission's approval of commencement of the operation of the gaming establishment and continues for a period of 15 years thereafter.

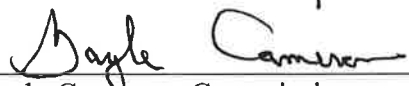
The Category 1 gaming establishment license is issued subject to the conditions listed in Exhibit 2 to the Agreement to Award a Category 1 Gaming License between Wynn MA LLC and the Commission dated September 17, 2014.

SO ORDERED

MASSACHUSETTS GAMING COMMISSION




James F. McHugh, Commissioner



Gayle Cameron, Commissioner



Bruce Stebbins, Commissioner



Enrique Zuniga, Commissioner

DATED 25 of Nov 7, 2014

Exhibits

1A Response to Conditions MSM dated September 12, 2014

1B Response to Conditions Wynn dated September 12, 2014

1A (1) Transcript of MSM presentation to the Commission dated September 16, 2014

1B (1) Transcript of Wynn presentation to Commission dated September 16, 2014, including Wynn PowerPoint presentation

2. Agreement to Award a Category 1 Gaming License between Wynn MA LLC and the Commission dated September 17, 2014.

**SUMMARY OF CONDITIONS
MOHEGAN SUN MASSACHUSETTS LLC**

	Section 1
Definitions	
	As used in this License, terms shall have the meaning defined in M.G.L. c. 23K and 205 CMR 101 et seq., unless the context clearly requires otherwise. In addition, the following terms shall have the following meanings:
Effective Date	The Effective Date of the License shall be three (3) business days after the certification of a "NO" vote on Question 3 in the November 4, 2014 general election.
EOEEA	Executive Office of Energy and Environmental Affairs.
FEIR	The Final Environmental Impact Report dated August 15, 2014, for the Project.
LEED	Leadership in Energy and Environmental Design, a rating system for the design, construction, operation, and maintenance of green buildings developed by the US Green Building Council.
License	The Category 1 gaming license issued by the Commission to MSM for operation of the Gaming Establishment.
MBE	Minority Business Enterprise.
MEPA	Massachusetts Environmental Policy Act, M.G.L. c. 30, §§ 61 through 62I, and the regulations promulgated by EOEEA pursuant thereto, 301 CMR 11.00 et seq.
MSM	MSM means Mohegan Sun Massachusetts, LLC, a Delaware limited liability company with principal address at 1 Mohegan Sun Blvd., Uncasville, CT 06382, and a Massachusetts office at 91 Hutchinson Street, Revere, Ma 02151.
Opening Date	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 et seq.
Project	The construction and operation of the Gaming Establishment that is the subject of the License described in MSM's RFA 2 application and as approved by the Commission as part of the Category 1 gaming license.
Secretary's Certificate	The MEPA Certificate issued by the Secretary of EOEEA on the FEIR and/or on the SFEIR (as applicable) for the Project.
SFEIR	The Supplemental Final Environmental Impact Report for the Project.
Term	The term of the License commences upon the Commission approval of the commencement of the operation of the gaming establishment and continues for a period of 15 years thereafter.
VBE	Veteran Business Enterprise.
WBE	Women Business Enterprise.

		Section 2
	Financial Structure	
1. Definitions		<p>For purposes of these License conditions, the following definitions apply.</p> <p>“Project” is defined as the Gaming Establishment described in MSM’s RFA 2 application and as approved by the Commission as part of the Category 1 gaming license.</p> <p>“Equity” is defined as an investment in MSM by an investor at risk without a stipulated rate of return and subordinated to all other commitments and used for the capital cost of the Project; provided, however, that Equity does not include expenses incurred prior to the grant of the license, including but not limited to, expenses incurred in negotiating agreements necessary for the Project or for applying and/or securing the Category 1 gaming license.</p> <p>“Debt” is defined as any secured interest for which that creditor is guaranteed a rate of return notwithstanding the overall profitability of the Project once in operation and includes covenants with which the debtor must comply.</p>
2. Equity to Initiate Construction		<p>In addition to common equity in the amount of \$50 million and key money in the amount of \$20 million, MSM will obtain additional Equity in the amount of \$100 million to initiate design and construction of the Project. Additional Equity investors are subject to qualification as required by G.L. c.23K and 205 CMR 101 et seq.</p>
3. Notification of Debt Financing		<p>MSM shall notify the Commission of all debt financing used on the Project prior to debt closings. The details provided in such notifications shall include but not be limited to any and all covenants that may affect the host community and/or any surrounding community.</p>
4. Marketing Plan		<p>MSM will market the Project at a no less than an equivalent basis in the states of Massachusetts, Connecticut, Rhode Island and New Hampshire with its marketing of the Mohegan Tribal Gaming Authority’s other gaming facilities. Marketing is defined as including, but is not limited to, advertising, direct mail programs, loyalty card programs, special events, entertainment, bus programs, coupons, reward points, comp’d meals, drinks or hotel accommodations, and free play. Marketing on an equivalent basis means that the dollar value and frequency of all forms of marketing in Massachusetts, Connecticut, Rhode Island and New Hampshire carried out at Mohegan Tribal Gaming Authority’s other properties is no more than that offered by the Project. MSM will report to the Commission on its marketing on a schedule and with details to be determined by the Commission. The Commission or its agent will carry out regular audits and examinations relating to such reports to ensure ongoing compliance. MSM agrees to provide all records necessary to carry out these audits and examinations. MSM shall reimburse MGC for</p>

		all costs associated with developing and monitoring the marketing rules and restrictions.
5.	Loyalty Card Program Review	MSM will provide an annual report to the Commission for its review on MSM's Momentum loyalty card program and any successor program(s). Such report shall include the number of participating businesses enrolled in the loyalty program and the dollar value of points redeemed at each business as well as any other information requested by the Commission from time to time. The first annual report to the Commission shall include an estimate of the annual dollar value of points expected to be redeemed in each of the first 3 years of operation of the Gaming Establishment.

		Section 3
1.	Building and Site Design	MSM 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 pursuant to the Commission's regulations.
		Section 4
	Other Conditions	
1.	Surrounding Community Agreements – Vendor Purchases	In the Host Community Agreement with Revere, MSM agreed to make good faith efforts to purchase \$10 million of goods and services within the Revere municipal boundaries. MSM also incorporated a similar commitment to Boston (\$50 million in goods and services) and Chelsea (\$2.5 million) in their respective Surrounding Community Agreements. These 3 municipally-specific commitments total \$62.5 million. In ten other Surrounding Community Agreements, MSM provided a blanket commitment to make good faith efforts to spend \$50 million on goods and services within a 15 mile radius of Revere City Hall. MSM's projected local goods and services spend is projected to be \$62.2 million. MSM is required to reconcile the difference in goods and services spending and commitments in the Host and Surrounding Community Agreements to each of the surrounding communities in writing and to report such reconciliation to the Commission prior to license award.
2.	Compliance with c. 23K and 205 CMR	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.
3.	Compliance with law	Compliance with all applicable federal, state and applicable and lawful local laws, rules and regulations, now in effect or as hereafter promulgated or amended.
4.	Compliance with MEPA	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
5.	Payment of the License Fee	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.

6.	Payment of Gross Gaming Revenue	Pay daily to the Commission the gross gaming revenue payment as provided by G.L. c.23K, §55, and 205 CMR.
7.	Payment of the Assessment Fee	Payment of assessments made pursuant 205 CMR 121.00 within three (3) business days of the Effective Date. Such assessments shall be offset by any installment payment made by MSM under 205 CMR 121.02(1)
8.	Payment of the Slot Assessment Fee	Payment within three (3) business days of the Commission's vote to award the License to MSM an installment fee pursuant to 205 CMR 121.02(1) in the amount of \$7,223,540. This payment shall be considered an installment and credited to the Slot Assessment in the amount of \$2,028,246 and six (6) months of the Commission's Annual Assessment in the amount of \$5,195,294 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). (Note: numbers subject to review pending final slot machine numbers.)
9.	Bond	Within 30 days after the Effective Date: (a) Deposit \$x, 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 (b) Secure a deposit bond, in a form and from an institution acceptable to the Commission, insuring that \$x, representing 10% of the proposed capital investment shall be forfeited to the Commonwealth of Massachusetts if the Designated Licensee is unable to complete the gaming establishment, as determined by the Commission.
10.	Compliance with G.L. c.23K, §15(3)	Compliance with the requirements of G.L. c. 23K, §15 (3) regarding land acquisition within 60 days of the Effective Date.
11.	Compliance with Agreements	MSM shall have an affirmative obligation to abide by and comply with the terms and conditions of the following: 1. the host community agreement; 2. surrounding community agreements; 3. impacted live entertainment agreements; 4. lottery agreements;

		<ol style="list-style-type: none"> 5. any agreements related to the Licensee's RFA 2 application signed with local partners as of the Effective Date; 6. the memorandum of understanding between MSM and the Massachusetts Community College Casino Career Institute attached to the RFA 2 application as 3-03-02; 7. affirmative marketing programs for those businesses identified in c. 23K §21 (21) (i) (ii) and (iii) for design and construction of the Gaming Establishment; 8. affirmative action programs identified under c.23K, §21(a)(22); 9. all federal, state and applicable and lawful local permits and approvals required to construct and operate the Gaming Establishment; and 10. all executed Signature Forms contained in section B of the RFA-2 application.
12.	Surrounding Community Agreements – Vendor Purchases	<p>In the HC Agreement with Revere, MSM agreed to make good faith efforts to purchase \$10 million of goods and services within the Revere municipal boundaries. MSM also incorporated a similar commitment to Boston (\$50 million) and Chelsea (\$2.5 million) in SC Agreements. These 3 municipally specific commitments total \$62.5 million. In ten other SC Agreements, MSM provided a blanket commitment to make a good faith efforts to spend \$50 million on goods and services within a 15mile radius of Revere City Hall. MSM's projected local goods and services spend is \$62.2 million. MSM is required to reconcile the difference in goods and services spending and commitments in HC and SC Agreements prior to license award and to communicate the reconciliation in writing to the host and surrounding communities.</p>
13.	Affirmative Marketing Program – Design and Construction	<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>
14.	Affirmative Marketing Program – Goods and Services	<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,</p>

		§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.
15.	Affirmative Action Program	<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 for of equal opportunity to those residents identified in c.23K, §21(a) (22) on construction jobs.</p> <p>The plan will include a robust public outreach component to those residents identified in c.23K, §21(a)(22) (minorities, women and veterans).</p>
16.	Compliance with Construction Plans	Compliance with the construction plans, specifications, and timelines as approved by the Commission in accordance with G.L. c. 23K and 205 CMR.
17.	Compliance with the Information in the RFA 2 and Evaluation Reports	MSM shall have an affirmative obligation to abide by every statement made in its 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.
18.	Creation of a Plan to Identify and Market Employment Opportunities to Unemployed Residents	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.
19.	Creations of a Regional Tourism Marketing Plan	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 MSM'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.
20.	Creation of a Plan to Identify Local Vendors	<u>MSM 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 pursuant to the Commission's regulations.</u>
21.	Institution of Credit and Collection Practices	Institution of credit and collection practices that comply with G.L.c. 23K and 205 CMR.
22.	Compliance with Commission Free Play Standards	Compliance with any free play standards set by the Commission.
23.	Litigation Update to the Commission	Within 30 days of the Effective Date and thereafter on an ongoing basis, MSM shall file with the Commission and timely update a list regarding the status of all pending litigation to which MSM, any qualifying entity, and the tribe 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 MSM's license or otherwise may affect MSM's ability to apply for or maintain a license for a casino or gaming establishment in the Commonwealth or any other jurisdiction.
25.	Changes in Directors, Officers or Qualifiers	MSM shall comply with 205 CMR 116.04 and 116.06 relative to notification of anticipated, proposed or actual changes.
26.	Financial Transactions	MSM shall comply with 205 CMR 116.05 relative to notification of new financial sources.
27.	Transfer of Interest	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

Deleted: Mohegan

		effect or promulgated in the future.
27.	Notification of Defaults	MSM 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.
28.	Notification of Refinancing of Debt	MSM 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
29.	Submission of Audited Financial Statements	Within fourteen (14) days of their availability and throughout the Term of the License, MSM 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 provided by 205 CMR.
30.	Compliance with Bank Secrecy Act of 1970	MSM 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) which requires U.S. financial institutions, including casinos, to assist U.S. government agencies to detect and prevent money laundering.
31.	LEED Gold Certification	MSM 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 MSM as part of its RFA 2 application, whichever is more recent.
32.	Compliance with Wage Scales Provided in RFA 2	MSM shall adhere as reasonably practicable to the average wage scales provided in its RFA 2 application.
33.	Application for Alcoholic Beverage License	MSM shall apply for an alcoholic beverage license in accordance with G.L. c. 23K and 205 CMR.
34.	Compliance with All Permitting Requirements	MSM 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 MSM 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 MSM and the Commission. MSM shall report to the Commission on a monthly basis regarding its progress.
35.	Notification of Selection of General Contractor	MSM 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.
36.	Construction labor report	MSM 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.
37.	Representation of Local and Regional Business in Retail Program	MSM shall report to the Commission on MSM's efforts to have appropriate representation of local and regional businesses in MSM's retail program.
38.	Maintenance of Workplace Population in Revere	MSM shall report to the Commission regarding discussions with the City of Revere to maintain workforce population in the City of Revere.
39.	Notice of Change in Corporate Structure	MSM 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.
40.	Waiver of Sovereign Immunity	MSM agrees that it will provide the Commission with written tribal council resolution that Mohegan Tribal Gaming Authority and any other Mohegan Tribal entities involved with or having an interest in MSM has waived any and all tribal immunity and any and all Tribal Court jurisdiction in connection with the license for the Gaming Establishment granted pursuant to G.L. c. 23K and for any related conduct. MSM shall submit the wording of the Tribal Council resolution to the Commission for its review and approval. Such resolution shall be passed no later than 30 days after the agreement to award the License.
41.	Capital expenditures	MSM 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.
42.	Notice of Change in Corporate Structure	MSM 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 committee.
43.	Re-Opening of Conditions by the Commission	Nothing shall prevent the Commission from amending or modifying the License conditions upon a petition from MSM or upon a motion by the Commission.
44.	Conditions Binding on Successors and Assigns	All of the terms and conditions of the License shall be binding upon MSM and its successors and assigns.
45.	Dual ownership	MSM 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.
46.	Cooperation in gaming-related investigations	MSM shall cooperate with the Commission and the Office of the Attorney General in all gaming-related investigations. MSM shall make readily available all documents, materials, equipment, personnel and any other items requested during an investigation; provided, however, that material that MSM considers a trade secret or detrimental to MSM if it were made public may, with the Commission's approval, be protected from public disclosure and MSM may require nondisclosure agreements with the Commission before disclosing such material.
47.	Cooperation in criminal matters	MSM shall cooperate with the Commission and the Office of the Attorney General with respect to the investigation of any criminal matter; provided, however, that MSM 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 MSM.
48.	Warrantless searches	MSM 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.

49.	Duty to Inform	MSM 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 MSM as a consequence for having supplied such information.
50	Office space and parking	MSM 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 and parking spaces.
51.	Employment report	MSM 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.
52.	Employment of licensed or registered individuals	MSM shall employ only those persons licensed or registered by the Commission in accordance with G.L. c. 23K, § 30 and 205 CMR 134.00.
53.	Doing business with licensed or registered vendors	MSM 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.
54	Demographic information	MSM 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.
55.	On site space and training of employees relative to problem gambling.	MSM 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 intervention with customers exhibiting problem gaming behavior.
56.	Problem gambling	MSM 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 MSM to provide this information in more than 1 language.
57.	Self-exclusion from marketing or promotional communications	MSM shall provide a process for individuals to exclude their names and contact information from its database or any other list held by MSM for use in marketing or promotional communications.
58.	Public health strategies	MSM shall institute additional public health strategies as required by the Commission during the term of the license.
59.	Statistical reporting for MBE, WBE, and VBE	MSM 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 contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms.
60.	Unattended minors	MSM 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.
61.	Conditions Binding on Successors and Assigns	All of the terms and conditions of the License shall be binding upon MSM and its Affiliates and permitted successors and assigns.



September 12, 2014

Sent by Email

Hon. James F. McHugh
Gayle Cameron
Bruce Stebbins
Enrique Zuniga
Commissioners
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Re: Mohegan Sun Massachusetts and Brigade Capital Management Response to the Summary of Conditions

Dear Commissioners:

Mohegan Sun Massachusetts, LLC (“MSM”) and Brigade Capital Management, LP (“Brigade”) write to thank you for your thoughtful deliberation over the past week and to respond to the summary of conditions for MSM that the Commission proposed on September 10. In general, we assent to nearly every condition that the Commission proposes. In addition, we have proposed enhancements to certain conditions as well as new conditions in order to address concerns with the MSM proposal that Commissioners described this week. MSM and Brigade would like to once again make clear our commitment to constructing, owning and operating a destination resort casino that will make the Commonwealth proud should we be selected.

Attached hereto is a redline of the Commission’s proposed conditions that captures these enhancements.

Conditions Assented to With Enhancements

1) Equity to Initiate Construction Condition (Section 2, Condition #2)

MSM and Brigade fully accept this condition of licensure and, indeed, propose to enhance it by providing an additional \$50 million in overall available equity commitment and

guarantees (counting both common and preferred), as outlined below. MSM wants to not only alleviate concerns with regard to its financing proposal, but to provide the Commission with an added assurance that eliminates all concerns.

MSM proposes to increase the amount of available funding by a total of \$150 million (50% above the amount proposed in the Commission's draft license condition). This will consist of an additional \$50 million in common Equity, \$50 million more of preferred equity, and a \$50 million Equity guarantee, all of which will be investments from parties that have already been found qualified and suitable by the Commission. This will occur in the following manner:

1. Brigade (through its funds and accounts) and Mohegan Sun (through MGA Holdings MA, LLC) will invest an additional \$50 million in common Equity. Brigade will provide \$30 million of this amount and Mohegan Sun will provide the remaining \$20 million.
2. Brigade (through its funds and accounts) would invest an additional \$50 million in preferred equity.
3. Brigade and MSM will also agree to restructure all of the preferred equity to lower the fixed dividend payment rate by 20% (down to 12%) and to extend the term/length of the preferred equity to twenty years to dispel any concerns related to the preferred equity representing short-term securities or resulting in a high cost of capital.
4. MSM also agrees to have any decision regarding whether the preferred equity will be called be made only by those members of the MSM board that are not appointed by Brigade. Thus, any decision to pay the applicable call premiums will be made by the MSM Board members not aligned with Brigade and, therefore, a determination to call the preferred equity would only be made if it was extremely favorable from a financial perspective for MSM to do so.
5. Brigade (through its funds and accounts) will issue an additional \$50 million common Equity guarantee to further assure commencement of construction of the project. This common Equity guarantee will be in addition to the 10% statutory deposit or bond provided for elsewhere in the conditions. This additional commitment could be drawn if needed at any time during the construction process and the amount drawn would represent a common Equity investment by Brigade. If drawn, Brigade's proportionate interest would increase in relation to the amount drawn, and Brigade will provide Mohegan Sun with the opportunity to keep its full Equity percentage by making a commensurate Equity contribution. MSM will notify the Commission in advance of any draw of this common Equity guarantee and will comply with any Commission requirements in connection with it.

In addition to this process, MSM proposes to provide further assurances to the Commonwealth that comprehensive financing will be available for the commencement of the development by November 2014. As reflected by the previously submitted commitment letter from Bank of America (something that Bank of America has indicated to Commission staff is unprecedented for projects that are in the pre-construction phase), Bank of America is ready to go to market on our credit facility immediately. In this regard, MSM will commit to a condition requiring it to work with Bank of America to immediately launch the process to put the \$732 million credit facility in place upon the Commission's designation of MSM as the Region A

licensee. MSM (based on projections by Bank of America) believes that with this timeline it is likely that it can have the full amount of the facility placed in escrow prior to the November 2014 election or shortly after the successful outcome of the election. The facility would be released from escrow and be available for project development use after the election. This process will provide MSM with over \$900 million in available cash/equity upon the formal award of the license after the November election, positioning MSM well to hit the ground running and develop the Revere resort casino on an expeditious timeline.

2) Loyalty Card Program Review (Section 2, Condition #5)

MSM does believe that the Momentum Points Program fits the legislature's goal of an outward facing casino. However, we understand the Commission's concern that we have been unable to estimate the benefits of the program or give the Commission a precise way to measure MSM's accountability on this important program. After discussions with the Commission's consultants and staff, we estimate at least a third or more of all earned points at MSM will be redeemed at off-site participating businesses, venues and attractions. We have estimated that at least \$50 million in Momentum Points will be generated at MSM. Therefore, we estimate that at least \$17 million will be generated for off-site businesses in the first year. We expect these amounts will increase greatly in later years as our guests become comfortable with the program and after extensive marketing.

Given the context of the above information, MSM and Brigade agree to the proposed condition and suggest an additional requirement be added to the condition in order to ensure that MSM always remains accountable for the program and that the program is a success. While we have always intended that there be a significant effort to promote the Momentum Program, we suggest an additional requirement to this condition requiring MSM to have a full time, manager-level staffer whose sole responsibility is to be recruiting businesses off-site for the Momentum Program and promoting the off-site Momentum Program with our guests. This effort will include the rich use of marketing tools we have already cited in our application to create awareness of regional attractions, retail and dining establishments, entertainment facilities and other Momentum partners.

Condition Where MSM Proposes a Change and an Enhancement to the Condition

1) Marketing Plan Condition (Section 2, Condition #4)

We welcome the Commission's proposal for extending the marketing "protected zone", the concept that we proposed for much of Massachusetts and New Hampshire, to the rest of Massachusetts and New Hampshire and to Rhode Island. We understand the Commission's concerns that attracting the residents of these states is crucial to the success of the Region A casino and will assent to the marketing plan condition for these states. Due to the proximity of certain individuals in Maine, we propose that the "protected zone" contained in the licensing condition be extended to Maine in addition to the other states.

While we do not assent to extending the protected zone to Connecticut, we do believe that Mohegan Sun Connecticut's customers and customers at all of Mohegan Sun's other properties are fertile markets for attracting visitors to MSM. Accordingly, we propose enhancing

the marketing plan proposed condition by requiring that any gaming promotion undertaken by Mohegan Sun Connecticut, Mohegan Sun Pocono Downs or Resorts Atlantic City and any future gaming facility owned by Mohegan Tribal Gaming Authority will be redeemable at MSM. These three properties do the bulk of their marketing in New York, New Jersey, Connecticut and Pennsylvania and so MSM will gain additional protections related to individuals in those states and anywhere else that these three properties market.

Finally, we propose an additional enhancement to this condition. Brigade agrees to share all audit reports and data it obtains verifying compliance by MSM with the marketing provisions of its agreement with Mohegan Sun with the Commission or its agent who will be conducting regular audits and examinations.

New Proposed Condition

1) Proposed Condition on Domestic and International Marketing Plan (New Condition Section 2, #6)

MSM feels strongly compelled to propose its own condition related to a domestic and international marketing plan. In RFA-2 Response 2-36-02, we did propose a "Marketing Plan" that focused equally on out of state and in-state guests. In other RFA-2 Responses, we also detailed measures such as international marketing partnerships with Convention and Visitor Bureaus, a Formal Partnership with Attract Asia, immediate marketing to 125,000 international gamers in our 5,000,000 customer database, and opening offices for player representative in targeted markets, such as China, Brazil, Mexico and Malaysia. These plans form the basis for RFA-2 Response 2-36-01, where we specifically estimated that 15% to 25% of our gaming revenue would come from out of state visitors.

However, we have come to understand the Commission's concerns related to the PKF Study's overreliance on recaptured gaming revenue from residents of Massachusetts and understand therefore that Commissioners are concerned that MSM does not intend to have a true resort casino as contemplated by the legislature. We therefore propose a condition so that the Commission can have the appropriate assurances that MSM will make marketing to out of state residents a priority. Indeed, in light of the importance of this issue to the long-term success of legalized gaming in the Commonwealth, we believe the Commission should have a continuing role in monitoring the effectiveness of the marketing plans and the licensee's commitment to their viability in an evolving marketplace.

Therefore, in light of the foregoing, we believe the following condition should be applied to our license:

1. Within 30 days of designation as the Region A licensee, MSM and an independent consultant chosen by the Commission will review MSM's plan for marketing to visitors outside of Massachusetts;
2. This consultant will suggest changes and additions to the plan and present these additions and changes to the Commission; and

3. The Commission must approve the plan as a condition of licensure, and will annually monitor performance and compliance.

2) Proposed Condition on Brigade Divesture of MTGA Debt (New Condition Section 2, #7)

MSM and Brigade also would like to address the concern that the Commission expressed over the alignment of Brigade's interest with the Commonwealth's. Brigade will commit to fully divest all of its holdings in Mohegan Tribal Gaming Authority debt securities by the time of the opening of MSM.

Conditions Assented to with Minor Edits

- 1) **Surrounding Community Agreements Condition (Section 4, Conditions #1 and #12)**

In Section 4, conditions 1 and 12 are the same verbatim (except Surrounding Community is abbreviated in condition 12). We respectfully recommend that condition 12 be deleted and the balance renumbered.

- 2) **Unattended Minors (Section 4, Condition #60)**

We respectfully request that this condition be amended to refer to the "Revere Police Department" as the local agency for reporting, along with the State Police.

Conditions Assented to Without Comment

MSM and Brigade assents to the following conditions without comment:

- Section 1, Definition;
- Section 2, Condition #1, Condition #3;
- Section 3, Condition #1;
- Section 4, Conditions #1-11; Conditions #13-59, and Condition #61.

Again, we thank the Commission, the consultants and staff for their excellent work. We hope that after reviewing our response the Commission will see that we have sought to eliminate any and all potential concerns that members of the Commission might have. As noted during the evaluation hearings, our proposal provides a creative building design, significant traffic mitigation and improvements, strong host and surrounding community agreements, and problem gambling approaches that exceed industry benchmarks, all while ensuring the continued success of the State Lottery and Suffolk Downs. We greatly appreciate the thoughtful suggestions and approach in developing the proposed licensing conditions and believe, with your guidance, our proposal satisfies and exceeds each and every statutory requirement of the Expanded Gaming

September 12, 2014

Page 6

Act and fulfills the Commission's mission to ensure the greatest benefit to the Commonwealth.
Please do not hesitate to communicate any remaining questions to our team.

Sincerely,



Mitchell Etess,
Manager, Mohegan Sun Massachusetts
CEO, Mohegan Tribal Gaming Authority



Doug Pardon,
Partner
Brigade Capital Management, LP

cc: Catherine Blue, Esq.
John Ziemba, Esq.
Mr. J. Gary Luderitz
David Rome, Esq.
David Waddell, Esq.
Kevin Conroy, Esq.

SUMMARY OF CONDITIONS
MOHEGAN SUN MASSACHUSETTS LLC

	Section 1
Definitions	
	As used in this License, terms shall have the meaning defined in M.G.L. c. 23K and 205 CMR 101 et seq., unless the context clearly requires otherwise. In addition, the following terms shall have the following meanings:
Effective Date	The Effective Date of the License shall be three (3) business days after the certification of a “NO” vote on Question 3 in the November 4, 2014 general election.
EOEEA	Executive Office of Energy and Environmental Affairs.
FEIR	The Final Environmental Impact Report dated August 15, 2014, for the Project.
LEED	Leadership in Energy and Environmental Design, a rating system for the design, construction, operation, and maintenance of green buildings developed by the US Green Building Council.
License	The Category 1 gaming license issued by the Commission to MSM for operation of the Gaming Establishment.
MBE	Minority Business Enterprise.
MEPA	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>
MSM	MSM means Mohegan Sun Massachusetts, LLC, a Delaware limited liability company with principal address at 1 Mohegan Sun Blvd., Uncasville, CT 06382, and a Massachusetts office at 91 Hutchinson Street, Revere, Ma 02151.
Opening Date	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>
Project	The construction and operation of the Gaming Establishment that is the subject of the License described in MSM’s RFA 2 application and as approved by the Commission as part of the Category 1 gaming license.
Secretary’s Certificate	The MEPA Certificate issued by the Secretary of EOEEA on the FEIR and/or on the SFEIR (as applicable) for the Project.
SFEIR	The Supplemental Final Environmental Impact Report for the Project.
Term	The term of the License commences upon the Commission approval of the commencement of the operation of the gaming establishment and continues for a period of 15 years thereafter.
VBE	Veteran Business Enterprise.
WBE	Women Business Enterprise.

		Section 2
	Financial Structure	
1.	Definitions	<p>For purposes of these License conditions, the following definitions apply.</p> <p>“Project” is defined as the Gaming Establishment described in MSM’s RFA 2 application and as approved by the Commission as part of the Category 1 gaming license.</p> <p>“Equity” is defined as an investment in MSM by an investor at risk without a stipulated rate of return and subordinated to all other commitments and used for the capital cost of the Project; provided, however, that Equity does not include expenses incurred prior to the grant of the license, including but not limited to, expenses incurred in negotiating agreements necessary for the Project or for applying and/or securing the Category 1 gaming license.</p> <p>“Debt” is defined as any secured interest for which that creditor is guaranteed a rate of return notwithstanding the overall profitability of the Project once in operation and includes covenants with which the debtor must comply.</p>
2.	Equity to Initiate Construction	<p>In addition to common equity in the amount of \$50 million and key money in the amount of \$20 million, MSM will obtain additional Equity in the amount of \$100 million <u>(consisting of an additional \$50 million of common Equity and an additional \$50 million common Equity guarantee)</u> to initiate design and construction of the Project. <u>MSM will also obtain an additional \$50 million in preferred equity interests and will fully comply with all the proposals made and described by MSM and Brigade’s September 12, 2014 Letter to the Commission (including, but not limited to making the proposed changes to the callability of the preferred equity, and the dividend rate and term of the preferred equity interests).</u> Additional Equity investors are subject to qualification as required by G.L. c.23K and 205 CMR 101 et seq.</p> <p><u>MSM shall provide comprehensive financing for the project and shall start the process immediately with its lenders to seek to have the credit facility in place as quickly as possible as described more fully by MSM and Brigade’s September 12, 2014 Letter to the Commission.</u></p>
3.	Notification of Debt Financing	<p>MSM shall notify the Commission of all debt financing used on the Project prior to debt closings. The details provided in such notifications shall include but not be limited to any and all covenants that may affect the host community and/or any surrounding community.</p>

4.	Marketing Plan	<p>MSM will market the Project at a no less than an equivalent basis in the states of Massachusetts, Connecticut, Rhode Island, <u>Maine</u> and New Hampshire with its marketing of the Mohegan Tribal Gaming Authority's other gaming facilities.</p> <p><u>Any gaming promotion offered to any customer regardless of location, including but not limited to Connecticut, New York, New Jersey, and Pennsylvania, by Mohegan Sun Connecticut, Mohegan Sun Pocono Downs or Resorts Atlantic City and any future gaming facility owned by Mohegan Tribal Gaming Authority will be redeemable at MSM.</u></p> <p>Marketing is defined as including, but is not limited to, advertising, direct mail programs, loyalty card programs, special events, entertainment, bus programs, coupons, reward points, comp'd meals, drinks or hotel accommodations, and free play. Marketing on an equivalent basis means that the dollar value and frequency of all forms of marketing in Massachusetts, Connecticut, Rhode Island, <u>Maine</u> and New Hampshire carried out at Mohegan Tribal Gaming Authority's other properties is no more than that offered by the Project. MSM will report to the Commission on its marketing on a schedule and with details to be determined by the Commission. The Commission or its agent will carry out regular audits and examinations relating to such reports to ensure ongoing compliance. MSM agrees to provide all records necessary to carry out these audits and examinations. MSM shall reimburse MGC for all costs associated with developing and monitoring the marketing rules and restrictions. <u>Brigade will share with the Commission or its agent all audit reports and data it obtains verifying compliance by MSM with the marketing provisions of its Agreements with MSM.</u></p>
5.	Loyalty Card Program Review	<p>MSM will provide an annual report to the Commission for its review on MSM's Momentum loyalty card program and any successor program(s). Such report shall include the number of participating businesses enrolled in the loyalty program and the dollar value of points redeemed at each business as well as any other information requested by the Commission from time to time. The first annual report to the Commission shall include an estimate of the annual dollar value of points expected to be redeemed in each of the first 3 years of operation of the Gaming Establishment. <u>MSM will hire a full time staff member whose sole responsibility is to recruit businesses off site for the Momentum program and promote the Momentum program to resort patrons.</u></p>
6.	<u>Domestic and International Marketing Plan</u>	<p><u>1. Within 30 days of designation as the Region A licensee, MSM and an independent consultant chosen by the Commission will review MSM's plan for marketing to visitors outside of Massachusetts;</u></p>

		<p><u>2. This consultant will suggest changes and additions to the plan and present these additions and changes to the Commission; and</u></p> <p><u>3. The Commission must approve the plan as a condition of licensure, and will annually monitor performance and compliance.</u></p>
7.	<p><u>Brigade</u> <u>Divestiture of</u> <u>MTGA Debt</u></p>	<p><u>Brigade will fully divest all of its holding in Mohegan Tribal Gaming Authority debt securities by the Opening Date.</u></p>

		Section 3
1.	Building and Site Design	MSM 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 pursuant to the Commission's regulations.
		Section 4
	Other Conditions	
1.	Surrounding Community Agreements – Vendor Purchases	In the Host Community Agreement with Revere, MSM agreed to make good faith efforts to purchase \$10 million of goods and services within the Revere municipal boundaries. MSM also incorporated a similar commitment to Boston (\$50 million in goods and services) and Chelsea (\$2.5 million) in their respective Surrounding Community Agreements. These 3 municipally-specific commitments total \$62.5 million. In ten other Surrounding Community Agreements, MSM provided a blanket commitment to make good faith efforts to spend \$50 million on goods and services within a 15 mile radius of Revere City Hall. MSM's projected local goods and services spend is projected to be \$62.2 million. MSM is required to reconcile the difference in goods and services spending and commitments in the Host and Surrounding Community Agreements to each of the surrounding communities in writing and to report such reconciliation to the Commission prior to license award.
2.	Compliance with c. 23K and 205 CMR	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.
3.	Compliance with law	Compliance with all applicable federal, state and applicable and lawful local laws, rules and regulations, now in effect or as hereafter promulgated or amended.
4.	Compliance with MEPA	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
5.	Payment of the License Fee	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.

6.	Payment of Gross Gaming Revenue	Pay daily to the Commission the gross gaming revenue payment as provided by G.L. c.23K, §55, and 205 CMR.
7.	Payment of the Assessment Fee	Payment of assessments made pursuant 205 CMR 121.00 within three (3) business days of the Effective Date. Such assessments shall be offset by any installment payment made by MSM under 205 CMR 121.02(1)
8.	Payment of the Slot Assessment Fee	Payment within three (3) business days of the Commission's vote to award the License to MSM an installment fee pursuant to 205 CMR 121.02(1) in the amount of \$7,223,540. This payment shall be considered an installment and credited to the Slot Assessment in the amount of \$2,028,246 and six (6) months of the Commission's Annual Assessment in the amount of \$5,195,294 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). (Note: numbers subject to review pending final slot machine numbers.)
9.	Bond	Within 30 days after the Effective Date: (a) Deposit \$x, 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 (b) Secure a deposit bond, in a form and from an institution acceptable to the Commission, insuring that \$x, representing 10% of the proposed capital investment shall be forfeited to the Commonwealth of Massachusetts if the Designated Licensee is unable to complete the gaming establishment, as determined by the Commission.
10.	Compliance with G.L. c.23K, §15(3)	Compliance with the requirements of G.L. c. 23K, §15 (3) regarding land acquisition within 60 days of the Effective Date.
11.	Compliance with Agreements	MSM shall have an affirmative obligation to abide by and comply with the terms and conditions of the following: 1. the host community agreement; 2. surrounding community agreements; 3. impacted live entertainment agreements; 4. lottery agreements;

		<ol style="list-style-type: none"> 5. any agreements related to the Licensee’s RFA 2 application signed with local partners as of the Effective Date; 6. the memorandum of understanding between MSM and the Massachusetts Community College Casino Career Institute attached to the RFA 2 application as 3-03-02; 7. affirmative marketing programs for those businesses identified in c. 23K §21 (21) (i) (ii) and (iii) for design and construction of the Gaming Establishment; 8. affirmative action programs identified under c.23K, §21(a)(22); 9. all federal, state and applicable and lawful local permits and approvals required to construct and operate the Gaming Establishment; and 10. all executed Signature Forms contained in section B of the RFA-2 application.
12.	<p>Surrounding Community Agreements—Vendor Purchases</p>	<p>In the HC Agreement with Revere, MSM agreed to make good faith efforts to purchase \$10 million of goods and services within the Revere municipal boundaries. MSM also incorporated a similar commitment to Boston (\$50 million) and Chelsea (\$2.5 million) in SC Agreements. These 3 municipally specific commitments total \$62.5 million. In ten other SC Agreements, MSM provided a blanket commitment to make a good faith efforts to spend \$50 million on goods and services within a 15mile radius of Revere City Hall. MSM’s projected local goods and services spend is \$62.2 million. MSM is required to reconcile the difference in goods and services spending and commitments in HC and SC Agreements prior to license award ad to communicate the reconciliation in writing to the host and surrounding communities.</p>
13.	<p>Affirmative Marketing Program – Design and Construction</p>	<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>
14.	<p>Affirmative Marketing Program – Goods and Services</p>	<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,</p>

		§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.
15.	Affirmative Action Program	<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 for of equal opportunity to those residents identified in c.23K, §21(a) (22) on construction jobs.</p> <p>The plan will include a robust public outreach component to those residents identified in c.23K, §21(a)(22) (minorities, women and veterans).</p>
16.	Compliance with Construction Plans	Compliance with the construction plans, specifications, and timelines as approved by the Commission in accordance with G.L. c. 23K and 205 CMR.
17.	Compliance with the Information in the RFA 2 and Evaluation Reports	MSM shall have an affirmative obligation to abide by every statement made in its 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.
18.	Creation of a Plan to Identify and Market Employment Opportunities to Unemployed Residents	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.
19.	Creations of a Regional Tourism Marketing Plan	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 MSM’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.
20.	Creation of a Plan to Identify Local Vendors	MSM 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 pursuant to the Commission's regulations.
21.	Institution of Credit and Collection Practices	Institution of credit and collection practices that comply with G.L. c. 23K and 205 CMR.
22.	Compliance with Commission Free Play Standards	Compliance with any free play standards set by the Commission.
23.	Litigation Update to the Commission	Within 30 days of the Effective Date and thereafter on an ongoing basis, MSM shall file with the Commission and timely update a list regarding the status of all pending litigation to which MSM, any qualifying entity, and the tribe 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 MSM's license or otherwise may affect MSM's ability to apply for or maintain a license for a casino or gaming establishment in the Commonwealth or any other jurisdiction.
25.	Changes in Directors, Officers or Qualifiers	MSM shall comply with 205 CMR 116.04 and 116.06 relative to notification of anticipated, proposed or actual changes.
26.	Financial Transactions	MSM shall comply with 205 CMR 116.05 relative to notification of new financial sources.
27.	Transfer of Interest	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.
27.	Notification of Defaults	MSM 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.
28.	Notification of Refinancing of Debt	MSM 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
29.	Submission of Audited Financial Statements	Within fourteen (14) days of their availability and throughout the Term of the License, MSM 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 provided by 205 CMR.
30.	Compliance with Bank Secrecy Act of 1970	MSM 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) which requires U.S. financial institutions, including casinos, to assist U.S. government agencies to detect and prevent money laundering.
31.	LEED Gold Certification	MSM 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 MSM as part of its RFA 2 application, whichever is more recent.
32.	Compliance with Wage Scales Provided in RFA 2	MSM shall adhere as reasonably practicable to the average wage scales provided in its RFA 2 application.
33.	Application for Alcoholic Beverage License	MSM shall apply for an alcoholic beverage license in accordance with G.L. c. 23K and 205 CMR.
34.	Compliance with All Permitting Requirements	MSM 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 MSM 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 MSM and the Commission. MSM shall report to the Commission on a monthly basis regarding its progress.
35.	Notification of Selection of General Contractor	MSM 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.
36.	Construction labor report	MSM 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.
37.	Representation of Local and Regional Business in Retail Program	MSM shall report to the Commission on MSM's efforts to have appropriate representation of local and regional businesses in MSM's retail program.
38.	Maintenance of Workplace Population in Revere	MSM shall report to the Commission regarding discussions with the City of Revere to maintain workforce population in the City of Revere.
39.	Notice of Change in Corporate Structure	MSM 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.
40.	Waiver of Sovereign Immunity	MSM agrees that it will provide the Commission with written tribal council resolution that Mohegan Tribal Gaming Authority and any other Mohegan Tribal entities involved with or having an interest in MSM has waived any and all tribal immunity and any and all Tribal Court jurisdiction in connection with the license for the Gaming Establishment granted pursuant to G.L. c. 23K and for any related conduct. MSM shall submit the wording of the Tribal Council resolution to the Commission for its review and approval. Such resolution shall be passed no later than 30 days after the agreement to award the License.
41.	Capital expenditures	MSM 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.
42.	Notice of Change in Corporate Structure	MSM 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 committee.
43.	Re-Opening of Conditions by the Commission	Nothing shall prevent the Commission from amending or modifying the License conditions upon a petition from MSM or upon a motion by the Commission.
44.	Conditions Binding on Successors and Assigns	All of the terms and conditions of the License shall be binding upon MSM and its successors and assigns.
45.	Dual ownership	MSM 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.
46.	Cooperation in gaming-related investigations	MSM shall cooperate with the Commission and the Office of the Attorney General in all gaming-related investigations. MSM shall make readily available all documents, materials, equipment, personnel and any other items requested during an investigation; provided, however, that material that MSM considers a trade secret or detrimental to MSM if it were made public may, with the Commission's approval, be protected from public disclosure and MSM may require nondisclosure agreements with the Commission before disclosing such material.
47.	Cooperation in criminal matters	MSM shall cooperate with the Commission and the Office of the Attorney General with respect to the investigation of any criminal matter; provided, however, that MSM 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 MSM.
48.	Warrantless searches	MSM 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.

49.	Duty to Inform	MSM 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 MSM as a consequence for having supplied such information.
50	Office space and parking	MSM 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 and parking spaces.
51.	Employment report	MSM 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.
52.	Employment of licensed or registered individuals	MSM shall employ only those persons licensed or registered by the Commission in accordance with G.L. c. 23K, § 30 and 205 CMR 134.00.
53.	Doing business with licensed or registered vendors	MSM 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.
54	Demographic information	MSM 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.
55.	On site space and training of employees relative to problem gambling.	MSM 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 intervention with customers exhibiting problem gaming behavior.
56.	Problem gambling	MSM 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 MSM to provide this information in more than 1 language.
57.	Self-exclusion from marketing or promotional communications	MSM shall provide a process for individuals to exclude their names and contact information from its database or any other list held by MSM for use in marketing or promotional communications.
58.	Public health strategies	MSM shall institute additional public health strategies as required by the Commission during the term of the license.
59.	Statistical reporting for MBE, WBE, and VBE	MSM 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 contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms.
60.	Unattended minors	MSM 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 <u>Revere</u> Police Department and on site state police.
61.	Conditions Binding on Successors and Assigns	All of the terms and conditions of the License shall be binding upon MSM and its Affiliates and permitted successors and assigns.

1 P R O C E E D I N G S :

2

3 COMMISSIONER MCHUGH: Good morning
4 everybody. Welcome to the fifth session now of
5 the 134th meeting of the Massachusetts Gaming
6 Commission. We are set this money to pick up
7 where we left off yesterday.

8 We left off yesterday with a
9 decision that we would hear first of all this
10 morning from the applicants to talk about their
11 responses to our conditions. So, I think we
12 will, unless there is some preliminary we ought
13 to attend to, turn to that immediately. Any
14 preliminaries? Are we ready to go?

15 COMMISSIONER CAMERON: Ready.

16 COMMISSIONER MCHUGH: And we said
17 that we would go in the alphabetical order that
18 we've been doing the presentations. So, that
19 would be Mohegan Sun team first.

20 Good morning, gentlemen. I forgot
21 to say this sort of timekeeping piece here. I
22 said 20 minutes for everybody. We don't got a
23 big timer. I've got this timer. So, that will
24 be the official timepiece of the affair. And

1 we'll extend it slightly if we have questions
2 that cause you to overrun. But with that now,
3 finally, good morning.

4 MR. ETESS: Good morning and thank
5 you for the opportunity to address some of the
6 issues in our response to the proposed
7 conditions.

8 As you know, I'm Mitchell Etes. I'm the CEO of Mohegan Tribal Gaming Authority.
9 I'm the CEO of Mohegan Tribal Gaming Authority.
10 And I'm joined here today by Doug Pardon, our
11 partner from Brigade.

12 It's been an exciting week I think
13 you can say, right, if not exhausting. But at
14 the outset, please know how much we appreciate
15 the thoughtful and diligent review of our
16 application by the Commissioners, your staff
17 and the consultants.

18 Allow me first briefly to outline
19 our remarks today. First, the premers of our
20 remarks follow the understanding of what the
21 Commission instructed us to do yesterday, and
22 they're as follows: we're going to focus on
23 describing or clarifying our response to the
24 Commission's proposed conditions that we

1 submitted Friday afternoon, and the reason
2 behind our decision to craft those responses as
3 we did. And we'll not comment in any way on
4 elements of our application not addressed in
5 that response.

6 As you know, we have followed the
7 activities of the Commission closely and paid
8 particular attention to the licensing
9 conditions that were proposed for Penn and MGM.
10 Therefore, we were prepared and did not object
11 to the previous conditions that were the same
12 as offered to Penn and MGM.

13 We also understood the conditions
14 you proposed that were specific to our
15 application, and wherever possible tried to
16 assent to these conditions and even exceed them
17 as part of the collaborative approach that
18 we've tried to take here with the Commission
19 since it came into existence.

20 In a few moments I'm going to speak
21 to you about some of the issues related to our
22 response relative to marketing but first, Doug
23 Pardon is going to speak to you a little bit
24 about finance. Doug.

1 MR. PARDON: Thank you, Mitchell.
2 Once again, Mohegan Sun and Brigade thank the
3 Commission for its careful deliberations on
4 these issues and for the chance to clarify the
5 information contained in our response to the
6 proposed licensing conditions filed last
7 Friday.

8 Today, we hope to address any
9 specific questions that the Commission and/or
10 its staff may have regarding our revised
11 financing condition as submitted on Friday.
12 Brigade has sought to be a good and
13 collaborative partner both with Mohegan Sun and
14 the Commonwealth on this exciting destination
15 resort casino.

16 We listened carefully to the
17 Commission's discussion last week and the
18 thoughts that led up to the financing
19 condition. With our response, we were not just
20 looking to alleviate any concerns the
21 Commission had but hoping to eliminate them.
22 Which is why we not only accepted the proposed
23 conditions but added additional conditions to
24 strengthen the finances of our project even

1 further.

2 We were also attempting to
3 demonstrate our commitment and our confidence
4 in this project and its ultimate success. We
5 were doing that by agreeing to more than double
6 our commitment and dollars to this project.
7 Brigade is more than doubling its commitment.

8 In our response, we noted that we
9 would include an additional \$150 million in
10 equity for the project. This would be achieved
11 through a combination of contributions to
12 funded common equity of \$50 million, a \$50
13 million common equity guarantee, which I will
14 discuss in detail further and an additional \$50
15 million of preferred equity on top of the \$100
16 million dollars as a sign of our commitment to
17 this project.

18 In addition, with respect to the \$50
19 million of preferred equity, actually the now
20 \$110 million of preferred equity we have agreed
21 to reduce the dividend rate on that \$110
22 million investment by 20 percent, from 15
23 percent to 12 percent, increase the term of
24 that investment to 20 years, which is outside

1 the licensing period of 15 years, and agreed to
2 recuse ourselves from any decision with respect
3 to the redeeming of that investment.

4 We heard concerns related to the
5 preferred equity and we attempted to address
6 those with those modifications.

7 With respect to the \$50 million
8 equity guarantee that was discussed yesterday,
9 I'd like to provide a little context around
10 that decision to structure it that way and why
11 we did it and to give you the confidence that
12 it's \$50 million of common equity, cash
13 available in the form of common equity with no
14 dividend rate, no hidden fees, just pure common
15 equity for the project.

16 It was important to us to attempt to
17 maintain the ownership splits as we've
18 constructed them with our partner Mohegan Sun.
19 So, that was something that was there. And
20 when you think about that if we provided an
21 additional \$50 million of common equity
22 upfront, Mohegan Sun's ownership gets diluted.

23 What we tried to do here, and it's
24 important to know that this is a common

1 structure that's used in project finance deals
2 was provide an incentive. The \$50 million is
3 there but it provides an incentive for Mohegan
4 Sun who is constructing and operating the
5 project to come in on time and on budget.

6 So, therefore if the \$50 million
7 because we've had 150, and we'll talk about our
8 comfort with the financing, ultimately isn't
9 used, their ownership percentage stays at 40
10 percent, which is incredibly important to them
11 and it provides an incentive.

12 But on the downside, the \$50 million
13 is there to complete the project in common
14 equity. It's available on day one upon award
15 of the licensure to spend towards the project
16 in the form of \$50 million of common equity.

17 It's guaranteed by one of our funds,
18 Brigade Leveraged Capital Structures fund.
19 That fund has nearly \$5 billion in investments
20 backing that guarantee. So, it is clearly
21 common equity. It's guaranteed. And it is
22 there to fund the project.

23 And that's some context of why we
24 structured it that way. And we think it has

1 the best of both worlds in terms of adding
2 incentives to get the project done on time and
3 on budget, but at the same time adding the
4 protections that the Commission was looking
5 for.

6 The last thing I'd like to address
7 before turning the podium back over to Mitchell
8 has to do with our financing partner Bank of
9 America. We wanted to thank the Commission
10 staff and their consultants for agreeing to a
11 meeting with Bank of America, and to hear from
12 them about their commitment that they provided
13 to this project, to hear about their confidence
14 and comfort with the financing proposal as it
15 had been originally submitted with RFA-2 and
16 further clarifications, but then to hear from
17 them with these added enhancements they are
18 even more confident in this proposal.

19 What we heard from Bank of America
20 or what Commission staff and consultants heard
21 from Bank of America was a little bit about
22 their credentials. Bank of America is the
23 number one lender and arranger of casino
24 financing in the United States.

1 We heard about, the Commission staff
2 and consultants heard about what it is that
3 that bank looks for in terms of lending to
4 these projects and what institutional debt
5 investors look for when lending to these
6 projects. Things like cash flow and the amount
7 of cash flow that the project is expected to
8 throw off.

9 And they heard about other casino
10 project finance construction deals have gotten
11 done in recent times and heard about how there
12 are projects that are not as strong as our
13 project, whether from the cash flows that they
14 can generate or projects have less debt-to-
15 equity ratios than what we propose, and how
16 those financings had little to no trouble
17 getting done and the strengths of this project,
18 and why they were very confident about this
19 project.

20 In addition, we talked a little bit
21 about being able to have the financing ready to
22 go on award of the license I guess subject to
23 the referendum. So, Bank of America would go
24 to market in between now and the referendum and

1 would be able to place the \$735 million of
2 funds into escrow. That is something that they
3 do on a regular basis.

4 So, upon award of the license in
5 early November, we had talked about having --
6 the Commission had talked about having \$45
7 million of equity available, we are not talking
8 about \$195 million of equity available and the
9 full \$735 million of financing from Bank of
10 America available for the project.

11 So, I'm going to turn the microphone
12 back over to Mitchell to talk about the other
13 conditions unless there are any questions. But
14 I would like to say that Mitchell is now going
15 to talk about marketing and the enhancements to
16 the marketing conditions that we talked about.

17 But we really do view this as a
18 partnership. And what we have done on our end
19 of the partnership is more than double our
20 commitment to this project in terms of dollars.
21 We view that as a strong commitment. I think
22 Mitchell will say the same thing. What
23 Mitchell is about to talk about now is their
24 commitment to this project.

1 We think that the marketing
2 enhancements that are being made, the
3 restrictions that are being rearranged and
4 changed that he's going to go into and that was
5 detailed on Friday show their commitment.

6 And from the financial partner here
7 who this is an investment and looking to get a
8 return on investment for that we cannot
9 underestimate how big these changes are. We're
10 excited about them. We were excited before but
11 this only goes to enhance the financials and
12 the economics of what this investment means for
13 us. And with that I'll turn it over to
14 Mitchell to discuss that

15 MR. ETESS: Thanks, Doug. So, I'm
16 going to talk about clarifying and amplifying
17 the reasons behind our response to the proposed
18 conditions relative to the marketing plan.

19 I'd like to start with the protected
20 zone. The driving goal behind this response
21 was to assure the Commission and the
22 Commonwealth that Mohegan Sun MA will be
23 aggressively marketed leaving no state, no
24 coast or no country uncovered. We do this in

1 two ways.

2 First, as was explained in our
3 letter, we've increased the protected zoned to
4 include the entire Commonwealth of
5 Massachusetts, all of New Hampshire, all of
6 Rhode Island and all of Maine.

7 Second, to further respond to the
8 Commission's concern in addition to the
9 protections, we've committed that any gaming
10 promotion offered at any Mohegan Sun property
11 whether Mohegan Sun Connecticut, Mohegan Sun
12 Pocono Downs, Resorts Atlantic City or any
13 property that we may operate in the future in
14 any state, any of those gaming offers will be
15 valid and redeemable at Mohegan Sun MA and
16 marketed as such.

17 So, when you receive your offer it
18 will say whether it is a Pocono Downs offer, or
19 a Resorts offer or a Mohegan Sun Connecticut
20 offer, it will say this offer is also good at
21 Mohegan Sun MA and feel free to bring it.

22 This is going to give the
23 Commonwealth additional protections and
24 opportunities in states throughout the

1 Northeast, not only including Connecticut,
2 which you talked about but the very fertile
3 markets of New York and Pennsylvania where our
4 brand is extremely strong and we are very
5 powerful in the marketplace. Those are great
6 markets for Massachusetts, as you know.

7 Now you'll also note that we
8 proposed a condition related to marketing of
9 our own. This speaks to our commitment of both
10 high-end play and national and international
11 marketing.

12 We are pleased to hear the
13 Commission note that we currently operate the
14 highest grossing gaming casino in the Western
15 Hemisphere and have for some time. You don't
16 get to that point by marketing to only on an
17 hour level or basically in a small way. We
18 bring in high-end play all of the time.

19 In retrospect, I think we regret
20 including a very conservative study of the
21 market with our RFA-2 application, the PKF
22 study which we've heard a lot about. Again,
23 for the record it was just that. It was a
24 study.

1 We relied on it for some things. We
2 didn't on others. It's not our marketing plan.
3 As Commissioner McHugh noted, yesterday with
4 our application, with our clarification
5 responses and our response to the questions
6 from the host community hearing we in fact
7 provided a marketing plan and much more
8 detailed on our plans and projections.

9 Among those was a projection that as
10 much as 25 percent of our visitors will come
11 out of state, 25 percent.

12 You saw our high-end gaming
13 facilities when you toured our Connecticut.
14 And you know we have the experience and the
15 ability to perform extremely successfully in
16 that area. There is also no doubt that our
17 outwardly facing model that looks out into the
18 Greater Boston area as well as location right
19 next to Logan Airport is the right mix to
20 attract these visitors. And we are completely
21 committed to maximizing the tourism effort as
22 well.

23 But we understand the Commission
24 would have liked us to develop more concrete

1 national and international tourist marketing.
2 And our new condition addresses that concern.

3 We have a thoughtful approach that
4 we began developing during the application
5 process that includes concrete strategies to
6 attract two types of justice, the national and
7 international tourists and the national and
8 international gamers.

9 The first of those visitors come to
10 Boston because this is in itself a very special
11 city. It's a destination into itself. We'll
12 develop the right plan to make sure existing
13 tourists combine their trip to a convention or
14 a conference or a college or historic Salem
15 with a trip not only to Mohegan Sun MA but also
16 to Revere Beach and the hundreds of local
17 businesses that we've partnered with in our
18 Momentum Program.

19 We'll also insure that we work
20 collaboratively with the local organizations to
21 guarantee that Mohegan Sun MA will be presented
22 as a destination that it will be and market it
23 as another key attraction in itself into the
24 region.

1 The second group is high-end gamers.
2 We'll provide the right plan to get them here
3 through our partnership with Track Asia and our
4 opening of player representative offices in
5 targeted markets that we've mentioned to you,
6 so, China, Brazil, Turkey and several others.

7 And please remember, I please ask
8 you to remember that the Mohegan Sun
9 authorization has been driving high-end play to
10 the Northeast for almost 20 years.

11 We do understand the Commission's
12 concern that these plans may be lacking some
13 meat on the bone. That's fair. So, therefore,
14 we propose that (1) within 30 days Mohegan Sun
15 MA and an independent consultant chosen by the
16 Commission will review Mohegan Sun MA plan for
17 marketing to visitors outside of Massachusetts.
18 (2) The consultant will suggest changes and
19 additions to the plan and present these
20 additions and changes to the Commission and the
21 Commission must approve this plan as a
22 condition of licensure and will annually
23 monitor our performance.

24 Again, we express our most sincere

1 gratitude to you. And I'm very happy to answer
2 any questions that you may have. Thank you
3 very much.

4 COMMISSIONER MCHUGH: All right.
5 Thank you both. Questions from the
6 Commissioners? Commissioner Zuniga.

7 COMMISSIONER ZUNIGA: Yes. You'll
8 remember yesterday we had a little discussion
9 relative to what that equity guarantee, the \$50
10 million equity guarantee how that tied with or
11 whether it did with the backstop commitment
12 that you provided on other financing pieces.
13 Could you expand a little bit more on that how
14 does that tie together?

15
16 (Loss of power. A recess was taken)

17
18 COMMISSIONER MCHUGH: This shows
19 that we can't plan for everything. All right.
20 Ready to go. Let's resume remembering that the
21 watchword for this entire process is expect the
22 unexpected. Go ahead.

23 COMMISSIONER ZUNIGA: Do we have the
24 stream back on? What about the screen up here?

1 Thank you.

2 COMMISSIONER MCHUGH: Okay.

3 Commissioner why don't you restate your
4 question because we don't know when exactly
5 that went down.

6 COMMISSIONER ZUNIGA: After this
7 power break, my first question was relative to
8 the equity guarantee. You stated that there's
9 \$50 million more of equity in the form of a
10 guarantee. How does that relate to the
11 backstop notion that you had provided for other
12 funding items?

13 MR. PARDON: Sure. So, the \$50
14 million equity guarantee is an incremental \$50
15 million. It is an entirely new financing and
16 commitment that we're bringing to the project.

17 I just want to touch on the backstop
18 financing because I do think there was some
19 confusion yesterday about that. The purpose of
20 the backstop financing, while they probably
21 added some confusion, which was not our
22 intended consequence, it was really meant to
23 provide comfort. So, what we wanted to show
24 was that every dollar in the project had been

1 accounted for and was coming from a funding
2 source.

3 So, the two components that make up
4 the backstop for the financing for the slot
5 machines or the FF&E in the casino as well as
6 the third-party hotel. It is our intention and
7 it was our intention then and it continues
8 today to go out and raise funding for those
9 sources, possibly through a lease arrangement
10 with respect to the slot machines and with a
11 loan with respect to the hotel.

12 But what we wanted to do is we
13 didn't want to be here and say and answer the
14 question well, what happens if you can't get
15 the lease arrangements for the slot machines or
16 what happens if you can't get that money for
17 the hotel?

18 We wanted to provide the assurance
19 that it was there to the extent that those
20 funds would not be available in the market.
21 So, that was the concept behind the backstop
22 financing. And that money is there. There
23 were two separate commitment letters that were
24 submitted with respect to that. I believe they

1 were submitted sometime in April with respect
2 to a clarification question.

3 And this \$50 million is new. And it
4 is common equity, and it is unrelated to the
5 backstop financing. So, the grand total here
6 we're talking about was 110 million in our
7 original equity commitments, 135 million in
8 backstop which was provided and then an
9 additional 150 million in new equity financing
10 that we're talking about today for a grand
11 total of \$395 million.

12 COMMISSIONER ZUNIGA: Can I ask, I
13 know you will or Bank of America would go to
14 market as soon as -- to raise the 732 million
15 that you assume. Could you share with us the
16 rate of interest on that borrowing?

17 MR. PARDON: Sure. The rate was
18 provided to HLT and Commission staff on last
19 Thursday at the meeting, I believe.

20 COMMISSIONER ZUNIGA: Again, I put
21 it in this term. Higher or lower than 12
22 percent, the amount that you now have of
23 preferred equity.

24 MR. PARDON: I request the ability

1 to come back, but I believe it's around eight
2 percent on the Bank of America debt.

3 COMMISSIONER ZUNIGA: So, you're
4 still assuming that you would borrow 732
5 million.

6 MR. PARDON: That was what we
7 contemplated. We wanted to provide assurances
8 that there was another \$150 million. That was
9 sort of unclear to us with the condition
10 whether you were looking for us to lower the
11 debt by the 150 million. We kind of left that
12 open.

13 The commitment is there for 735. As
14 of right now, we feel like it would be prudent
15 to have the extra money there to deal with
16 unforeseen issues in their eyes. We left it
17 open, but that's our intention. And we'd be
18 more than willing to discuss with the
19 Commission about how they felt about that.

20 COMMISSIONER ZUNIGA: But it could
21 be fair to say that if you could get money at
22 eight percent would be better for the project
23 than at 12 percent.

24 MR. PARDON: Correct. We would be

1 willing to work with the Commission to reduce
2 the preferred investment now that there's more
3 common equity in the project. We would be
4 willing to work with you. What we wanted to
5 show was we now have an additional \$150 million
6 to spend towards the project and get it
7 financed. We'll do what's best for -- what we
8 think collaboratively, working collaboratively
9 with the Commission on what is the ultimate
10 best financing structure if that's something
11 that's important to the Commission.

12 COMMISSIONER ZUNIGA: Okay.

13 COMMISSIONER MCHUGH: All right,
14 thank you.

15 COMMISSIONER ZUNIGA: Thank you for
16 your questions.

17 COMMISSIONER MCHUGH: Commissioner
18 Stebbins.

19 COMMISSIONER STEBBINS: Just one
20 quick question. It's relative to the marketing
21 drawing more outside visitors, setting the PKF
22 information aside. You talk about 25 percent
23 of your visitors coming from out-of-state. Do
24 you see that 25 percent as being a combination

1 of people you're marketing to plus people that
2 are already here visiting Boston for whatever
3 other reason?

4 MR. ETESS: Yes, I think it's a
5 combination thereof. I think we will have the
6 power of our database and the loyalty we have.
7 Especially, New York and Pennsylvania are very
8 big states for Massachusetts. And they're our
9 loyal customers. And the power of our database
10 to drive a lot of business here.

11 But additionally, we intend to be
12 very aggressive working with the local regions
13 with marketing with our Momentum partners to
14 make sure that people who are coming into the
15 city are coming in and that starts by making
16 sure that Mohegan Sun MA markets as that it's
17 one of the great attractions of Boston that it
18 will be. So, the answer is both.

19 COMMISSIONER STEBBINS: Thank you.

20 COMMISSIONER MCHUGH: Commissioner
21 Cameron?

22 COMMISSIONER CAMERON: No questions,
23 thank you.

24 COMMISSIONER MCHUGH: I have no

1 question either except that the meeting between
2 Bank of America that you described was a
3 meeting between Bank of America and you and
4 staff. It was not a meeting with the
5 Commissioners.

6 MR. PARDON: That is correct.

7 COMMISSIONER MCHUGH: Okay. Thank
8 you very much. All right. Let's proceed to
9 now the Wynn applicant. Good morning.

10 MS. SINATRA: Good morning. We have
11 a few slides. Jacqui is going to run those.

12 Members of the Commission, thank you
13 so much for inviting us to the microphone.
14 We've been like the eager student in the back
15 of the room waving our hand for the last couple
16 of days. I am sure Mohegan Sun felt the same
17 way. So, we appreciate the opportunity to
18 clarify some of the responses that we made last
19 Friday to the 86 conditions that we received on
20 Wednesday.

21 What I'd like to start off with is
22 to try to give you an overview of our approach
23 toward our business because that's exactly the
24 way we approached the conditions. And our

**SUMMARY OF CONDITIONS
WYNN MA LLC**

	Section 1
Definitions	
	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:
Effective Date	The Effective Date of the License shall be three (3) business days after certification of a “no” vote on Question 3 in the November 4, 2014 general election.
EOEEA	Executive Office of Energy and Environmental Affairs.
FEIR	The Final Environmental Impact Report dated June 30, 2014, for the Project.
LEED	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.
License	The Category 1 gaming license issued by the Commission to Wynn for operation of the Gaming Establishment.
MBE	Minority Business Enterprise.
MEPA	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>
Opening Date	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>
Project	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.
Secretary’s Certificate	The MEPA Certificate issued by the Secretary of EOEEA on the FEIR and/or on the SFEIR (as applicable) for the Project.
SFEIR	The Supplemental Final Environmental Impact Report for the Project.
Term	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.
VBE	Veteran Business Enterprise.
WBE	Women Business Enterprise.
Wynn	Wynn, MA LLC, a Nevada limited liability company with principal address and offices located at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

		Section 2
	General Conditions	
1.	Compliance with c. 23K and 205 CMR	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.
2.	Compliance with law	Compliance with all applicable federal, state and applicable and lawful local laws, rules and regulations, now in effect or as hereafter promulgated or amended.
3.	Compliance with MEPA	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
4.	Compliance with debt to equity ratio requirements	Compliance with any debt-to-equity ratio requirements established by the Commission's regulations or directives.
5.	Payment of the License Fee	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.
6.	Payment of Gross Gaming Revenue	Pay daily to the Commission the gross gaming revenue payment as provided by G.L. c.23K, §55, and 205 CMR.
7.	Payment of the Assessment Fee	Payment of assessments made pursuant 205 CMR 121.00 within three (3) business days of the Effective Date. Such assessments shall be offset by any installment payment made by Wynn under 205 CMR 121.02(1)
8.	Payment of the Slot Assessment Fee	Payment within three (3) business days of the Commission's vote to award the License to Wynn an installment fee pursuant to 205 CMR 121.02(1) in the amount of \$6,330,513. This payment shall be considered an installment and credited to the Slot Assessment in the amount of \$1,550,843 and six (6) months of the Commission's Annual Assessment in the amount of \$4,779,670 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). (Note: numbers subject to review pending final slot machine numbers.)
9.	Bond	Within 30 days after the Effective Date, Wynn shall: (a) Deposit \$ <u> </u> , representing 10% of the total investment

		<p>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 acceptable to the Commission, insuring that \$____, 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>
10.	Compliance with G.L. c.23K, §15(3)	Compliance with the requirements of G.L. c. 23K, §15 (3) regarding land acquisition within 60 days of the Effective Date.
11.	Compliance with Agreements	<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"> 1. the host community agreement; 2. surrounding community agreements; 3. conditions imposed by the Commission in lieu of a surrounding community agreement with the City 4. of Boston, 5. impacted live entertainment agreements; 6. lottery agreements; 7. any agreements related to the Licensee’s RFA-2 application signed with local partners as of the Effective Date; 8. 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; 9. affirmative marketing programs for those businesses identified in c. 23K, §21(a)(i),(ii), and (iii) for design and construction of the Gaming Establishment; 10. affirmative action programs identified under c.23K, §21(a)(22); 11. all federal, state and applicable and lawful local permits and approvals required to construct and operate the Gaming Establishment; and 12. all executed Signature Forms contained in section B of the RFA-2 application.
12.	Affirmative Marketing Program – Design and Construction	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.
13.	Affirmative Marketing Program – Goods and Services	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.
14.	Affirmative Action Program	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).
15.	Compliance with Construction Plans	Compliance with the construction plans, specifications, and timelines as approved by the Commission in accordance with G.L. c. 23K and 205 CMR.
16.	Compliance with the Information in the RFA-2 and Evaluation Reports	Wynn shall have an affirmative obligation to abide by every statement made in its 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.
17.	Creation of a Plan to Identify and Market Employment Opportunities to Unemployed Residents	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.
18.	Creations of a Regional Tourism Marketing Plan	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.
19.	Creation of a Plan to Identify Local Vendors	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.
20.	Institution of Credit and Collection Practices	Institution of credit and collection practices that comply with G.L. c. 23K and 205 CMR.
21.	Compliance with Commission Free Play Standards	Compliance with any free play standards set by the Commission
22.	Litigation Update to the Commission	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.

23.	Changes in Directors, Officers, or Qualifiers	Wynn shall comply with 205 CMR 116.04 and 116.06 relative to notification of anticipated, proposed, or actual changes.
24.	Financial Transactions	Wynn shall comply with 205 CMR 116.05 relative to notification of new financial sources.
25.	Transfer of Interest	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.
26.	Notification of Defaults	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.
27.	Notification of Refinancing of Debt	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
28.	Submission of Audited Financial Statements	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 provided by 205 CMR.
29.	Compliance with Bank Secrecy Act of 1970	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) which requires U.S. financial institutions, including casinos, to assist U.S. government agencies to detect and prevent money laundering.
30.	LEED Gold Certification	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.
31.	Compliance with Wage	Wynn shall adhere as reasonably practicable to the average

	Scales Provided in RFA- 2	wage scales provided in its RFA-2 application.
32.	Application for Alcoholic Beverage License	Wynn shall apply for an alcoholic beverage license in accordance with G.L. c. 23K and 205 CMR.
33.	Compliance with All Permitting Requirements	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 progress.
34.	Notification of Selection of General Contractor	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.
35.	Construction labor report	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.
36.	Representation of Local and Regional Business in Retail Program	Wynn shall report to the Commission on Wynn's efforts to have appropriate representation of local and regional businesses in Wynn's retail program.
37.	Maintenance of Workplace Population in Everett	Wynn shall report to the Commission regarding discussions with the City of Everett to maintain workforce population in the City of Everett.
38.	Plan for Entrance and Exit of Public Safety Vehicles	Wynn shall develop a plan 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 thereafter 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.
39.	Provision of Reports on Macau Operations	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.
40.	Notice of Change in Corporate Structure	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.
41.	Re-opener Provisions Re: the City of Boston	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.
42.	Re-opening of Conditions by the Commission	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.
43.	Capital expenditures	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.

44.	Dual ownership	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.
45.	Cooperation in gaming-related investigations	Wynn shall cooperate with the Commission and the Office of the Attorney General in all gaming-related investigations. 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.
46.	Cooperation in criminal matters	Wynn shall cooperate with the Commission and the Office of the Attorney General with respect to the investigation of any criminal matter; 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.
47.	Warrantless searches	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.
48.	Duty to Inform	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.
49.	Office space and parking	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 and parking spaces.
50.	Employment report	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.
51.	Employment of licensed or registered individuals	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.
52.	Doing business with licensed or registered vendors	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.
53.	Demographic information	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.
54.	On site space and training of employees relative to problem gambling.	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 intervention with customers exhibiting problem gaming behavior.
55.	Problem gambling	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.
56.	Self-exclusion from marketing or promotional communications	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.
57.	Public health strategies	Wynn shall institute additional public health strategies as required by the Commission during the term of the license.
58.	Statistical reporting for MBE, WBE, and VBE	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 contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms.
59.	Unattended minors	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.
60.	Conditions Binding on Successors and Assigns	All of the terms and conditions of the License shall be binding upon Wynn and its Affiliates and permitted successors and assigns.

		Section 3
	Conditions Required to Mitigate Impacts to the City of Boston	
1.	Mitigation Required by MEPA	Wynn shall complete all mitigation, including traffic mitigation, required pursuant to the MEPA process for the Project 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 and shall be responsible for all costs associated with such mitigation.
2.	Interim Mitigation Plan	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.
3.	Traffic Infrastructure Payments to Mitigate Traffic Issues in the City of Boston	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. Within 90 days of the Opening Date and each year thereafter on the anniversary of the Opening Date during the term of the License 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.
4.	Public Safety Mitigation Payment	<p>Wynn shall pay to the City of Boston the following amounts (collectively the “Public Safety Payment”):</p> <p>A one time, upfront, non--refundable payment of Seven Hundred Fifty Thousand Dollars (\$750,000.00), which amount shall be payable as follows:</p> <p>Two Hundred Fifty Thousand Dollars (\$250,000.00) within sixty (60) days following the Effective Date of the License,</p> <p>Two Hundred Fifty Thousand Dollars (\$250,000.00) upon the one year anniversary of the Effective Date of the License, and</p> <p>Two Hundred Fifty Thousand Dollars (\$250,000.00) upon the second anniversary of the Effective Date of the License; and</p> <p>An annual payment of One Million Dollars (\$1,000,000.00) which amount shall be due on or before the ninetieth (90th) 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.</p>
5.	Community Fund Payment	<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.</p>
6.	Water Transportation Payment	<p>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</p>

		<p>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.</p>
<p>7.</p>	<p>Escalation of Payments</p>	<p>Beginning with the second annual payment, the Transportation Infrastructure Payment, Traffic Reduction Incentive Payment (defined below), the Public Safety Payment, the Water Transportation Payment and the Community Fund 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 Transportation Infrastructure Payment, the Public Safety Payment, the Water Transportation Payment and the Community Fund 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>8.</p>	<p>Business Development</p>	<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 Effective 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</p>

		<p>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 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>9.</p>	<p>Jobs Program</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</p>

		<p>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 every six (6) months 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 and shall hold one event annually thereafter. 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 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>
10.	Responsible Gaming	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

		<p>problem gambling. In furtherance thereof, Wynn and its employees and agents shall 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>11.</p>	<p>Look Back Studies</p>	<p>Wynn, 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.</p> <p>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 ("1st Year Report") and 60 months after the Opening Date, ("5th Year Report").</p>

		<p>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.</p> <p>Upon the issuance of the final Construction Period Report, the 1st Year Report and 5th 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, 1st Year Report or the 5th 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, 1st Year or 5th 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 (c). 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.</p>
12.	<p>Reimbursement Of Expenses</p>	<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>

		Section 4
	Conditions Required to Mitigate Traffic and Other Impacts Caused by the Construction and Operation of the Gaming Establishment	
1.	Definitions	<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, 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, 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, the SSIP may be designed and constructed in its entirety or in phases.</p> <p><u>Sullivan Square Infrastructure Fund</u> (“SSIF”): the escrow fund created under Section 3 to hold the SSIP Percentage Share payments and the Traffic Reduction Incentive Payments.</p>
2.	SSIP Percentage Share	<p>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</p>

		<p>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.</p>
<p>3.</p>	<p>Interim Mitigation Plan/Traffic Reduction Incentive Payment</p>	<p>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 10th 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 Vehicle Trip Data.</p>
<p>4.</p>	<p>SSIF Escrow Account</p>	<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</p>

		<p>Massachusetts. The SSIF escrow fund 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. 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. 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 Opening 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>
5.	<p>Transportation Demand Management</p>	<p>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.¹ 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</p>

¹ 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>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”).</p> <p>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 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 required to be made by Wynn pursuant to the conditions of its License.</p>
6.	Parking Garage: Number of Spaces	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.
7.	Amendment of Traffic Mitigation Conditions	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 mitigation conditions.
8.	Community Outreach	Wynn will engage in community outreach to the

		Charlestown neighborhood and consult with the neighborhood the 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.
9.	Public Involvement Plan for Hazardous Materials	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 to the Commission for its review and approval promptly after the award of the License. Pursuant to 310 CMR 40.1405, the initial mailing list will include 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.
10.	Failure to Obtain Required Permits from the City of Boston	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..

		Section 5
	Other Conditions	
1.	Building and Site Design	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.
2.	Economic Development	Wynn will commit 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.
3.	Hiring preference	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.
4.	Medical and Dental benefits	Wynn will commit to provide medical and dental benefits to unionized and non-unionized employees at the Project at least commensurate with the benefit programs offered at Wynn's Nevada gaming facilities.



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**

	Section 1
Definitions	
	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:
DOR Directive	<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>
Effective Date	The Effective Date of the License shall be three (3) business days after <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>
EOEEA	Executive Office of Energy and Environmental Affairs.
FEIR	The Final Environmental Impact Report dated June 30, 2014, for the Project.
LEED	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.
License	The Category 1 gaming license issued by the Commission to Wynn for operation of the Gaming Establishment.
MBE	Minority Business Enterprise.
MEPA	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>
Opening Date	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>
Project	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.
Secretary's Certificate	The MEPA Certificate issued by the Secretary of EOEEA on the FEIR and/or on the SFEIR (as applicable) for the Project.
SFEIR	The Supplemental Final Environmental Impact Report for the Project.
Term	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.
VBE	Veteran Business Enterprise.

WBE	Women Business Enterprise.
Wynn	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

		Section 2
	General Conditions	
1.	Compliance with c. 23K and 205 CMR	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
2.	Compliance with law	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
3.	Compliance with MEPA	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
4.	Compliance with debt to equity ratio requirements	<p>Compliance with any debt-to-equity ratio requirements established by the Commission's regulations or directives.</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
5.	Payment of the License Fee	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>

6.	Payment of Gross Gaming Revenue	Pay daily to the Commission the gross gaming revenue payment as provided by G.L. c.23K, §55, and 205 CMR. ¹ <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
7.	Payment of the Assessment Fee	Payment of assessments made pursuant 205 CMR 121.00 within three (3) business days <u>following receipt</u> of the Effective Date <u>DOR Directive</u> . Such assessments shall be offset by any installment payment made by Wynn under 205 CMR 121.02(1). <u>Wynn's Response: Wynn accepts this condition with the proposed revisions.</u>
8.	Payment of the Slot Assessment Fee	Payment within three (3) business days of the Commission's vote to award the License to Wynn <u>following receipt of the DOR Directive</u> , an installment fee pursuant to 205 CMR 121.02(1) in the amount of \$6,330,513 <u>[TBD]</u> . This payment shall be considered an installment and credited to the Slot Assessment in the amount of \$1,550,843 <u>[TBD]</u> and six (6) months of the Commission's Annual Assessment in the amount of \$4,779,670 <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). (Note: numbers subject to review pending final slot machine numbers.) <u>Wynn's Response: Wynn requests to review the calculation but otherwise accepts this condition with the proposed revision.</u>
9.	Bond	Within 30 days after the Effective Date, Wynn shall: (a) Deposit \$ <u> </u> , 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 (b) Secure a deposit bond, in a form and from an institution

¹ 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 \$_____, 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>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
10.	Compliance with G.L. c.23K, §15(3)	<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>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
11.	Compliance with Agreements	<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"> 1. the host community agreement; 2. surrounding community agreements; 3. conditions imposed by the Commission in lieu of a surrounding community agreement with the City 4-of Boston, 4. <u>5-</u>impacted live entertainment agreements; 5. <u>6-</u>lottery agreements; 6. <u>7-</u>any agreements related to the Licensee's RFA-2 application signed with local partners as of the Effective Date; 7. <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; 8. <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; 9. <u>10-</u>affirmative action programs identified under c.23K, §21(a)(22); <u>and</u> 10. <u>11-</u>all federal, state and applicable and lawful local permits and approvals required to construct and operate the Gaming Establishment; and all executed Signature Forms contained in section B of the RFA-2 application. <p><u>Wynn's Response: Wynn accepts this condition with the proposed conforming change to maintain consistency with prior licenses/designations.</u></p>

12.	Affirmative Marketing Program – Design and Construction	<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><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></p>
13.	Affirmative Marketing Program – Goods and Services	<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><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></p>
14.	Affirmative Action Program	<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><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></p>
15.	Compliance with Construction Plans	<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><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></p>

16.	Compliance with the Information in the RFA-2 and Evaluation Reports	<p>Wynn shall have an affirmative obligation to abide by every statement made in its's <u>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.</u></p>
17.	Creation of a Plan to Identify and Market Employment Opportunities to Unemployed Residents	<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>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
18.	Creations of a Regional Tourism Marketing Plan	<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>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>

19.	Creation of a Plan to Identify Local Vendors	<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><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></p>
20.	Institution of Credit and Collection Practices	<p>Institution of credit and collection practices that comply with G.L. c. 23K and 205 CMR.</p> <p><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></p>
21.	Compliance with Commission Free Play Standards	<p>Compliance with any free play standards set by the Commission.</p> <p><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></p>
22.	Litigation Update to the Commission	<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><u>Wynn’s Response: Wynn accepts this condition in its entirety.</u></p>
23.	Changes in Directors, Officers, or Qualifiers	<p>Wynn shall comply with 205 CMR 116.04 and 116.06 relative to notification of anticipated, proposed, or actual changes.²</p>

² [Please see Footnote 1.](#)

		<u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
24.	Financial Transactions	Wynn shall comply with 205 CMR 116.05 relative to notification of new financial sources. ³ <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
25.	Transfer of Interest	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. ⁴ <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
26.	Notification of Defaults	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. <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
27.	Notification of Refinancing of Debt	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. <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
28.	Submission of Audited Financial Statements	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

³ [Please see Footnote 1.](#)

⁴ [Please see Footnote 1.](#)

		<p>provided by 205 CMR.</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
29.	Compliance with Bank Secrecy Act of 1970	<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") which requires U.S. financial institutions, including casinos, to assist U.S. government agencies to detect and prevent money laundering.</p> <p><u>Wynn's Response: The Bank Secrecy Act of 1970 is far more extensive than the specified description. We otherwise accept.</u></p>
30.	LEED Gold Certification	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
31.	Compliance with Wage Scales Provided in RFA- 2	<p>Wynn shall adhere as reasonably practicable to the average wage scales provided in its RFA-2 application.</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
32.	Application for Alcoholic Beverage License	<p>Wynn shall apply for an alcoholic beverage license in accordance with G.L. c. 23K and 205 CMR.</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
33.	Compliance with All Permitting Requirements	<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.	Notification of Selection of General Contractor	<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.	Construction labor report	<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.	Representation of Local and Regional Business in Retail Program	<p>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 <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.	Maintenance of Workplace Population in Everett	<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.	Plan for Entrance and Exit of Public Safety Vehicles	<p>Wynn shall develop a plan's <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>thereafter <u>City of Everett and for the benefit of the City of Boston including payments for public safety.</u></p> <p>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.</p>
39.	Provision of Reports on Macau Operations	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
40.	Notice of Change in Corporate Structure	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
41.	Re-opener Provisions Re: the City of Boston	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>

42.	Re-opening of Conditions by the Commission	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 <u>Wynn's Response: This condition is unacceptable. In addition, this condition has not been proposed for any other applicant.</u>
43.	Capital expenditures	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. ⁵ <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
44.	Dual ownership	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. ⁶ <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
45.	Cooperation in gaming-related investigations	Wynn shall cooperate with the Commission and the Office of the Attorney General in all gaming-related investigations. 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. <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>

⁵ [Please see Footnote 1.](#)

⁶ [Please see Footnote 1.](#)

46.	Cooperation in criminal matters	<p>Wynn shall cooperate with the Commission and the Office of the Attorney General with respect to the investigation of any criminal matter; 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.</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.	Warrantless searches	<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.⁷</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
48.	Duty to Inform	<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.⁸</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
49.	Office space and parking	<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>

⁷ [Please see Footnote 1.](#)

⁸ [Please see Footnote 1.](#)

		and parking spaces. <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
50.	Employment report	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. ⁹ <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
51.	Employment of licensed or registered individuals	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. ¹⁰ <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
52.	Doing business with licensed or registered vendors	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. ¹¹ <u>Wynn's Response: Wynn accepts this condition in its entirety.</u>
53.	Demographic information	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 <u>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.</u>
54.	On site space and training of employees relative to problem gambling.	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

⁹ Please see Footnote 1.

¹⁰ Please see Footnote 1.

¹¹ Please see Footnote 1.

		<p>intervention with customers exhibiting problem gaming behavior.¹²</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
55.	Problem gambling	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
56.	Self-exclusion from marketing or promotional communications	<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><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
57.	Public health strategies	<p>Wynn shall institute additional public health strategies as required by the Commission during the term of the license.¹³</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
58.	Statistical reporting for MBE, WBE, and VBE	<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>

¹² Please see Footnote 1.

¹³ Please see Footnote 1.

		<p>contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms.¹⁴</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
59.	Unattended minors	<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.¹⁵</p> <p><u>Wynn's Response: Wynn accepts this condition in its entirety.</u></p>
60.	Conditions Binding on Successors and Assigns	<p>All of the terms and conditions of the License shall be binding upon Wynn and its Affiliates and permitted successors and assigns.</p>

¹⁴ Please see Footnote 1.

¹⁵ Please see Footnote 1.

		Section 3
	Conditions Required to Mitigate Impacts to the City of Boston	
1.	Mitigation Required by MEPA	<p>Wynn shall complete all mitigation, including traffic mitigation, required pursuant to the MEPA process for the Project 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 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>
2.	Interim Mitigation Plan	<p>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 <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>
3.	Traffic Infrastructure Payments to Mitigate Traffic Issues in the City of Boston	<p>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.</p> <p>Within 90 days of the Opening Date and each year thereafter on the anniversary of the Opening Date during the term of the License</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>4. 3.</p>	<p>Public Safety Mitigation Payment Payments</p>	<p>Wynn shall pay to the City of Boston the following amounts (collectively the “Public Safety Payment”):’s Response: 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.</p> <p>1. <u>Upfront Payment</u></p> <p><u>A 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 Two Million Seven Hundred Fifty Thousand Dollars (\$750,000.00/2,750,000.00), which amount shall be payable as follows:</u></p> <p>Two Hundred Fifty Thousand Dollars (\$250,000.00) within sixty (60) days following the Effective Date of the License;</p> <p>Two(as defined in the Conditions to License). <u>The allocation of this upfront payment shall be One Million Five Hundred Fifty Thousand Dollars (\$250,000.00) 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>2. <u>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 (90th) 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>An annual payment of One Million Dollars (\$1,000,000.00) which amount shall be due on or before the ninetieth (90th) 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.</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.	<p>Community Fund Payment</p> <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. <u>Please see Wynn’s response to Condition 3 in this Section.</u></p>
6.	<p>Water Transportation Payment</p> <p><u>Please see</u> 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 <u>response to Condition 3 in this Section.</u></p>
7.	<p>Escalation of Payments</p> <p>Beginning with the second annual payment, the Transportation Infrastructure Payment, Traffic Reduction Incentive Payment (defined below), the Public Safety Payment, the Water Transportation Payment and the <u>Community Fund Annual</u> 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 Transportation Infrastructure Payment, the Public Safety Payment, the Water Transportation Payment and the Community Fund Annual 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><u>Wynn’s Response: Wynn accepts this condition subject to the</u></p>

		<u>proposed revisions.</u>
8.	Business Development	<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 <u>Effective Opening Date</u> and throughout the <u>Term</u> 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>Wynn's Response: Wynn accepts this condition subject to the proposed revisions to ensure consistency with Wynn's BAFO.</u></p>
9.	Jobs Program	<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 every six (6) months 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 and shall hold one event annually thereafter. 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.	Responsible Gaming	<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 and shall direct its employees and agents shall to 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.	Look Back Studies	<p>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.</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>¹⁶</p> <p>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 ("1st Year Report") and 60 months after the Opening Date, ("5th 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.</p> <p>Upon the issuance of the final Construction Period Report, the 1st Year Report and 5th 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, 1st Year Report or the 5th 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, 1st Year or 5th 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 (c). 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.</p>
--	--

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

12.	Reimbursement Of Expenses	<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>Wynn's Response: Wynn accepts this condition subject to a cap of \$250,000.</u></p>
-----	--------------------------------------	---

DRAFT

		Section 4
	<p>Conditions Required to Mitigate Traffic and Other Impacts Caused by the Construction and Operation of the Gaming Establishment</p>	
1.	<p>Definitions</p>	<p>As used in this section, the following terms shall have the following meanings:</p> <p><u>Sullivan Square Infrastructure Project (“SSIP”)</u>: 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 (“SSIF”)</u>: the escrow fund created under Section 3 to hold the SSIP Percentage Share payments and the Traffic Reduction Incentive Payments shall mean an interest bearing escrow fund held by <u>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.</u></p> <p><u>Wynn’s Response: Wynn accepts this condition subject to the proposed revisions.</u></p>

2.	SSIP Percentage Share	<p>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. <u>Wynn’s Response: Based on our proposed restructuring of the SSIP, this condition is not applicable.</u></p>
3.	Interim Mitigation Plan/Traffic Reduction Incentive Payment	<p>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 10th 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</p>

		<p>Vehicle Trip Data <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.	<p>SSIF Escrow Account</p>	<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 escrow fund <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. 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. 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 <u>Opening 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>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.[†] 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”).</p> <p>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 <u>s Response: As set forth in the cover letter, while Wynn will make every effort to encourage</u> 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</p>
----	---	--

[†] 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>required to be made by Wynn pursuant to the conditions of its License 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.	Parking Garage: Number of Spaces	<p>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. 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.	Amendment of Traffic Mitigation Conditions	<p>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 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.	Community Outreach	<p>Wynn will engage in community outreach to the Charlestown neighborhood and consult with the neighborhood the 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.	Public Involvement Plan for Hazardous Materials	<p>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 Response: <u>Wynn will comply with the generally applicable public involvement provisions of 310 CMR 40.0000. Wynn will provide to the Commission for its review and approval promptly after the award of the License. Pursuant to 310 CMR 40.1405, the initial mailing list will include</u> and 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.	Failure to Obtain Required Permits from the City of Boston	<p>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. 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>

		Section 5
	Other Conditions	
1.	Building and Site Design	<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>Wynn's Response: Please see cover letter.</u></p>
2.	Economic Development	<p>Wynn will commit<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>Wynn's Response: This revision is consistent with Wynn's response to the Host Community Meeting questions.</u></p>
3.	Hiring preference	<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>Wynn's Response: This condition is acceptable in its entirety.</u></p>
4.	Medical and Dental benefits	<p><u>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.</u></p>

Wynn RESORTS®

Building and Site Design

- We agree to the condition in its entirety
- The process of reconsideration is underway
- We agree to participate in a materials review

Boston / Charlestown Relationship

- It is in our best interests to find a solution to Boston
- We preferred a Surrounding Community Agreement solution; yet understand the political process prevents that
- Post-decision, we commit to leading a collaborative partnership with Boston

Sullivan Square Traffic Reduction Plan

Transportation Strategies:

- Complete Water Transportation Program
- Shuttle bus connections to subway and commuter stations
- Premium Park and Ride system
- No employee shift changes during peak traffic hours
- Off-site parking for all employees
- Enhanced pedestrian and bicycle access

Transportation Demand Management: Patrons

- Incentives for public transportation and water shuttle use
- Charlie Cards sold on-site at gift shop
- Ten parking spots dedicated to car-sharing program
- All employees trained to inform guests regarding public transit access to the resort and local attractions
- Concierge to advise guests on public transportation use for accessing local attractions
- Resort advertisements will include information regarding non automobile routes to the resort
- Brochures including public transportation information placed with local tourist destination concierge desks
- Public transportation information posted on website
- Social media used to promote public transportation use
- Coordination with MOTT and CVB to promote public transportation use

Transportation Demand Management: Employees

- Off-site parking with shuttle access to the Resort
- Subsidized Charlie Cards provided to employees, Charlie Cards available on-site
- Guaranteed Ride Home program
- Public transportation information posted in employee newsletters and back-of-house areas
- Employees rewarded for public transportation use with internal incentives
- Dedicated Neighborhood Shuttle bus for neighborhoods with a dense population of employees
- On-site Hubway bicycle sharing station
- Bicycle commuter facilities on-site
- Coordination with MassRIDES to support and incentivize employee use of alternate transit modes

Sullivan Square and Boston Mitigation

	BAFO	MGC	Response to Conditions
Upfront Payment	\$1,000,000	\$1,000,000	\$2,750,000
Total of Annual Payments	\$24,000,000	\$39,000,000	\$31,500,000
Sullivan Sq. Long-Term Solution	\$15,000,000	\$10 - \$20 MM	\$22,500,000
MEPA/Sullivan Sq. Mitigation	\$6,000,000	\$6,000,000	\$6,000,000
TOTAL	\$46,000,000	\$56 - 66 MM	\$62,750,000
Traffic Reduction Payment	\$0	TBD	\$0
GRAND TOTAL	\$46,000,000	\$56 - 66 MM	\$62,750,000

Sullivan Square and Boston Mitigation

	BAFO	MGC	Response to Conditions	Response to Comments
Upfront Payment	\$1,000,000	\$1,000,000	\$2,750,000	\$1,000,000
Total of Annual Payments	\$24,000,000	\$39,000,000	\$31,500,000	\$24,000,000
Sullivan Sq. Long-Term Solution	\$15,000,000	\$10 - \$20 MM	\$22,500,000	\$25,000,000
MEPA/Sullivan Sq. Mitigation	\$6,000,000	\$6,000,000	\$6,000,000	\$6,000,000
TOTAL	\$46,000,000	\$56 - 66 MM	\$62,750,000	\$56,000,000
Traffic Reduction Payment	\$0	TBD	\$0	\$20,000,000*
GRAND TOTAL	\$46,000,000	\$56 - 66 MM	\$62,750,000	\$76,000,000

* Cap

Boston / Sullivan Square Summary

- Significantly increase mitigation payment
- Look-back condition consistent with our Surrounding Community Agreements
- Inclusion of the MGC and Boston in our Traffic Demand Management Plan reporting
- Payment mechanism

Wynn
RESORTS[®]

September 16, 2014

1 question either except that the meeting between
2 Bank of America that you described was a
3 meeting between Bank of America and you and
4 staff. It was not a meeting with the
5 Commissioners.

6 MR. PARDON: That is correct.

7 COMMISSIONER MCHUGH: Okay. Thank
8 you very much. All right. Let's proceed to
9 now the Wynn applicant. Good morning.

10 MS. SINATRA: Good morning. We have
11 a few slides. Jacqui is going to run those.

12 Members of the Commission, thank you
13 so much for inviting us to the microphone.
14 We've been like the eager student in the back
15 of the room waving our hand for the last couple
16 of days. I am sure Mohegan Sun felt the same
17 way. So, we appreciate the opportunity to
18 clarify some of the responses that we made last
19 Friday to the 86 conditions that we received on
20 Wednesday.

21 What I'd like to start off with is
22 to try to give you an overview of our approach
23 toward our business because that's exactly the
24 way we approached the conditions. And our

1 question either except that the meeting between
2 Bank of America that you described was a
3 meeting between Bank of America and you and
4 staff. It was not a meeting with the
5 Commissioners.

6 MR. PARDON: That is correct.

7 COMMISSIONER MCHUGH: Okay. Thank
8 you very much. All right. Let's proceed to
9 now the Wynn applicant. Good morning.

10 MS. SINATRA: Good morning. We have
11 a few slides. Jacqui is going to run those.

12 Members of the Commission, thank you
13 so much for inviting us to the microphone.
14 We've been like the eager student in the back
15 of the room waving our hand for the last couple
16 of days. I am sure Mohegan Sun felt the same
17 way. So, we appreciate the opportunity to
18 clarify some of the responses that we made last
19 Friday to the 86 conditions that we received on
20 Wednesday.

21 What I'd like to start off with is
22 to try to give you an overview of our approach
23 toward our business because that's exactly the
24 way we approached the conditions. And our

1 approach to our business is one of incredible
2 discipline. We consider ourselves to be
3 meticulous and I'm sure you can identify with
4 incredible attention to detail.

5 By approaching our business that
6 way, we have been able to achieve the financial
7 wherewithal that you have all noted. We have
8 been grateful sitting here listening to your
9 appreciation for the balance sheet that we have
10 built. And we have built that balance sheet
11 dollar by dollar over the past 12 years of
12 operating this company when we began at Wynn
13 Las Vegas. That started after 27 years of Mr.
14 Wynn's work at Mirage and building that
15 company.

16 We use that discipline to make sure
17 that everything we consider we do in a way that
18 continues to build our wherewithal and our
19 ability to perform. We know and are confident
20 that notwithstanding the vagaries of the global
21 economy that we will be able to deliver for the
22 Commonwealth of Massachusetts the statutory
23 mandate.

24 That mandate includes creating jobs,

1 driving revenue and creating economic
2 development. So, when we think about how we
3 approach what we do in Massachusetts, we are
4 guided by those principles. We have used those
5 principles in Las Vegas in a very, very
6 competitive market. We operate in two of the
7 most competitive markets in the world, Las
8 Vegas and Macau.

9 And while there was lots of talk
10 about who had the highest grossing casino in
11 the Northern Hemisphere, I might point out that
12 we consider and we look at our business at
13 total revenues. While we may have been about
14 \$30 million short of the gaming revenues of
15 Mohegan Sun in the past 12 months, our overall
16 revenues were 60 percent greater at \$1.6
17 billion.

18 We care a lot about those non-gaming
19 revenues because they identify for us the
20 quality of our customer, the quality of our
21 business. And that is the business that we
22 intend to bring to the Commonwealth of
23 Massachusetts.

24 So, the conditions that we wanted to

1 talk about and give you a little bit of
2 understanding of our thought process are
3 basically in two buckets. The first one is
4 relatively straightforward is building and site
5 design.

6 We accompanied our markup of the
7 conditions with a four-page letter from Mr.
8 Wynn. The Commission construed the letter, and
9 I think other people did too, as a pushback to
10 any comments about the design. In fact, we
11 could've said we accept. We wanted to actually
12 in the letter give you a little bit about our
13 thought process.

14 The reconsideration of that tower
15 began when the comments from the Commission
16 were first noted on Monday of last week. So,
17 Mr. Wynn and DeRidder have spent countless
18 hours thinking about that tower and responded
19 and are ready to respond to your comments and
20 your desire for a tower that looks more like
21 Las Vegas.

22 So, we will be prepared within short
23 order if we are lucky enough to be designated
24 to provide you with our updated thinking in

1 that area.

2 Let's move next to the slightly more
3 complicated Boston Charlestown relationship.
4 First of all, we want to let you know that
5 collaboration is a value that is important to
6 us. We wouldn't have been as successful as we
7 are around the world with multiple partners
8 being governments, nonprofits, employees and
9 shareholders if we weren't collaborative at our
10 nature.

11 I will tell you that sometimes
12 discipline and passion is taken for
13 unfriendliness or lack of collaboration, but
14 that is not our intent. And it is not borne
15 out by our conduct. I think that you will be
16 able to make a conclusion about your applicants
17 about how they've dealt with you over the past
18 several years.

19 I know that I personally have been
20 working in the Commonwealth of Massachusetts
21 for about a decade on this matter. But we have
22 worked diligently with the Commission and the
23 stuff as well as our surrounding communities,
24 our local business partners to try to be

1 successful in the Commonwealth and we intend
2 for that to continue.

3 We of course would have preferred a
4 consensual surrounding community agreement with
5 the city of Boston. As you've been party to
6 that's been really difficult. And I think
7 there are a couple of reasons for that. Is
8 that we have straddled two mayoral
9 administrations. Before we came on the scene,
10 the previous administration had been really
11 vocal in support of the competing project.
12 Although its makeup was different, it was the
13 competing project.

14 So, we didn't have a whole lot of
15 success in negotiating with Mayor Menino and
16 his administration with respect to certain
17 mitigation topics.

18 When Mayor Walsh was elected, he
19 came into the middle of a half advanced
20 process. So, I think that was probably
21 difficult for him and his administration to
22 figure out exactly how they wanted to approach
23 it.

24 And we've been relatively strict in

1 our adherence to what we are trying to achieve
2 in a surrounding community agreement. Pursuant
3 to the statute and pursuant to the dictation of
4 the Commission is we have focused on mitigation
5 in a surrounding community agreement and solely
6 on mitigation.

7 Post decision, if we are lucky
8 enough to be designated, one of the first calls
9 will be to Mayor Walsh. And we are hoping that
10 we can at the end of the day get to a place
11 where we are all in agreement on what should
12 happen with respect to Sullivan Square and
13 overall mitigation vis-à-vis Boston.

14 Sullivan Square has become the
15 dominant topic in the overall mitigation with
16 Boston. We look at it not only as the dry
17 commitment that we have made on paper with
18 respect to money but an overall holistic
19 approach to managing traffic.

20 Frankly, it is not in our interest
21 to invest 1.6 billion and be left with a
22 transportation surrounding that does not work.
23 So, when we looked at overall transportation,
24 one of the things was to reduce cars through

1 that intersection.

2 We mean to achieve that through the
3 combination of us lots of strategies including
4 water transportation, shuttle buses, park and
5 rides, employee shift modifications, off-site
6 parking for employees and enhanced pedestrian
7 and bike access and connectivity to the
8 surrounding area.

9 The MEPA process has been incredibly
10 demanding, complete, expensive. And it has
11 included lots of attention to Sullivan Square
12 as well as many other intersections throughout
13 the region.

14 It includes a very robust
15 transportation demand management program
16 applicable to both patrons and employees. We
17 know that you are very familiar with how those
18 plans work and probably the details of our
19 plan.

20 There is accountability under MEPA
21 to the Department of Transportation and the
22 other involved agencies on that plan. So, we
23 are held throughout that process to
24 accountability. And we would be very willing

1 to include the city of Boston and the
2 Commission in the reporting and accountability
3 under those plans.

4 Let's advance, Jacqui, to our slide.
5 Maybe we can try to get straight the economic
6 part of this and what we've offered and frankly
7 share the pain of the journey that we have
8 ridden thus far on the Sullivan Square
9 mitigation.

10 So, the way we started this process
11 was as required by the Commission is we had
12 lots of conversations with the city of Boston,
13 its representatives. Those were running
14 parallel to the process that we were running
15 through MEPA and with the Department of
16 Transportation.

17 But when it became clear that we
18 were unable to get a surrounding community
19 agreement signed up with Boston, we prepared to
20 do arbitration pursuant to the rules
21 articulated by the Commission.

22 And so part of that process as you
23 well know, is the development of the now
24 infamous BAFO, best and final offer. We had

1 some experience with BAFOs because we actually
2 arbitrated two of our surrounding community
3 agreements. We prevailed in those
4 arbitrations. And we think it's because we are
5 very, very thoughtful in how we constructed the
6 BAFOs.

7 We wanted to meet all of the
8 mitigation requirements of the Commission and
9 the law. And we wanted to make sure that they
10 were supportable by hard evidence. So, that
11 was the same process we went through in
12 formulating the BAFO for Boston.

13 So, just to review that included \$1
14 million upfront payment, total annual payments,
15 and I'm going to aggregate these because
16 Commissioner Cameron and we look at these
17 slightly different, total annual payments of
18 \$39 million over the 15-year period, basically
19 2.6 million a year.

20 In addition, there is what we call
21 phase one improvement to Sullivan Square.
22 That's a \$6 million traffic improvement that
23 should be the very start of the ultimate long-
24 term solution. One of the struggles here is

1 that there is -- notwithstanding as
2 Commissioner McHugh pointed out for us, a
3 decade worth of conversation, there really
4 isn't a plan that is currently being
5 implemented for Sullivan Square.

6 We have seen and reviewed in depth
7 the consensus plan that the citizens of
8 Charlestown seem to support. We are happy to
9 support and hopefully act as a catalyst for the
10 long-term implementation of that plan. And we
11 designed our mitigation to begin that plan.

12 We didn't want to do something that
13 was a Band-Aid that didn't support the long-
14 term plan. We spent a lot of time and effort
15 trying to engineer something that supported the
16 long-term plan. That's the \$6 million.

17 So, we started out with a BAFO that
18 looks like \$46 million. That went under a lot
19 of scrutiny by the Commission and its
20 consultants. So, last week as Commissioner
21 Cameron articulated her review and suggestions
22 with respect to the BAFO, she maintained the \$1
23 million upfront payment.

24 The total annual payments, she took

1 the entire 39 million, 15 of which we had
2 designated for Sullivan Square toward other
3 mitigation for Boston, and added an incremental
4 requirement that we fund 10 percent of the
5 ultimate cost of Sullivan square.

6 It's currently and I think it's a
7 very back of the envelope look like 100
8 million. Commissioner Cameron like we, wanting
9 to make sure that she understood the upside or
10 downside of that potential cost, so that could
11 range from \$10-\$20 million.

12 She retained the \$6 million initial
13 fix at Sullivan Square and came up with a total
14 payment of between \$56 and \$66 million over
15 that period, in addition introduced something
16 called the traffic reduction payment.

17 It was described to us as, be
18 positive, it's an incentive. We looked at it a
19 little like a penalty because we actually never
20 got any money back or a benefit for doing a
21 good job and meeting our projections. But we
22 were assessed \$20,000 a car if we missed our
23 projections on traffic.

24 One of the things that our financial

1 discipline brings us to is not agreeing to
2 open-ended economic commitments that could
3 jeopardize the stability of our enterprise.
4 So, that was an uncapped liability. There were
5 some examples given but there was never a cap.
6 So, we were uncomfortable with that.

7 We went back and in our considered
8 response to the conditions may have outsmarted
9 ourselves. But what we came back with on
10 Friday was, in the far right column, which we
11 increased the upfront payment to beyond what
12 the Commission had requested with an additional
13 \$1.75 million.

14 And we thought that could be
15 additional planting or seed money for Sullivan
16 Square. We reallocated and increased the
17 annual payments to an aggregate of \$54 million.
18 So, we went from 39 to 54, 22.5 of which was
19 dedicated toward this long-term fix of Sullivan
20 Square.

21 We maintained our \$6 million initial
22 improvement at Sullivan Square. And we ended
23 up right in the middle of Commissioner
24 Cameron's range with \$62,750,000 of committed

1 money.

2 We did not address or accept the
3 condition of the traffic reduction payment. We
4 tried to achieve what we thought were the
5 Commission's goals of additional money for
6 Sullivan Square while taking off the business
7 risk that we were uncomfortable with.

8 So, we listened yesterday and we
9 went back and talked among ourselves for a
10 really long time to try to get to the
11 collaborative skin in the game attitude that we
12 thought the Commission was asking us for.

13 So, today we are here and we
14 started. We are here to walk through another
15 scenario, which is starting with the Gaming
16 Commission's proposed structure. So, we have
17 the \$1 million upfront payment that
18 Commissioner Cameron had requested.

19 Our annual payments towards non-
20 Sullivan Square mitigation are 24 million. And
21 then we increased the commitment to Sullivan
22 Square to \$25 million over the term. We've
23 maintained our \$6 million initial fix for a
24 total of 56 in committed payments.

1 But we have agreed to the traffic
2 reduction payment construct with hopefully a
3 twist that enables us all to feel comfortable
4 with it. We have \$20 million in this chart.
5 We think of it as a \$2 million cap every year
6 based on the Commission's methodology as
7 outlined in the conditions that were circulated
8 last week.

9 That was for a 10-year period. So,
10 we mimicked that 10-year period. We bring then
11 the total commitment to \$76 million from the 46
12 we started with at the BAFO.

13 So, that seems like a lot of talking
14 and a lot of treading of ground. So, we tried
15 on this slide to summarize where we ended up in
16 a way to respond to the Commission's desires
17 with respect to Boston and Sullivan Square.

18 So, we've ended up significantly
19 increasing our mitigation payments. We will
20 agree to a look back condition that is
21 consistent with our other surrounding community
22 agreements. We did not appreciate the
23 technical situation that Boston found itself
24 in. Without a surrounding community status,

1 they weren't entitled to the look back that is
2 inherent in the statute.

3 So, we would be prepared to agree to
4 that consistent with our other surrounding
5 community agreements. We're happy to include
6 the Commission and the city of Boston in our
7 traffic demand management plan. We will copy
8 them on the reports, include them in a
9 consultative basis with respect to our
10 accountability under the DOT mandated process.

11 And the last thing that I wanted to
12 touch upon was something that I think
13 Commissioner McHugh mentioned yesterday. And
14 that was this payment mechanism and the scary
15 nature of having the Commission try to
16 administer the funds. We actually did that in
17 the interest of achieving what we thought was a
18 goal, which is that mitigation money gets spent
19 for mitigation.

20 So, we thought that unless and until
21 we get Boston at the table that we would pay
22 that money to the Commission. If the
23 Commission would like the X Sullivan Square
24 money to go directly to the city of Boston even

1 without an agreement, we are amenable to that.
2 We were actually trying to make it better.

3 We would like to maintain the
4 Commission's suggestion with respect to the
5 escrow on the Sullivan Square funds. So, that
6 brings me to the end of my monologue.

7 COMMISSIONER MCHUGH: Well, thank
8 you.

9 MS. SINATRA: Before we finish, I
10 guess Governor Weld would like to --

11 THE HON. WILLIAM WELD: Thank you,
12 Ms. Sinatra. Members of the Commission, my
13 name is William Weld. I represent the
14 applicant Wynn MA. Just a couple minutes if I
15 may.

16 I've been dealing with the
17 management of Wynn MA for the last two years.
18 The company has something of a reputation as a
19 blue-chip within the industry. I think it's
20 earned.

21 In dealing with these folks you take
22 a bite of sirloin, you take another bite, it's
23 still sirloin. It doesn't vary. And I think
24 the record speaks for itself. But I think you

1 will find examining their performance in other
2 jurisdictions that they've been pretty much a
3 model corporate citizen and very generous to
4 the community in every jurisdiction in which
5 they've operated.

6 In this instance, the company is
7 also hugely incented both economically and as a
8 matter of quality to participate to the hilt in
9 any public process whether it's MEPA or
10 Monsanto or Sullivan Square because these all
11 relate to the guest experience of their guests.
12 And that's sine qua none for this organization.
13 They're focused with laser like intensity on
14 the guest experience. So, I think you can
15 regard them as very much incented to the kind
16 of participation that I know is of interest to
17 the Commission.

18 I've been in and around government
19 and the city of Boston for 30 years. And I've
20 had a good working relationship with whoever
21 was the mayor from time to time and expect that
22 to continue.

23 From time to time, you do run into
24 situations in local and state politics where

1 there's gridlock and people have their teeth on
2 edge. And the process in Sullivan Square for
3 example has not been entirely fruitful the last
4 15 years. There's been federal government
5 money available but for whatever reason there's
6 been a lot of studies, not too many shovels in
7 the ground.

8 I think I would recommend to the
9 Commission that they keep their ore in here and
10 that you retain jurisdiction as it were. I do
11 think that in politics when a matter has
12 everybody's attention, it tends to yield to
13 goodwill and get resolved.

14 But I think there is nothing like
15 retaining jurisdiction to create the leverage
16 to make sure that the matter continues to have
17 everybody's attention.

18 We can report to the Commission
19 quarterly, monthly. This is what we did when
20 we filed suit in 1983, a long time ago, to
21 clean up Boston Harbor. We made periodic
22 reports to the court.

23 There have been similar gridlock
24 there. Neither the house nor the Senate at the

1 state level wanted to appropriate the money to
2 clean up Boston Harbor, which was filthy. And
3 everybody knew it. But the leadership had
4 other priorities for the public money that
5 would be involved because it was an expensive
6 fix, but as a result of all those reports of
7 the problem did get fixed. So, I would view --

8 COMMISSIONER MCHUGH: Mr. Weld your
9 time is up. So, if you'd bring it to a close,
10 I think we have some questions.

11 THE HON. WILLIAM WELD: I will close
12 with this sentence, Your Honor. I would view
13 the award of the license to Wynn as a potential
14 catalyst to result in the cleanup not only of
15 the Monsanto site, but the focusing of
16 everyone's attention on traffic problems such
17 as Sullivan Square and get those fixed as well.
18 Thank you.

19 COMMISSIONER MCHUGH: All right.
20 Thank you. Questions from Commissioners?
21 Commissioner Cameron.

22 COMMISSIONER CAMERON: I actually
23 think I followed the presentation and
24 understand what Ms. Sinatra is talking about

1 with the new condition. So, I thank you for
2 that explanation. No questions.

3 COMMISSIONER STEBBINS: Just I want
4 to make a point and just make sure I am clear
5 on this. As we looked at all of the back and
6 forth on the numbers, the \$6 million for the
7 immediate solutions to Sullivan Square may be
8 required by MEPA has stayed consistent.

9 But there's some element that as it
10 was referred to me that's a plug-in number.
11 So, whatever MEPA essentially comes back and
12 tells you you need to do to come up with a
13 short-term solution that dollar amount could go
14 up or down.

15 MR. DE SALVIO: That's correct.
16 We're required to do the mitigation as the plan
17 is laid out whatever the cost might be. So,
18 until the final bids are done, we won't know
19 the actual cost of adding traffic lights and
20 doing any sort of widening.

21 But our commitment is to do the plan
22 that is agreed-upon ultimately with MEPA, the
23 DOT, the city of Boston and whatever that cost.
24 If it's 6 million great. If it's less than 6

1 million fine. If it's more than 6 million, but
2 the answer is that we will do the mitigation as
3 required.

4 COMMISSIONER ZUNIGA: Can I just go
5 back to that chart, Ms. Krum. The annual
6 payments in the second line of 24 million have
7 been restored, I believe, Ms. Sinatra, you
8 characterized them as non-Sullivan square. But
9 remind me would those be available to the city
10 in case the city wanted to use those for
11 Sullivan Square mitigation.

12 MS. SINATRA: Theoretically, they
13 would be. There were categories in the BAFO
14 that included allocations for water
15 transportation, public safety, which I know is
16 of concern to the citizens of Charlestown, to
17 Charlestown nonprofits and to traffic.

18 We are not particularly wedded to a
19 strict appropriation according to those
20 buckets. So, if the city of Boston requested
21 that all of their money be spent in that way, I
22 suppose it would be okay with us although we're
23 quite committed to the citizens of Charlestown
24 to get a special benefit. So, we have set

1 money aside for them.

2 COMMISSIONER ZUNIGA: Okay. Thank
3 you.

4 COMMISSIONER MCHUGH: I'm having a
5 little difficulty as I have as these numbers
6 have come in translating the monthly sums to
7 annual sums, and seeing where the differences
8 are, because there is a difference between the
9 Commission's overall proposal and the proposal
10 that's now on the table.

11 We came up with a total range
12 including Sullivan Square of, and taking into
13 account a worst-case scenario or a hypothetical
14 scenario with respect to the traffic reduction
15 portion. We came up with a range of 55 to 105
16 million over that period of time. 31 Million
17 to 81 million of which was for the Sullivan
18 Square portion including the 6 million for the
19 initial short-term repairs.

20 And this now comes up with a figure,
21 a fixed figure no range. Well, really a range
22 depending on how the traffic reduction payment
23 works of \$76 million which is up from the
24 response which was 62 million.

1 I am still not clear as to where all
2 of the differences lie. And you've done this
3 thoughtfully and carefully. So, why don't you
4 tell me where they lie.

5 MS. SINATRA: I'll see if I can help
6 you. Most of the difference relates to the
7 traffic reduction payment. I would
8 characterize our range as being from 56 to 76
9 depending on how much traffic reduction payment
10 ends up coming in.

11 COMMISSIONER MCHUGH: Right.

12 MS. SINATRA: So, we end up on the
13 low end of you fixed range that Commissioner
14 Cameron had suggested. But we have bought into
15 an additional potential \$20 million if our
16 projections are wrong because we understood
17 from yesterday that the Commission was
18 interested in making sure that we lived or died
19 by our projections.

20 So, you had an open-ended which is
21 how you got up to 106 million. And that really
22 wasn't even a closed range.

23 COMMISSIONER MCHUGH: That's right.

24 MS. SINATRA: Infinity was the

1 closed range, I think, depending on how many
2 cars you could actually count. So, I think
3 that that accounts for the difference.

4 COMMISSIONER MCHUGH: How does your
5 traffic reduction payment work?

6 MS. SINATRA: Just like yours, it
7 just has a cap.

8 COMMISSIONER MCHUGH: So, a level
9 would be set based on the permitting.

10 MS. SINATRA: Yes.

11 COMMISSIONER MCHUGH: The traffic
12 would be measured.

13 MS. SINATRA: Yes.

14 COMMISSIONER MCHUGH: And then
15 there'd be a penalty of whatever with a cap of
16 \$20 million.

17 MS. SINATRA: Over the 10 years,
18 yes. We looked at it as \$2 million a year.
19 And we kind of thought the 20,000 was arbitrary
20 a car, but we in the interest of collaboration
21 and listening, did not decide to tinker with
22 that.

23 COMMISSIONER MCHUGH: The \$20,000
24 was -- I take your point. Okay. The look back

1 condition consistent with our surrounding
2 community agreements, tell me about that.

3 MS. SINATRA: The statute provides
4 for a look back based on a "triggering" event.
5 So, there are three articulated reasons why a
6 re-opener could happen in a surrounding
7 community agreement. We adopted that in our
8 other surrounding community agreements. We had
9 proposed that for Boston in our initial
10 surrounding community agreement.

11 The Commission came back with a much
12 more aggressive version of that. We understand
13 the statutory requirement. And we are happy to
14 live by it. And frankly, Boston would not be
15 able to claim the benefit of that statute just
16 because of the technical removal of them as a
17 surrounding community.

18 So, we wanted to address your
19 concern about reopener, but we wanted to
20 address it in a way consistent with the rest of
21 our surrounding communities.

22 COMMISSIONER MCHUGH: The look back
23 provision that we had as a condition that we
24 sent to you was a very different animal. It

1 was a periodic look back at certain conditions.
2 A determination by the city with your
3 participation as to the economic consequences
4 of your activity and then a payment by you for
5 unexpected activities -- unexpected impacts,
6 adverse impacts that arose.

7 And the look back condition you're
8 talking about is basically reopening the
9 agreement to take a look at things in the event
10 of some unforeseen event that's described in
11 the statute.

12 MS. SINATRA: That's correct.

13 COMMISSIONER MCHUGH: So, it's a
14 different approach to a similar problems.

15 MS. SINATRA: It's a different
16 approach consistent with all of our other
17 surrounding community agreements, and I think
18 probably more favorable to the community than
19 for example, the MGM look back allows netting
20 of positive effects against negative.

21 We also reviewed very carefully your
22 proposal, the Commission's proposal and it
23 dealt with things like water, sewer, storm
24 water, construction noise. So, water, sewer

1 and storm water are all Everett based. We're
2 using Everett utilities and we're mitigating
3 all of that. There is no Boston involvement
4 with respect to those topical matters.

5 With respect to construction noise,
6 it'll be over before the look back period would
7 have been relevant. We also have a
8 comprehensive plan and are required under
9 various of our permitting to have a
10 construction noise program, a program with
11 respect to the handling of the environmental
12 contamination that comes out of the site.

13 So, the state regulatory rubric is
14 really robust in those areas. And we are
15 hopeful that -- we did agree that to have the
16 public outreach that the Commission has
17 requested for Charlestown in those areas. So,
18 we're hoping that through that process we can
19 adjudicate and address any concerns that arise.

20 COMMISSIONER MCHUGH: You had not
21 addressed, but I want to ask you about the
22 requirement. And it was mischaracterized in
23 the terms you were given for a timeline for
24 permitting. That may have led to some

1 confusion.

2 The intent was to impose a condition
3 that you get if you're the licensee the permits
4 required for the Sullivan Square interim
5 improvements by July 1, 2015.

6 MS. SINATRA: Part of our discipline
7 involves understanding what we are in control
8 of and what we are not in control of. So, the
9 way we responded to that condition, which came
10 across as if we did not obtain all conditions
11 -- all permits necessary from the city of
12 Boston by July 1, 2015 we forfeited our
13 license.

14 COMMISSIONER MCHUGH: Let me just
15 interrupt there. That's true of any of these
16 conditions that ultimately are in there. In
17 that sense, it was no different than any other
18 condition.

19 MS. SINATRA: Correct. So,
20 notwithstanding everybody's good faith, we have
21 had not a lot of success thus far with the city
22 of Boston.

23 So, what we did commit to and our
24 response included is a commitment on our part

1 to complete all applications for permits for
2 Sullivan Square, which we thought is what you
3 were worried about, within 90 days from the
4 effective date of the license, to vigorously
5 pursue the issuance of those permits, and to
6 take whatever action is available to us to get
7 those permits issued.

8 Otherwise, frankly, we were putting
9 ourselves at the mercy of the city of Boston
10 arbitrarily withholding those permits and
11 causing us to forfeit an investment at that
12 point which would be several hundred million
13 dollars. It's a place that we didn't feel
14 comfortable.

15 THE HON. WILLIAM WELD: Right. As a
16 legal matter, Your Honor, I would think one
17 would have to all for the possibility of a
18 permit being unreasonably withheld, a
19 deathwatch leading up to July 1.

20 COMMISSIONER MCHUGH: I understand
21 that. I understand that. But from the
22 Commission's standpoint and I think we made our
23 points clear during the presentations, the
24 specter of a process dragging on for years

1 without any shovels in the ground is not one
2 that I at least look at with enthusiasm.

3 MS. SINATRA: Nor we.

4 THE HON. WILLIAM WELD: Nor we.

5 That's why we recommend the reporting
6 mechanism.

7 MR. DE SALVIO: And I might add
8 neither does Mayor Walsh. He even said so
9 publicly last week that the last thing he ever
10 would want to be viewed as was holding up any
11 of those permits.

12 So, I think we're going to get the
13 full cooperation of the city and welcome the
14 opportunity to work with them.

15 COMMISSIONER MCHUGH: All right.
16 Thank you very much. All right. Any
17 discussion about what we just heard? Any
18 thoughts or general thoughts?

19 COMMISSIONER CAMERON: It certainly
20 clears up for me and I was looking for a little
21 clarity on exactly what the applicants meant by
22 their responses. And each of them have
23 clarified that and have actually, for me
24 anyway, I feel like I understand where they're

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

MASSACHUSETTS GAMING COMMISSION

_____)
In the Matter of:)
)
 Wynn MA, LLC)
 _____)

AGREEMENT TO AWARD THE CATEGORY 1 LICENSE IN
REGION A TO WYNN MA, LLC

This instrument shall serve as an Agreement by the Massachusetts Gaming Commission (hereinafter, "Commission") to award the Category 1 gaming license in Region A (hereinafter, "license") to Wynn MA, LLC (hereinafter, "Wynn") and Wynn to accept the award of the license. Upon reviewing all of the applicable requirements of G.L c. 23K and 205 CMR, weighing Wynn's RFA-1 and RFA-2 applications, and considering information and comments submitted by the public and other interested individuals and groups, the Commission has determined that the license will be awarded to Wynn pursuant to the terms and conditions of this Agreement. By executing this Agreement, the Commission is hereby taking action pursuant to G.L. c.23K, §17(e) and 205 CMR 118.06(1)(d), and has determined that the license will be awarded by a vote of the Commission and accepted by Wynn on or after the Effective Date of the license as described in the *Summary of Conditions* attached hereto and incorporated herein.

Terms and Conditions


Gaming Establishment The gaming establishment will be as described in the *Decision Regarding the Determination of Premises of the Gaming Establishment for Mohegan Sun MA, LLC and Wynn MA, LLC* dated May 15, 2014 (Attached as Exhibit 1).


Term of the license 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.

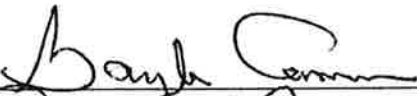
Conditions The *Summary of Conditions* for Wynn MA, LLC approved by the Commission on DATE (Attached as Exhibit 2) is hereby incorporated into this Agreement by reference in its entirety.


SO ORDERED

MASSACHUSETTS GAMING COMMISSION


James F. McHugh, Commissioner


Bruce Stebbins, Commissioner


Gayle Cameron, Commissioner


Enrique Zuniga, Commissioner

ACCEPTED AND AGREED

WYNN MA, LLC

By: 

Title: SR. V.P. DEVELOPMENT

Dated: September 17, 2014

EXHIBIT 1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

MASSACHUSETTS GAMING COMMISSION

_____)
In the Matter of:)
)
 The Determination of the Premises of the Gaming)
 Establishment for which Mohegan Sun)
 Massachusetts LLC Seeks Approval in its)
 RFA-2 Application)
)
 The Determination of the Premises of the Gaming)
 Establishment for which Wynn MA LLC Seeks)
 Approval in its RFA-2 Application)
)
)
)
 _____)

DECISION REGARDING THE DETERMINATION OF PREMISES OF THE GAMING ESTABLISHMENT FOR MOHEGAN SUN MA, LLC AND WYNN MA, LLC

1. Introduction and Background

On December 31, 2013 applicants Mohegan Sun MA, LLC (“Mohegan”) and Wynn MA, LLC (“Wynn”) filed RFA-2 applications¹ with the Massachusetts Gaming Commission (“Commission”). Mohegan and Wynn are competing for the award of the sole Category 1 gaming license to be awarded by the Commission in Region A. Mohegan and Wynn are the only applicants in Region A that entered into host community agreements with Revere and Everett, respectively and were approved by a referendum vote in those communities.

Each applicant listed the City of Boston (“City”) as a surrounding community, as defined in G.L. c. 23K, § 2,² in their RFA-2 application. However, on March 19, 2014, the City filed with the Commission a “Declaration” stating that the City was a host community to the Mohegan application and a Declaration stating that the City was a host community to the Wynn application. On April 3, 2014, in response to those Declarations, the Commission issued a notice of public meeting which included a process whereby the Commission would determine the

¹ RFA-2 applications are portions of an application for a gaming license that focus on the features and economic yield of an applicant’s proposed gaming establishment. See 205 CMR 118 and 119. A separate portion of the application called an RFA-1 focuses on the applicant’s suitability to hold a gaming license. See 205 CMR 111 and 115. Only applicants whom the Commission has found to be suitable may file the RFA-2 application.

² The term “surrounding communities” is defined by G.L. c.23K, §2 as “municipalities in proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.”

premises of the gaming establishment as defined in G.L. c. 23K, § 2³ for the Mohegan and Wynn applications based upon their respective RFA-2 applications. A copy of the hearing notice is attached as Exhibit A. The Commission took that course because, under the statute, the location of those premises determines whether a municipality is or is not a host community. The Commission set May 1, 2014 as the date of the public meeting for the determinations.

Since its inception, the Commission has routinely offered members of the public an opportunity to comment on matters before the Commission in an effort to help shape the Commission's thinking and to ensure that the Commission reviews issues from a variety of angles. Consistent with that practice, the Commission requested the applicants, the City and any other interested persons to submit briefs and affidavits to the Commission on either or both of the two questions by April 17, 2014; reply briefs were due on April 24, 2014. The Commission requested that public comment be submitted in the form of briefs to ensure that the information was presented in a uniform, concise manner and ultimately in a format that the Commission determined would be most beneficial to it as it endeavored to make the determinations regarding the location of the premises. Briefs and/or reply briefs were submitted by Mohegan, Wynn, the City of Revere and an organization called No Eastie Casino. The City submitted a letter challenging the Commission's jurisdiction over the issue, alleging that the Commission's chairman should recuse himself from the deliberations and stating that the Commission should resolve some issues regarding the land in Everett where Wynn proposed to locate its establishment before resolving gaming establishment questions.

Pursuant to the process outlined in the Commission's notice of hearing, persons submitting a brief/reply brief were allowed to present to the Commission at the public meeting. On April 30, 2014, the Commission also invited the City to appear and present at the May 1 public hearing notwithstanding that the City did not submit a brief or reply brief. On May 1, 2014, the Commission granted the City's request for a one-week continuance of the meeting and moved it to May 8, 2014.

At the public hearing on May 8, 2014, oral presentations were made to the Commission by Mohegan, Wynn, the City of Revere, No Eastie Casino, and the City. At the close of the public hearing, the Commission deliberated and issued a decision in principle determining the premises of the gaming establishment for Mohegan and determining the premises of the gaming establishment for Wynn. It stated an intention to issue this written decision after review at its next public meeting.

2. Issues Presented

There are two issues before the Commission. Those issues are to:

³ The term "gaming establishment" is defined by G.L. c.23K, §2 as "the premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants or other amenities."

1. Determine the premises of the gaming establishment for which Mohegan Sun Massachusetts LLC seeks approval in its RFA-2 application; and

2. Determine the premises of the gaming establishment for which Wynn MA LLC seeks approval in its RFA-2 application.

Based upon the briefs, reply briefs and public submissions received by the Commission, the presentations made to the Commission at the May 8, 2014 public hearing and the information provided to the Commission in the RFA-2 application submitted by Mohegan and by Wynn, the Commission makes the following findings:

The premises of the gaming establishment for which Mohegan seeks approval in its RFA-2 application consists of the components as shown on the site plan attached to this Determination as Exhibit B and as further discussed below. All of the premises of the gaming establishment for which Mohegan seeks approval in its RFA-2 application are located in the City of Revere.

The premises of the gaming establishment for which Wynn seeks approval in its RFA-2 application consists of the components as shown on the site plan attached to this Determination as Exhibit C and as further discussed below. All of the premises of the gaming establishment for which Wynn seeks approval in its RFA-2 application are located in the City of Everett.

3. Discussion

In accordance with G.L. c. 23K, §1 “the power and authority granted to the commission shall be construed as broadly as necessary for the implementation, administration and enforcement of [G.L. c.23K].” Further, “[t]he commission shall have all powers necessary or convenient to carry out and effectuate its purposes . . .” G.L. c.23K, §4. “The commission may issue not more than 3 category 1 licenses” one each in Region A, Region B and Region C. G.L. c.23K, §19(a).

As part of the award of each gaming license, the Commission must determine what the premises of the gaming establishment are. That is, it must determine which premises will be subject to regulatory oversight by the Commission. The Commission’s determination in this regard is required by G.L. c 23K, §2 which defines the “gaming establishment” as: “the premises approved under a gaming license which includes a gaming area⁴ and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants or other amenities.”

⁴ The term “gaming area” is defined by G.L. c. 23K, § 2 as “the portion of the premises of the gaming establishment in which or on which gaming is conducted.”

Under G.L. c. 23K, §10(a), hotels are necessarily part of the gaming establishment.⁵ Beyond that, though, by use of the term “may” in the definition of ‘gaming establishment,’ it is clear that the Legislature intended to provide the Commission great latitude in determining the components of the gaming establishment. The latitude was designed so that the Commission is able to include any element within the gaming establishment that it deems necessary to ensure proper regulation of the gaming licensee.

Once the gaming establishment is determined by the Commission, the question of whether a municipality is a host community or a surrounding community and thus entitled to rights pertaining to a host community or a surrounding community provided under G.L. c. 23K becomes clear and flows organically as a matter of law. Chapter 23K, §2 defines a host community as: “a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment.” Chapter 23K, §2 defines surrounding communities as: “municipalities in close proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.” It is clear that the host community determination is a matter of geographic location of the gaming establishment while surrounding community status⁶ is determined based by impacts.

a. Mohegan briefs and presentations

The Commission received briefs and an oral presentation from Mohegan, the City of Revere and No Eastie Casino, and an oral presentation from the City on the definition of the gaming establishment for which Mohegan seeks approval under its RFA-2 application. All of the written material received and reviewed by the Commission is available for public review on the Commission’s website, www.massgaming.com.

The City argued that the gaming establishment for which Mohegan seeks approval includes the horse racing track owned and operated by Suffolk Downs. The City urged that Suffolk Downs, pursuant to an agreement with Mohegan, leases a portion of the Suffolk Downs property in Revere to Mohegan for the development and operation of the gaming establishment and that the track, which sits on a parcel of land located both in East Boston and Revere, is an amenity to the gaming establishment. Moreover, the City contended, the agreement between Mohegan and Suffolk Downs provides that Suffolk Downs will receive rent in the form of basic rent and additional rent based upon gaming revenues generated at the gaming establishment. The City argues that those provisions make Mohegan and Suffolk Downs “joint venturers” in the

⁵ G.L. c.23K, §10(a) states in pertinent part: “a gaming licensee shall make a capital investment of not less than \$500,000,000 into the gaming establishment which shall include, but not be limited to, a gaming area, at least 1 hotel and other amenities as proposed in the application for a category 1 license.” (Emphasis added).

⁶ The Commission promulgated regulations further outlining the process for the determination of a surrounding community. See 205 CMR 125.00.

gaming establishment and that the gaming establishment includes the track as a nongaming structure related to the gaming area.

Mohegan's presentation to the Commission defined the gaming establishment as including the gaming area, two hotels, parking areas, restaurants, nightclubs, bars, spas, retail area, convention/meeting space and internal roadways. Mohegan stated that, unlike with the original proposal forwarded by Suffolk Downs, the gaming establishment in Mohegan's proposal and the track are owned by separate entities; that Mohegan has no control over the track and Suffolk Downs does not have operational control over the proposed gaming establishment; Suffolk Downs is a landlord to Mohegan and receives rent; and the receipt of rent based upon revenues generated is a common feature of a commercial lease. Mohegan acknowledged that the agreement between Mohegan and Suffolk Downs did contain a provision that allowed Suffolk Downs to require, at Suffolk Down's option and at some unnamed future date, to take over the operation of the track. Mohegan and Suffolk Downs stated that by mutual agreement of the parties that provision in the agreement has been deleted. Both Mohegan and Suffolk Downs asserted that even if that provision had remained in place, the gaming establishment and the track would remain owned by separate legal entities and that the provision did not provide for a sale of the track to Mohegan.⁷

Suffolk Down's presentation to the Commission stressed that no property on which the track was located, whether in Revere or East Boston, was part of the real property leased to Mohegan. In addition, there was no marketing agreement between Mohegan and Suffolk Downs to jointly market the track and the gaming establishment. The Commission asked Suffolk Downs whether the track was an amenity to the gaming establishment. Suffolk Downs responded by saying that in its view, to be an amenity, the track has to be located on the same real property as the gaming establishment and must be controlled by the gaming establishment. Neither situation existed here. The Commission further asked Suffolk Downs whether the revenues from the agreement with Mohegan, if used to support track operations, would make the track an amenity. Suffolk Downs responded that profits received do not create an amenity.

The City of Revere argued that the proposed gaming establishment is located entirely in Revere, that Revere will provide all emergency police and fire services, and that all water and sewer connections would be provided by Revere.

No Eastie Casino's supported the City's position. No Eastie Casino stated that Mohegan presented the track as an integral part of its application for a gaming license. It also urged that the impacts from the proposed gaming establishment cannot be separated from East Boston and that this proposal is no different in that respect from the earlier proposal submitted by Suffolk Downs.

⁷ The provision at issue also included language making any such exercise of the option subject to Commission approval and if allowed by law. Where the provision has been removed from the agreement the Commission declines to comment on whether an exercise of the option would have been legal.

b. Wynn briefs and presentations

The Commission received briefs and oral presentations from Wynn, and No Eastie Casino, and an oral presentation from the City on the definition of the gaming establishment for which Wynn seeks approval under its RFA-2 application. All of the written material received and reviewed by the Commission is available for public review on the Commission's website, www.massgaming.com.

The City first argued that the option agreement for the real property on which Wynn proposed to locate the gaming establishment is not valid and without a valid agreement for the land there can be no gaming establishment. The agreement's invalidity, in the City's view, stems from issues regarding FBT Everett Realty LLC, the land's owner, which the Commission explored extensively at hearings it held on December 13 and December 16, 2014. The Commission understands the City's argument to be that if FBT Everett Realty LLC is unsuitable the agreement between FBT Everett Realty LLC therefore violates G.L. c. 23K and that, as a result, there can be no gaming establishment. However, FBT Everett Realty LLC is not a "qualifier" as defined in G.L. c. 23K, §14 or 205 CMR 116.00 and the City's argument is not supported by the Commission's investigation, prior findings or conditions imposed on FBT Everett Realty LLC at the conclusion of the commission's December hearings.

The City further argued to the Commission that if there is in fact a valid agreement for the purchase of the real property, there is still an issue with access to the real property. While Wynn proposed alternate access through a new access point in Everett, the current access is through Horizon Way, which begins in part in the City. Their argument hinged on *Beale v Planning Board of Rockland*, 423 Mass. 690 (1996). The City's assertion based on *Beale* is essentially that if Horizon Way will be used to access a casino and casinos are not permitted in that part of the City then the road cannot be used for casino use so there is no access to the proposed gaming establishment.

The City further argued that Wynn's RFA-2 application listed attractions in the City, such as a marketing agreement with the TD Garden and the Boston Symphony Orchestra, and that the proposed water shuttle from the gaming establishment will take patrons of the gaming establishment to locations in the City. Based upon these activities, it suggested, the gaming establishment includes amenities located in the City.

No Eastie Casino argued in support of the City's position making specific note of the access to the proposed gaming establishment, and the agreements with attractions in the City. No Eastie Casino further supported the City's interpretation of the *Beale* case and its relevance to the access issue.

Wynn's presentation to the Commission defined the gaming establishment as the gaming area, two hotels, parking areas, restaurants, nightclubs, bars, spas, retail area, and

convention/meeting space. Wynn presented the site plan of the proposed gaming establishment and described in detail each aspect and how it was part of the gaming establishment.

Wynn disagreed with the City's interpretation of the *Beale* case, stating that the *Beale* case is a zoning use case and is not relevant to the definition of the gaming establishment under G.L. c. 23K. While Wynn's preferred access is not through Horizon Way, Wynn stated that Horizon Way is an existing public road that runs from Alford Street and is bisected by the Everett border. Wynn cannot own or change Horizon Way. Horizon Way, Wynn urged, provides "ready access" to the proposed gaming establishment. As a result, to the extent that Horizon Way is in the City, the City's "transportation infrastructure provides ready access to [a] . . . proposed gaming establishment," which makes the City a surrounding community within the definition contained in G.L. c. 23K, § 2.

In sum, Wynn stated that physical location defines the host community; access and impacts define the surrounding community. Based upon the definitions in M.G.L. c. 23K, Wynn stated that its proposed gaming establishment is located in Everett.

c. Analysis and determinations

The Commission considered all of the briefs, reply briefs, and oral presentations made at the May 8, 2014 hearing and the information provided in each of Mohegan and Wynn's RFA-2 applications. The Commission considered those materials in light of G.L. c.23K and specifically the definitions of "gaming area," "gaming establishment," "host community," and "surrounding community" found in G.L. c.23K, §2. When viewed as a whole, the law sets out essentially a four part analysis to determine what features proposed by the applicant will be part of a gaming establishment. That is, whether the feature: (1) is a non-gaming structure, (2) is related to the gaming area, (3) is under common ownership and control of the gaming applicant, and (4) the Commission has a regulatory interest in including it as part of the gaming establishment. Part 4 only comes into play though, where the first three parts are satisfied. The control element of part 3 is implicit in the statute's licensing and registration requirement, see G.L. c. 23K, §§30 through 32, the requirement for the licensee to own or control all land on which the gaming establishment is located, G.L. c. 23K, §15(3), and the statute's general structure which places control of the licensee at the heart of the Commission's regulatory authority.

As a result, and for the following reasons, the Commission has determined that the gaming establishment for the Mohegan application is as identified in Exhibit B, and the gaming establishment for the Wynn application is as identified in Exhibit C.

Mohegan's gaming establishment

In the case of Mohegan, the Commission concludes that the gaming area and the nongaming structures related to the gaming area all are located in Revere.

The Commission considered the arguments regarding the track as an amenity to the gaming establishment and determined that it does not satisfy all elements of the 4 part test set forth above and as such, is not an amenity to be included in the gaming establishment. Given the lack of proximity between the entrance to the track from the entrance to the gaming area, no infrastructure connecting the structures, lack of common ownership or control of track operations by Mohegan now, and in the future based upon the parties mutual agreement to delete the provision in the agreement between them that would have allowed Suffolk Downs to require Mohegan to manage the track and lack of any cross marketing plans or agreements between the two entities we find that the track is not related to the gaming area.

On the record presently before the Commission, the Commission concludes that the gaming area, hotels, meeting rooms, spas, ball room, retail areas, restaurants/food and beverage/lounge areas, nightclub, back of the house, underground parking areas, physical plant/facilities maintenance, and all public areas related to those spaces meet the 4 part test and are accordingly part of the gaming establishment. They are all non-gaming structures that are related to the gaming area. They are related in that they are included to support the gaming area by making the entire facility a more attractive destination. They are all owned by Mohegan. In its discretion, the Commission considers them to be amenities to the gaming area because it has an interest in, amongst other things, ensuring that all employees working in those areas are licensed or registered in accordance with 205 CMR 134.00 and having knowledge of the flow of money through these areas. Such control helps ensure the integrity of gaming in the Commonwealth through strict oversight.

For similar reasons the Commission, again in the exercise of its discretion, does not consider the internal roadways on the site, entrance to the property, and exterior parking areas to be part of the gaming establishment. Although they are owned by Mohegan, the Commission does not have any regulatory interest in overseeing those areas. They are all subject to governmental oversight in the ordinary course and there is no additional benefit to including those areas within the gaming establishment. Further, by inclusion of hotels and restaurants as an example of an amenity in the definition of gaming establishment in G.L. c.23K, §2, the Legislature suggested that the term structure be applied in its traditional sense. Here, where those areas would not be structures in the traditional sense, they would not meet part 1 of the analysis and as such cannot be included as part of the gaming establishment.⁸

Wynn's gaming establishment

In the case of Wynn, the Commission found that the concerns raised by the City about FBT Everett Realty LLC are a separate matter and not part of the determination of the premises of the gaming establishment for a number of reasons. First, the members of FBT are not "parties

⁸ It is possible that some parts of the internal roadway could be made part of the gaming establishment for limited purposes in the future. See G.L. c.23K, §6(c).

in interest to the gaming license, including affiliates and close associates and the financial resources of the applicant.” G.L. c.23K, §12(a)(6). Further, they are not individuals who possess “a financial interest in a gaming establishment, or with a financial interest in the business of the gaming licensee or applicant for a gaming license or who is a close associate of a gaming licensee or an applicant for a gaming license.” G.L. c.23K, §14(a). Nor do they fit into a category of individuals whom the Commission has specifically identified as having to be qualified as part of the RFA-1 suitability determination or have the ability to exercise control or provide direction to Wynn. See 205 CMR 116.02. Essentially, once the transfer of the land is complete, FBT Everett Realty LLC will have no further involvement with the gaming licensee. Accordingly, where they are not qualifiers to the Wynn proposal, the Commission has and will continue to deal with them separately.

The primary issue raised by the City was essentially that because Horizon Way is partly in the City, the City is a host community. However, Horizon Way does not satisfy the 4 part analysis and it is not part of the gaming establishment. For the same reason, internal roadways on the site, the harbor walk, and exterior parking areas are not part of the gaming establishment. None of these elements are structures in the traditional sense as discussed above. Accordingly, they do not satisfy part 1 of the analysis and cannot be included as part of the gaming establishment. Further, under part 4, the Commission does not have any regulatory interest in overseeing those areas. Similarly, though it may be considered a structure, the Commission does not have any regulatory interest in overseeing the proposed dock for the water shuttle. They are all subject to governmental oversight in the ordinary course and there is no additional benefit to including those areas within the gaming establishment.⁹ As to the City’s argument about the applicability of the *Beale* case, we do not find *Beale* to be relevant to the determination in this matter. That case was a zoning case and is not applicable here.

On the record presently before the Commission, and as Wynn has agreed, the Commission concludes that the gaming area, hotels, meeting and convention spaces, spas, ball room, retail areas, restaurants/food and beverage/lounge areas, nightclub, back of the house, underground parking areas, physical plant/facilities maintenance, and all public areas related to those spaces meet the 4 part test and are accordingly part of the gaming establishment. They are all non-gaming structures that are related to the gaming area. They are related in that they are included, at least in part, for purposes of enhancing the gaming area by making the entire facility a more attractive destination. They are all owned by Wynn. In its discretion, the Commission considers them to be amenities to the gaming area because it has an interest in, amongst other things, ensuring that all employees working in those areas are licensed or registered in accordance with 205 CMR 134.00 and having knowledge of the flow of money through these areas. Such control helps ensure the integrity of gaming in the Commonwealth through strict oversight.

⁹ It is possible that some parts of the internal roadway could be made part of the gaming establishment for limited purposes in the future. See G.L. c.23K, §6(c).

The Commission further considered the arguments raised by the City and by No Eastie Casino regarding cross marketing agreements with entities, such as the TD Garden and Boston Symphony Orchestra, located in the City and the fact that the City may be an attraction for patrons of the gaming establishment. Cross marketing agreements and encouraging gaming establishment patrons to visit other regional attractions is in fact a goal set forth in G.L. c. 23K. See e.g. G.L. c.23K, §§1(6), 9(a)(13), 9(a)(18), and 18(5). Each applicant for a gaming license is evaluated in part on how the applicant proposes to support other local and regional business and increase tourism. The fact that Wynn has cross marketing agreements and intends to provide water shuttle transportation to parts of the City's waterfront are simply actions by Wynn to comply with the requirements of G.L. c. 23K. Further, none of these attractions is related to the gaming area, Wynn has no ownership or control over their operations, and the Commission does not have an interest in regulatory oversight of these entities.

4. Conclusion

Based upon the briefs and reply briefs submitted and public submissions received by the Commission, the presentations made to the Commission at the May 8, 2014 public meeting, and the information provided to the Commission in the RFA-2 application submitted by Mohegan the Commission determines that the premises of the gaming establishment for which Mohegan Sun Massachusetts, LLC seeks approval in its RFA-2 application consists of the gaming area, hotels, meeting rooms, spas, ball room, retail areas, restaurants/food and beverage/lounge areas, nightclub, back of the house, underground parking areas, physical plant/facilities maintenance, and all public areas related to those spaces, and that based upon the definition of gaming establishment found in G.L. c. 23K, §2, the premises of the gaming establishment are located in Revere. The gaming establishment is identified in the attached Exhibit B as the area located within the black marker boundary line.


Based upon the briefs and reply briefs submitted and public submissions received by the Commission, the presentations made to the Commission at the May 8, 2014 public meeting, and the information provided to the Commission in the RFA-2 application submitted by Wynn MA, LLC the Commission determines that the premises of the gaming establishment for which Wynn MA, LLC seeks approval in its RFA-2 application consists of the gaming area, hotels, meeting and convention spaces, spas, ball room, retail areas, restaurants/food and beverage/lounge areas, nightclub, back of the house, underground parking areas, physical plant/facilities maintenance, and all public areas related to those spaces, and that based upon the definition of gaming establishment found in G.L. c. 23K, §2, the premises of the gaming establishment are located in Everett. The gaming establishment is identified in the attached Exhibit C as the area located within the black marker boundary line.

A plain review of the definitions of the terms 'host community' and 'surrounding communities' reveals a clear legislative intent that a host community be determined based solely upon matters of geography, and that surrounding communities be determined based upon

impacts. Our findings relative to location of the respective gaming establishments for the Mohegan and Wynn applications are consistent with that intent. The Mohegan gaming establishment is located solely in Revere. Accordingly, by definition, the City of Boston is not a host community to that project. The Wynn gaming establishment is located solely in Everett. Accordingly, by definition, the City of Boston is not a host community to that project. Based upon the proximity and impacts from the respective projects, however, the City of Boston is clearly a surrounding community to both.

SO ORDERED.

MASSACHUSETTS GAMING COMMISSION



James F. McHugh, Commissioner



Gayle Cameron, Commissioner



Bruce Stebbins, Commissioner



Enrique Zuniga, Commissioner

DATED: May 15, 2014



EXHIBIT A

UPDATED

NOTICE OF MEETING and AGENDA

May 1, 2014

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

Thursday, May 1, 2014
10:30 a.m. – 5:00 p.m.
Boston Convention and Exhibition Center
415 Summer Street, Room 102A
Boston, MA

PUBLIC MEETING - #118

1. Call to order
2. Determine the premises of the gaming establishment for which Mohegan Sun Massachusetts, LLC seeks approval in its RFA-2 application.
3. Determine the premises of the gaming establishment for which Wynn MA, LLC seeks approval in its RFA-2 application.
 - In anticipation of the May 1, 2014 discussion by the Commission, public comment is hereby requested essentially in the form of legal briefs or memoranda relative to agenda items 2 and 3.
 - The briefs should be prepared so as to assist the Commission in its discussion of agenda items 2 and 3 referenced above. Any individual or group may submit a brief relative to one or both of the aforementioned agenda items. The briefs should state the reasons for the position(s) taken, identify supporting legal authorities, and include any sworn affidavits, authenticated documents, and other relevant evidence not otherwise included in an RFA-2 application. Briefs shall be limited to 15 pages exclusive of attachments.
 - Initial briefs are due by **April 17, 2014 at 5 p.m.** All briefs, including any affidavits and other documents submitted with the briefs, will be posted on www.massgaming.com the day after the due date.
 - Any individual or group may submit a reply brief by **April 24, 2014 at 5 p.m.** An individual or group need not have submitted an initial brief to submit a reply brief. A reply brief, however, may only address specific issues that were addressed in a brief submitted by another individual or group. Reply briefs shall be limited to 10 pages exclusive of attachments. All reply briefs, including any affidavits and other documents submitted with the reply briefs, will be posted on www.massgaming.com the day after the due date.
 - A brief or reply brief may be submitted by way of mail or hand delivery to the Commission's office or via email at catherine.blue@state.ma.us and todd.grossman@state.ma.us. No briefs or reply briefs will be accepted or considered if received by the Commission after the submission deadline.
 - At any time before conclusion of the May 1, 2014 meeting the Commission may request the City of Boston or the applicants or any other individual or group to provide the Commission with documents or other information the Commission believes would be helpful in determining the location of the proposed gaming establishments.

* * * * *

Massachusetts Gaming Commission

84 State Street, 10th Floor, Boston, Massachusetts 02109 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

- The City of Boston and the Region A applicants for a gaming license will be invited to offer an oral presentation to the Commission at the public meeting on May 1, 2014 if they have submitted a brief or reply brief. The Commission may invite any other individual or group that has filed a brief or reply brief to make an oral presentation at the public meeting. No person or group will be permitted to address the Commission relative to agenda items 2 and 3 unless they have submitted a brief. Oral presentations should be confined to the subject areas contained in the brief and/or reply brief submitted by the individual or group.
 - Speakers representing a municipality or applicant will be allotted 30 minutes for oral presentation. All other speakers will be allotted 15 minutes. The Commission may allow a speaker more time if helpful to clarify an issue. A group may split its allotted speaking time amongst multiple speakers.
 - In reviewing the issues before it, the Commission may ask any question(s) of any individual and review and consider any document or other source of information. For purposes of the record of the meeting, the Commission will take notice of the contents of the RFA-2 applications submitted by Mohegan Sun Massachusetts, LLC and Wynn MA, LLC.
 - After discussion by the Commission, the Commission will announce its determination as to whether the City of Boston is a host community for each of the two proposals. After the conclusion of the hearing, the Commission will issue written findings that describe the respective gaming establishments for the projects the applicants have proposed.
4. Approval of Minutes
 - a. March 6, 2014
 - b. April 17, 2014
 5. Administration – Rick Day, Executive Director
 - a. General Update
 - b. High Performance Project Scope Consideration – Commissioner Cameron
 - c. Potential Changes to 23K and Legislation – Chairman Crosby
 - d. Request for Comment on Design Excellence
 6. Legal Report – Todd Grossman, Deputy General Counsel
 - a. New Qualifiers Regulations – Rick Day, Executive Director
 7. Information Technology Division – John Glennon, CIO
 - a. Slots Standards and Approval Process Regulations
 8. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting.

Any matters on the agenda for May 1, 2104 that the Commission does not address at the May 1st meeting will be addressed at the May 2, 2014 meeting scheduled for 10:30 a.m. at the Boston Convention and Exhibition Center, 415 Summer Street, Room 102A, Boston, MA.

I certify that on this date, this Notice was posted as "Gaming Commission Meeting" at www.massgaming.com and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us.

4/28/14
(date)

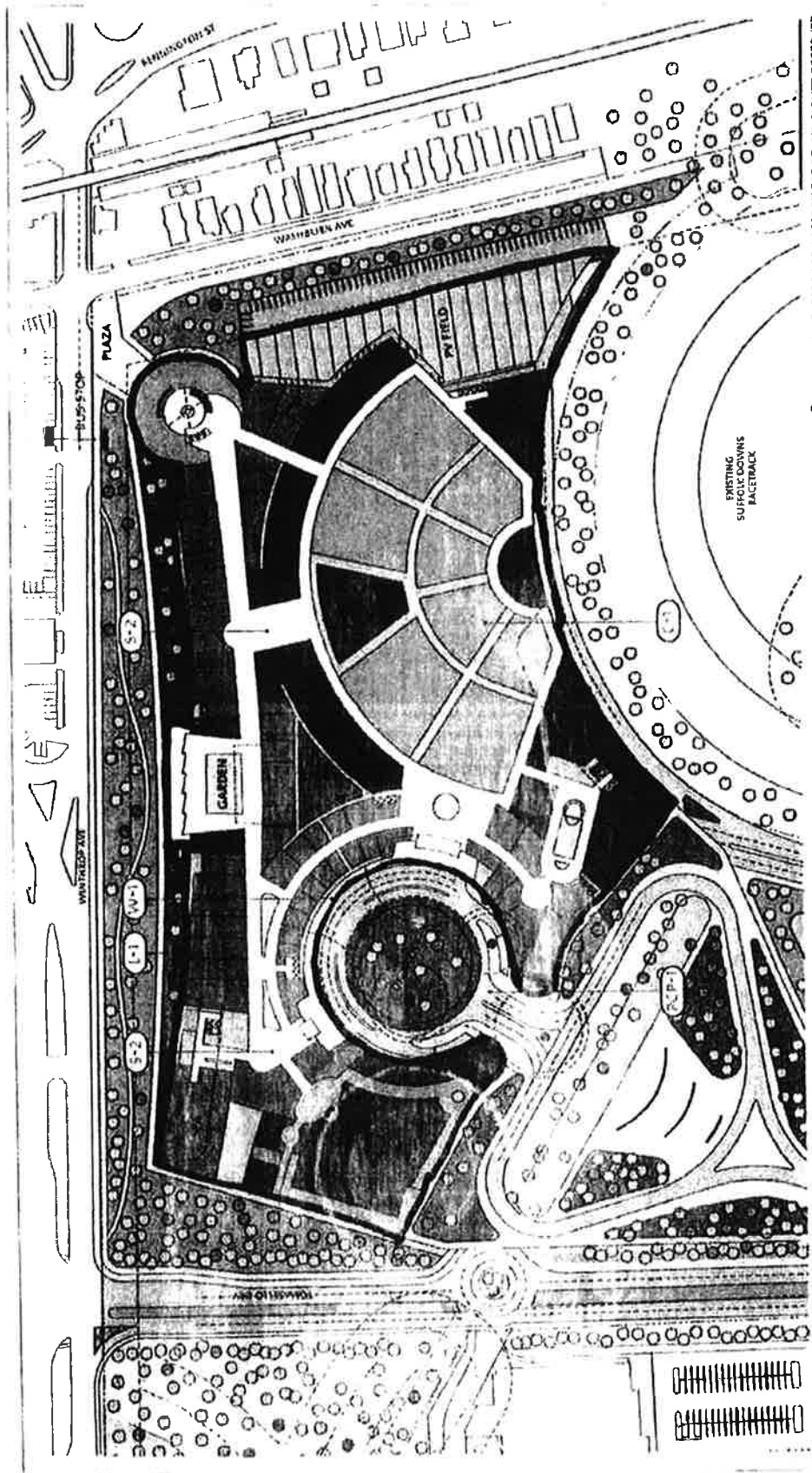

Stephen P. Crosby, Chairman

Date Posted to Website: April 28, 2014 at 10:30 a.m.

* * * * *

Massachusetts Gaming Commission

100 State Street, 10th Floor, Boston, MA 02109 | Tel: 617-725-6000 | Fax: 617-725-6001 | www.massgaming.com



© 2014 KOHN PEDERSEN FOX ASSOCIATES PC. ALL RIGHTS RESERVED.

1/8"=1'-0" /

MAIN FLOOR PLAN ENLARGED

4-8 SCHEMATIC DESIGN



MOHEGAN SUN MASSACHUSETTS, LLC

EXHIBIT B

= OUTLINE OF GAMING ESTABLISHMENT



- Legend
-  Casino
 -  Casino Hotel/Resort
 -  Hotel
 -  Sky
 -  Surroundings



Gaming Establishment Site
Figure B-6



WYNN MA, LLC

EXHIBIT C

 = OUTLINE OF GAMING ESTABLISHMENT

EXHIBIT 2

SUMMARY OF CONDITIONS
WYNN MA, LLC

Section 1	
Definitions	
	As used in this License, terms shall have the meaning defined in 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:
Effective Date	The Effective Date of the License shall be three (3) business days after the rejection of the repeal petition in the November 4, 2014 general election.
EOEEA	Executive Office of Energy and Environmental Affairs.
FEIR	The Final Environmental Impact Report dated June 30, 2014, for the Project.
LEED	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.
License	The Category 1 gaming license issued by the Commission to Wynn for operation of the Gaming Establishment.
MBE	Minority Business Enterprise.
MEPA	Massachusetts Environmental Policy Act, G.L. c. 30, §§ 61 through 62I, and the regulations promulgated by EOEEA pursuant thereto, 301 CMR 11.00 <i>et. seq.</i>
Opening Date	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>
Project	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 .
Secretary's Certificate	The MEPA Certificate issued by the Secretary of EOEEA on the FEIR and/or on the SFEIR (as applicable) for the Project.
SFEIR	The Supplemental Final Environmental Impact Report for the Project.
Term	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.
VBE	Veteran Business Enterprise.
WBE	Women Business Enterprise.
Wynn	Wynn MA, LLC, a Nevada limited liability company with principal address and offices located at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

		Section 2
	General Conditions	
1.	Compliance with G.L. c. 23K and 205 CMR	Compliance with all of the requirements of G.L. c. 23K, including but not limited to all conditions set forth in G.L. c.23K, §21(a) and (b), as now in effect and as hereafter amended and 205 CMR 101 et seq., as now in effect and as hereafter promulgated or amended.
2.	Compliance with MEPA	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
3.	Compliance with debt to equity ratio requirements	Compliance with any debt-to-equity ratio requirements established by the Commission's regulations or directives.
4.	Payment of the License Fee	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.
5.	Payment of the Assessment Fee	Payment of assessments made pursuant 205 CMR 121.00 within three (3) business days of the Effective Date. Such assessments shall be offset by any installment payment made by Wynn under 205 CMR 121.02(1).
6.	Payment of the Installment and Slot Assessment Fee	Payment within three (3) business days of the Commission's vote to enter into the Agreement to Award the License to Wynn of an installment fee pursuant to 205 CMR 121.02(1) in the amount of \$6,330,513. This payment shall be considered an installment payment and credited to the Slot Assessment in the amount of \$1,550,843 and six (6) months of the Commission's Annual Assessment in the amount of \$4,779,670 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) and subject to the revision pursuant to 205 CMR 121.00.
7.	Bond	Within 30 days after the Effective Date, Wynn shall: (a) make a cash deposit 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 G.L. c. 23K, §10(a); or (b) secure a deposit bond, in a form and from an institution acceptable to the Commission representing 10% of the proposed capital investment. Such cash deposit or bond shall be forfeited to the Commonwealth of Massachusetts if Wynn is unable to complete the

		Gaming Establishment, as determined by the Commission.
8.	Compliance with G.L. c.23K, §15(3)	Compliance with the requirements of G.L. c. 23K, §15(3) regarding land acquisition within 60 days of the Effective Date.
9.	Compliance with Agreements	<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"> 1. the host community agreement; 2. surrounding community agreements; 3. conditions imposed by the Commission in lieu of a surrounding community agreement with the City of Boston, 4. impacted live entertainment agreements; 5. lottery agreements; 6. any agreements related to the Licensee's RFA-2 application signed with local partners as of the Effective Date; 7. 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; 8. affirmative marketing programs for those businesses identified in G.L. c. 23K, §21(a)(21)(i), (ii), and (iii) for design and construction of the Gaming Establishment; 9. affirmative action programs identified under G.L. c.23K, §21(a)(22); 10. all federal, state and applicable and lawful local permits and approvals required to construct and operate the Gaming Establishment; and 11. all executed Signature Forms contained in section B of the RFA-2 application.
10.	Affirmative Marketing Program – Design and Construction	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.
11.	Affirmative Marketing Program – Goods and	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

	Services	review and approval creating an affirmative marketing program for those businesses identified in G.L. 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 G.L. c.23K, §21(a)(21)(iii) for provision of goods and services procured by the Gaming Establishment.
12.	Affirmative Action Program	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 G.L. c.23K, §21(a)(22) on construction jobs. The plan will include a robust public outreach component to those residents identified in G.L. c.23K, §21(a)(22) (minorities, women and veterans).
13.	Compliance with Construction Plans	Compliance with the construction plans, specifications, and timelines as approved by the Commission in accordance with G.L. c. 23K and 205 CMR.
14.	Creation of a Plan to Identify and Market Employment Opportunities to Unemployed Residents	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.
15.	Creations of a Regional Tourism Marketing Plan	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.
16.	Creation of a Plan to Identify Local Vendors	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.
17.	Institution of Credit and Collection Practices	Institution of credit and collection practices that comply with G.L. c. 23K and 205 CMR.
18.	Compliance with Commission Free Play Standards	Compliance with any free play standards set by the Commission
19.	Litigation Update to the Commission	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 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.
20.	Notification of Defaults	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.
21.	Notification of Refinancing of Debt	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
22.	Submission of Audited	Within fourteen (14) days of their availability and throughout the Term of the License, Wynn shall submit to

	Financial Statements	the Commission annual audited financial statements, if available; otherwise, it shall file consolidated audited financial statements with the Commission in the manner provided by 205 CMR.
23.	Compliance with Bank Secrecy Act of 1970	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”).
24.	LEED Gold Certification	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.
25.	Compliance with Wage Scales Provided in RFA- 2	Wynn shall adhere as reasonably as practicable to the average wage scales provided in its RFA-2 application.
26.	Application for Alcoholic Beverage License	Wynn shall apply for an alcoholic beverage license in accordance with G.L. c. 23K and 205 CMR.
27.	Compliance with All Permitting Requirements	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 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 Wynn and the Commission. Wynn shall report to the Commission on a monthly basis regarding its progress.
28.	Notification of Selection of General Contractor	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.
29.	Construction labor report	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.
30.	Maintenance of Workplace Population in	Wynn shall report to the Commission regarding discussions with the City of Everett to maintain workforce

	Everett	population in the City of Everett.
31.	Provision of Reports on Macau Operations	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.
32.	Re-opener Provisions Re: the City of Boston	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.
33.	Re-opening of Conditions by the Commission	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. Provided, however, any such petition filed by the City of Boston shall be limited to those conditions contained in Sections 3 or 4 of these conditions directly related to its interests.
34.	Conditions Binding on Successors and Assigns	All of the terms and conditions of the License shall be binding upon Wynn and its permitted successors and assigns.

		Section 3
	Conditions Required to Mitigate Impacts to the City of Boston	
1.	Mitigation Required by MEPA	Wynn shall complete all mitigation, including traffic mitigation, required pursuant to the MEPA process for the Project 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 and shall be responsible for all costs associated with such mitigation.
2.	Mitigation Payments	<p>1. <u>Upfront Payment</u></p> <p>Wynn shall pay a one-time, upfront, non-refundable payment of One Million Dollars (\$1,000,000.00) which amount shall be payable within sixty (60) days following the Effective Date (as defined in the Conditions to License) to the General Fund..</p> <p>2. <u>Annual Payment</u></p> <p>Following the Opening Date, Wynn shall make an annual payment of One Million Six Hundred Thousand Dollars (\$1,600,000.00), which amount shall be due on or before the ninetieth (90th) day following the Opening Date and on each annual anniversary thereof. The allocation of this annual payment shall for Other Mitigation, which amount shall be deposited into the General Fund.</p> <p>For purposes of this section, "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 and the SSIP, as described in Section 4.1 below, related to the Wynn Resort in Everett.</p>

		<p>For purposes of this section, "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. Funds shall be distributed in accordance with the terms of an escrow agreement.</p>
<p>3.</p>	<p>Escalation of Payments</p>	<p>Beginning with the second annual payment, the Annual 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 Annual 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>4.</p>	<p>Business Development</p>	<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 Opening 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</p>

		<p>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 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>
5.	Jobs Program	<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 every six (6) months 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 and shall hold one event annually thereafter. 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 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>
6.	Responsible Gaming	<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 and its employees and agents shall 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</p>

		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.
7.	Reopening of mitigation terms	205 CMR 127.00 shall apply to the conditions of this License in the same manner as if the City of Boston was designated as a surrounding community.
8.	Reimbursement Of Expenses	In accordance with 205 CMR 114.03(2), Wynn shall reimburse Boston for actual, documented reasonable out-of-pocket expenses incurred by Boston, not to exceed \$750,000.00, 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.

		Section 4
	Conditions Required to Mitigate Traffic and Other Impacts Caused by the Construction and Operation of the Gaming Establishment	
1.	Definitions	<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 and the Massachusetts Department of Transportation, 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, long term 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 and the Massachusetts Department of Transportation, the SSIP may be designed and constructed in its entirety or in phases.</p> <p><u>Sullivan Square Infrastructure Fund</u> (“SSIF”): 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.</p>
2.	Sullivan Square Mitigation Plan/Traffic Reduction Incentive Payment	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

		<p>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 Sullivan Square mitigation plan for a period beginning on the Opening Date and ending on the 10th anniversary of the Opening Date (“Traffic Reduction Incentive Payment”).</p> <p>Provided, however, such payment shall not exceed \$20,000,000.00 over that 10 year period. 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 Vehicle Trip Data.</p>
<p>3. SSIF Escrow Account</p>		<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 escrow fund 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. 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 Sullivan Square mitigation plan. If the City of Boston does not commence the SSIP within 10 years of the Opening 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>

4.	SSIP Contribution	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 \$25 million provided that the SSIP is designed, constructed and permitted to accommodate the traffic impacts of the Gaming Establishment. Such payment shall be made directly to the SSIF escrow account payable in equal annual installments of \$2,500,000.00 beginning on the first anniversary of the Opening Date for a term of 10 years.
5.	Transportation Demand Management	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. ¹ 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 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”).
6.	Community Outreach	Wynn will engage in community outreach to the Charlestown neighborhood and consult with the neighborhood regarding the progress of the project including any transportation mitigation or changes in transportation mitigation plans. Wynn shall report on such outreach to the Commission as part of its regular reporting.
7.	Public Involvement Plan for	Wynn will comply with the generally applicable public

¹ 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.

	Hazardous Materials	involvement provisions of 310 CMR 40.0000. Wynn will provide all submittals required in accordance with said regulations to the Commission and 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
8.	Failure to Obtain Required Permits from the City of Boston	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 relating to Wynn's Sullivan Square mitigation.

		Section 5
	Other Conditions	
1.	Building and Site Design	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.
2.	Economic Development	Wynn will use good faith efforts 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.
3.	Hiring preference	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. Wynn will provide a training and recruitment plan for said employees to the Commission for approval.
4.	Medical and Dental benefits	Wynn will commit to provide its employees with competitive medical and dental benefits that are commensurate with those provided in the region.