

A&K DRAFT: 4/30/19

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

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

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I. INTRODUCTION

~~Pursuant to the Massachusetts Environmental Policy Act, G.L. c. 30, §§ 61-62I, G.L. c. 23K, § 15(12), 301 CMR 11.12, and 205 CMR 120.02, the Massachusetts Gaming Commission (the “Commission”) finds~~On April 25, 2016, the Massachusetts Gaming Commission (the “Commission”) issued Section 61 Findings for the Project (the “2016 Section 61 Findings”) pursuant to the Massachusetts Environmental Policy Act, G.L. c. 30, §§ 61-62I, G.L. c. 23K, § 15(12), 301 CMR 11.12, and 205 CMR 120.02. The Commission found that, with the implementation of the measures identified in the Project Proponent Wynn, MA, LLC’s (“Wynn’s”) Final Environmental Impact Report (“FEIR”) submitted to the Executive Office of Energy and Environmental Affairs (“EOEEA”) on June 30, 2014, the Secretary of EOEEA’s (the “Secretary’s”) Certificate regarding the FEIR dated August 15, 2014 (the “FEIR Certificate”), the Supplemental Final Environmental Impact Report submitted February 17, 2015 (“SFEIR”), the Secretary’s Certificate regarding the SFEIR dated April 3, 2015 (the “SFEIR Certificate”), the Second Supplemental Final Environmental Impact Report (“SSFEIR”) dated July 15, 2015 (the “SSFEIR”), the Secretary’s Certificate dated August 28, 2015 regarding the SSFEIR (the “SSFEIR Certificate”), and including, without limitation those measures summarized ~~below~~in the 2016 Section 61 Findings, that all practicable and feasible means and measures will have been taken to avoid or minimize potential damage to the environment from Wynn’s proposed category 1 gaming establishment as defined in G.L. c. 23K, § 2 (the “Project” or the “Gaming Establishment”). The 2016 Section 61 Findings were published in the Environmental Monitor on May 11, 2016.

On February 28, 2017, Wynn filed a Notice of Project Change (the “NPC”) regarding a sediment remediation plan for a portion of the Project site and an adjacent area of the Mystic River, and proposed modifications and refinements to the Project’s building program. The NPC also identified the acquisition of properties within the vicinity of the Project by affiliates of the Proponent. Notice of the NPC was published in the Environmental Monitor on March 8, 2017. During the public comment period which ended on March 28, 2017, public comments on the NPC were submitted by the Massachusetts Department of Environmental Protection (“MassDEP” or “DEP”), the Massachusetts Water Resources Authority (“MWRA”), the Massachusetts Office of Coastal Zone Management (“CZM”), the Massachusetts Department of Conservation and Recreation (“DCR”), the City of Everett, Everett United, the Mystic River Watershed Association, and Boston Harbor Now.

On April 7, 2017, the Secretary issued a Certificate on the NPC (the “NPC Certificate”) in which the Secretary determined that “the project change **does not require** the submission of a supplemental Environmental Impact Report (EIR)” and that “[o]utstanding issues associated with this project change can be addressed during State permitting” (emphasis in original). The NPC Certificate was published in the Environmental Monitor on April 19, 2017.

Shortly thereafter, Wynn requested that the Commission approve a minor modification to one condition in the 2016 Section 61 Findings with respect to the Mystic River Pedestrian-Bicycle Bridge Feasibility Study (the “Feasibility Study”). Under the 2016 Section 61 Findings (at page 42), Wynn was required to “provide \$250,000 to DCR [the Department of Conservation and Recreation] for planning and engineering services for a possible pedestrian bridge crossing of the Mystic River linking Somerville and Everett.” Wynn requested that it be permitted to either make this payment or “retain and pay for a qualified design, planning and engineering firm to conduct and complete the [Feasibility Study] with a scope of work reasonably acceptable to DCR.” The Commission approved a minor modification of the 2016 Section 61 Findings to this effect on July 13, 2017 (the “First Amended Section 61 Findings”).

Since that time, Wynn has continued to revise and refine the design of the Project and the methods by which it would implement the mitigation measures identified in the 2016 Section 61 Findings and the First Amended Section 61 Findings. Accordingly, Wynn has requested that the Commission revise and restate the 2016 Section 61 Findings and the First Amended Section 61 Findings to reflect the NPC, NPC Certificate, and the refinements in the Project’s design and the mitigation measures associated with the Project. Wynn also consulted with the MEPA Office of the EOEEA regarding the revisions made since the NPC Certificate was issued and has been advised by EOEEA that no further filings are required under MEPA.

The Commission has reviewed the NPC, NPC Certificate, and Wynn’s refinements to the Project on a regular basis since issuing the 2016 Section 61 Findings. It has also reviewed the proposed revisions to Wynn’s mitigation commitments (as described below). Based on this review, the Commission now issues these Seconded Amended Section 61 Findings (the “Second Amended Section 61 Findings”) pursuant to G.L. c. 30, §§ 61-62I, G.L. c. 23K, § 15(12), 301 CMR 11.12, and 205 CMR 120.02, to continue to ensure that all practicable and feasible means and measures have been and will be taken to avoid or minimize potential damage to the environment from the Project. These Second Amended Section 61 Findings restate and replace, but do not abrogate, the 2016 Section 61 Findings and the First Amended Section 61 Findings.

II. PROJECT SITE

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

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

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

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

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

III. PROJECT DESCRIPTION

A. The Building Program

The Project consists of the redevelopment of the 33.9 acre Project Site as a destination resort casino. ~~As~~The NPC identifies modifications and refinements to the building program from the program described in the SSFEIR ~~Certificate, the Project will include a total of approximately 3,096,700 sf,[†] including, without limitation, the following amenities:~~ but within the footprint of the original proposal. NPC page 6-7.

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

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

[†] ~~In the SSFEIR itself, the total square footage of the Project has been reduced to 2,933,839± sf primarily because the number of parking spaces has been reduced in the SSFEIR from 3,400 to 2,930. The latter number of parking spaces is reflected in the SSFEIR Certificate.~~

As described in the NPC, the building program now includes a total of 3,112,153 square feet (sf), an increase of 178,215 sf compared to the Project as previously reviewed and approved during the MEPA process.

As set forth in the NPC (Table 1-1) and in the Secretary’s NPC Certificate (at page 2), the modifications and refinements to the program include the following, some of which involve increases and others of which involve decreases to the building program:

Changes in the Project Program since the SSFEIR

<u>Feature</u>	<u>SSFEIR Program</u>	<u>NPC Program</u>	<u>Change (Quantity)</u>	<u>Change (Square Feet)</u>
<u>Program Increases</u>				
Hotel Rooms	629	671	+42	
Hotel Tower	621,774	663,200		41,426 ¹
Gaming	190,461	206,474		16,013
Food/Beverage	54,680	105,288		50,608
Event/Meeting	37,068	60,166		23,098
Spa/Gym	15,405	26,368		10,963
Back-of-House (includes MEP)	411,058	630,447		219,389
Front-of-House Support (restrooms, lobbies, etc.)	58,548	83,889		25,341
<u>Sub-Total</u>	<u>1,388,994</u>	<u>1,775,832</u>	<u>+ 42 Rooms</u>	<u>+386,838 sf</u>
<u>Program Decreases</u>				
Total Gaming Positions (GP)	4,580	4,421	-159	
Retail (includes hotel and gaming areas)	52,632	9,177		-43,455
Lobby Lounge	841	0		-841
Indoor Pool Deck	10,485	0		-10,485
Indoor Garden	4,525	4,121		-404
Parking Garage	1,476,461	1,323,023		-153,438
<u>Sub-Total</u>	<u>1,544,944</u>	<u>1,336,321</u>	<u>- 159 GP</u>	<u>-208,623 sf</u>
<u>Overall Gross Floor Area</u>	<u>2,933,938</u>	<u>3,112,153</u>		<u>+178,215 sf</u>
<u>Parking Spaces</u>				
Parking Spaces on-site	2,936	2,914	-22	
Parking Spaces off-site	800	800	0	

¹ The NPC makes no change to the maximum height of the tower. NPC at page 5.

<u>Feature</u>	<u>SSFEIR Program</u>	<u>NPC Program</u>	<u>Change (Quantity)</u>	<u>Change (Square Feet)</u>
Total Parking Spaces	3,736	3,714	-22 Spaces	

In public comments dated March 27, 2017 and submitted to the Secretary of EOEEA on the NPC, the Mayor of the City of Everett (the Host Community) expressed support for these changes, stating that these “[d]esign refinements have been made to best serve the needs of the region. Refinements include increased hotel rooms, less retail, more food and beverage, and expanded convention and meeting space. These design modifications will bring more visitors and associated tax revenue to Everett, and will create even more job opportunities for our residents.”

These refinements to the building program associated with the project change will increase wastewater generation by 31,167 gallons per day (“gpd”) and increase water use by 34,284 gpd. See NPC at page 5. At the same time, when adjusted for mode share, the project change will result in 2,580 fewer vehicle trips per day (“vpd”) on Friday (a reduction of 12.8%) and 3,416 fewer vpd on a Saturday (a reduction of 14.2%) than previously reviewed. NPC at page 5 and page 1-11. In turn, the Friday PM Peak Hour traffic is reduced by 156 vehicle trips per hour (“vph”) (a reduction of 11.5%), and the Saturday PM Peak Hour traffic is reduced by 336 vph (a reduction of 18.6%). Id. at page 1-11. While parking has been decreased by 22 spaces to 2,914 on-site spaces, the Project will continue to include 800 off-site spaces for employee parking. Significantly, despite the reduced traffic resulting from the NPC, the “Proponent is not proposing any changes to its previously committed mitigation.” NPC at page 1-10.

~~The Project includes remediation and restoration of the Project Site. The proposed shoreline work includes the installation of a vertical steel pile bulkhead, the placement of stone revetments and the installation of pile-supported walkways, the removal of abandoned and deteriorated structures and remnants, salt marsh restoration and re-vegetation of the shoreline. Waterside work includes dredging of approximately 15,000 cubic yards (“cy”) of sediment over approximately 41,480 sf to provide an adequate water depth of six feet below the mean low water mark to accommodate water transportation vessels. Coastal bank and salt marsh restoration is proposed within 69,000 sf area landward of high tide at the southwestern edge of the Project Site. NPC (at § 1.3.3) also identifies an additional level of below-grade parking,² changes to the living shoreline design resulting from the permitting process, and changes to docks, piles, and floats to improve access and meet the Americans with Disabilities Act (“ADA”) requirements for ferry docking.~~

Access to the Project Site is ~~proposed~~ via a new boulevard-type driveway located approximately 150 feet north of Horizon Way. It will intersect the west side of Lower Broadway (Route 99) just north of Horizon Way opposite Mystic Street. This access ~~requires~~required the acquisition of land (approximately 1.758 acres) from the MBTA consisting of three non-contiguous parcels that ~~are currently~~were part of the Everett Shops as shown on SSFEIR Figure 1-8. Wynn ~~proposes to relocate~~relocated the current unsignalized entrance driveway to the MBTA maintenance facility to

² The NPC added an additional below-grade level and reduced footprint of parking garage, to reduce volume of material to be removed from the Project Site, with no material reduction of parking spaces. NPC § 1.3.3.

the north on Lower Broadway to the signalized intersection at Beacham Street. A secondary access for deliveries and employees ~~will be~~is provided via a service road that ~~would follow~~follows the periphery of the Everett Shops property and ~~connect~~connects with Route 99 across from Beacham Street in Everett.

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

B. Site and Sediment Remediation

As noted above, the site was classified as a disposal site subject to G.L. c. 21E and the MCP. It was, at the time Wynn began the Project, contaminated and contained very high levels of arsenic and lead, both in soil and groundwater. Contaminated sediments associated with the site had also been identified within the Mystic River.

Accordingly, the Project included remediation and restoration of the Project Site. The proposed shoreline work included the installation of a vertical steel pile bulkhead, the placement of stone revetments and the installation of pile-supported walkways, the removal of abandoned and deteriorated structures and remnants, salt marsh restoration and re-vegetation of the shoreline. Waterside work included sediment dredging to provide an adequate water depth of six feet below the mean low water mark to accommodate water transportation vessels. Coastal bank and salt marsh restoration were proposed within the area landward of high tide at the southwestern edge of the Project Site.

1. Remediation Area

The MEPA review leading up to the SSFEIR Certificate addressed sediment remediation conceptually; however, sediments in the Mystic River had not yet been characterized as necessary to develop and analyze remediation alternatives under the MCP. The NPC identified proposed remediation to include mechanical dredging and capping of a 7-acre area (“the “Remediation Area”). Dredging depths are anticipated to be up to two feet below the existing mudline or the previously reviewed elevation in the area of navigational dredging, with an anticipated over-dredge allowance of up to one foot.

The Remediation Area identified in the NPC was located in the lower reaches of the Mystic River, 1,000 feet downgradient of the Amelia Earhart Dam and approximately 8,400 feet upstream of where the Mystic River empties into Inner Boston Harbor. The Remediation Area is located primarily within the embayment of the Mystic River and a small area extends into a shallow portion of the channel. The Remediation Area included a portion of Mystic River below mean high water.

The tidal flats on the easterly side of the Project site are bounded by Coastal Bank to the east and southeast.

2. Alternatives Analysis

The purpose of the remediation was to eliminate or mitigate risks so that a condition of No Significant Risk is reached and a Permanent Solution, as defined by the MCP, is achieved. The NPC analyzed four alternatives for the waterside remediation using criteria including effectiveness, short and long-term reliability, implementability, cost, risks, benefits, timeliness, non-pecuniary interests and greener cleanups. NPC Certificate at pages 7-8.

These alternatives also included the use of turbidity barriers around the dredge area established by MassDEP during the Section 401 Water Quality Certification (“WQC”); monitoring and mitigation of dust and odor; dewatering within the site boundaries (or at an off-site facility) via decanting and/or Geotubes, followed by the addition of stabilizing agents if necessary; transportation of dewatered dredged material via barge to an offloading facility; disposal of the dredged material at a suitable licensed/permitted facility; backfilling of the dredge area with clean material; and, monitoring of the thickness of the cap to ensure that changes in site conditions which could result in a risk to benthic organisms do not go undetected.

The NPC assumed that the cap would be constructed without a physical barrier because the cap thickness would be sufficient to minimize burrowing through the cap to the sediment below. According to the Secretary’s NPC Certificate (at page 8), a study by the U.S. Army Corps of Engineers’ (“ACOE”) Dredging Operations and Environmental Research Program provides guidance for cap thickness below subaqueous caps. For sand caps in coastal marine waters, the ACOE recommended total cap thicknesses of 0.65 to 1.5 feet. According to the Secretary’s NPC Certificate (at page 8), MassDEP concurred with the ACOE’s findings and recommended that a clean sediment cap at least 1.5 feet (18 inches) thick should be used.

In public comments dated March 27, 2017 (at page 1) to the Secretary of EOEEA on the NPC, CZM confirmed that it “supports the remediation of marine sediments as proposed in the NPC.” In public comments dated March 27, 2017, submitted to the Secretary of EOEEA on the NPC, the Mayor of the City of Everett (the Host Community) stated that “[a]pproval of the NPC will allow for the continuation of cleanup on the resort site. Land based remediation is nearly complete and with the approval of the Notice of Project Change, cleanup of contaminated sediments in the Mystic River will move forward.” In addition, the Mayor commented, “Upon approval of the Notice of Project Change, Wynn will be able to complete the connection between the Wynn Harborwalk and the nearby waterfront Gateway Park, creating contiguous open space and walking paths for the Everett community. Once again, we believe that the creation of this type of waterfront access will be a game changer for our community and eagerly anticipate its completion.”

3. The Preferred Alternative and the Remediation Work

According to the Secretary’s NPC Certificate (at page 8), the Project Proponent consulted with MassDEP during review of the NPC, and, as a result, identified the Preferred Alternative. The Preferred Alternative included partial dredging and capping of the entire area with at least an 18-inch clean sediment cap. MassDEP comments indicate that the Preferred Alternative would be designed to achieve a level of No Significant Risk under the MCP. The alternatives were reviewed in more detail through the MCP process.

On June 21, 2017, Wynn filed a combined Phase III Remedial Action Plan/Phase IV Remedial Implementation Plan under the MCP that addressed the construction and implementation of the Comprehensive Remedial Action for the Project Site. A public meeting was held on June 29, 2017 and the public comment period ended July 11, 2017 in accordance with the Public Involvement Plan (“PIP”) process regarding that submittal. Work proceeded on the Project Site remedy thereafter. On December 6, 2018, Wynn filed a Phase IV As-Built Construction and Final Inspection Report, Partial Permanent Solution Statement and two Activity Use Limitations (“AULs”) as part of the sediment remediation closure documents. A public meeting was held on December 17, 2018 and the public comment period ended on January 9, 2019 regarding the remediation work under the Project.

IV. MEPA HISTORY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

On February 28, 2017, Wynn filed an NPC identifying changes to programming and design of the Project and a remediation plan for a portion of the Project Site and an adjacent area of the Mystic River. It also identified the acquisition of properties within the Project area by affiliates of Wynn. On April 7, 2017, the Secretary issued the NPC Certificate which concluded that the “project change **does not require** the submission of a supplemental Environment Impact Report (EIR)” and that “[o]utstanding issues associated with this project change can be addressed during State permitting.” NPC Certificate, p. 1, emphasis in original.

In addition, as noted above, Wynn requested a minor modification to the 2016 Section Findings to clarify Wynn’s obligations with respect to the Feasibility Study. The Commission issued the First Amended Section 61 Findings on July 13, 2017 to address the Feasibility Study.

V. PROJECT IMPACTS

The Project’s potential environmental impacts are associated with the creation of 19.42 acres of impervious surfaces, alteration of wetland resource areas, ~~311,830 gallons per day (“GPD”)~~346,114 gpd of water use, generation of ~~283,482 GPD~~316,649 gpd of wastewater, and dredging of ~~15,000~~53,365 cy of sediments ~~over an area of approximately 41,480 sf. The Project will generate approximately 31,844 new (unadjusted) average daily vehicle trips (“adt”) and 37,916 new (unadjusted) adt on a Saturday.~~ When adjusted for mode share, the Project is estimated to generate approximately ~~20,130 adt~~17,550 average daily trips (“adt”) on a Friday and ~~23,982~~20,566 adt on a Saturday.

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

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

According to the SSFEIR, the amount of additional ridership the Project is expected to add to the MBTA’s Orange Line would not, on its own, cause the Orange Line to operate beyond the MBTA’s Service Delivery Policy capacity standards for most time periods and locations. Assuming no further improvements to Orange Line service and operations prior to 2023, if the Project is built and becomes operational, Orange Line service is expected to be beyond the

MBTA's Service Delivery Policy capacity standards for four hours a week, including three weekday non-peak hours in which the Orange Line service is currently not in compliance with the Service Delivery Policy and a fourth hour on Saturday (12-1 p.m.) in which service would be in non-compliance with the Service Delivery Policy by less than one additional passenger per train.

The Project ~~is~~ was subject to MEPA review and required the preparation of a Mandatory EIR pursuant to 301 CMR 11.03(1)(a)(2), 11.03(3)(a)(5), 11.03(6)(a)(6) and 11.03(6)(a)(7) because it requires State Agency Actions and it will create 10 or more acres of impervious area, create a new non-water dependent use occupying one or more acres of waterways or tidelands, generate 3,000 or more new adt on roadways providing access to a single location, and provide 1,000 or more new parking spaces at a single location. The Project is also subject to the EOEEA Greenhouse Gas ("GHG") Emissions Policy and Protocol dated May 5, 2010.

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

The Project is not subject to the enhanced analysis provisions of the EOEEA Environmental Justice Policy, as amended in 2017 (the "EJ Policy"). Although the Project is located in and adjacent to communities with designated environmental justice populations, it does not exceed the MEPA thresholds for air quality, solid waste or ~~air quality~~ hazardous waste that trigger a requirement for enhanced analysis under the EJ Policy. The EOEEA has also not required Wynn to conduct any further analysis under Executive Order No. 552 on Environmental Justice (November 20, 2014). Nonetheless, the Commission finds that the proposed Project will make significant positive environmental justice contributions to the host community of Everett and the surrounding area: that are consistent with EOEEA's goals of increasing investments in economically disadvantaged areas. See EJ Policy at 12-13. These positive contributions include without limitation the rehabilitation and revitalization of a contaminated former chemical manufacturing site and its abutting riverfront, the creation of open space amenities including a 20 foot wide harborwalk with connections to the extensive public open space network along the Mystic River, the use of environmentally-sensitive design in all aspects of the Project as described below, and the creation of significant numbers of new jobs arising out of and related to the construction and operation of the proposed facility. The Commission finds that these jobs will directly and substantially benefit disadvantaged persons in the local community.

VI. REQUIRED GOVERNMENTAL PERMITS AND APPROVALS

According to the SSFEIR Certificate, and as updated by the NPC and the NPC Certificate (Page 5), the Project ~~is expected to require~~ has received or requires the following permits and approvals from, or review by the following federal, state, and local agencies, ~~in addition to the License from the Gaming Commission:~~³

Agency	Permit(s) <u>Issued or Completed</u> <u>Required or Pending</u>
<u>Gaming Commission</u>	<u>Category 1 Gaming License</u> ⁴
MassDOT	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%; color: red;"> <p>Vehicular Access Permit (Category III);</p> <p>Non-vehicular Access Permit;</p> <p>Traffic Signal Regulation</p> </div> <div style="width: 45%; color: blue;"> <p><u>Vehicular Access Permit (Category III);</u></p> <p><u>Non-vehicular Access Permit;</u></p> <p><u>Traffic Signal Regulation</u></p> </div> </div>
MassDOT, Rail and Transit Division/MBTA	<p>Land Disposition and Easement Agreements;</p> <p>Agreements and approvals necessary to: construct</p> <ul style="list-style-type: none"> • <u>Construct</u> improvements and to operate within MBTA transit stations and agreements and approvals necessary to relocate; • <u>Relocate</u> bus stops; funding to • <u>Fund</u> support of Orange Line capacity; and • <u>Make</u> improvements to MBTA stations.
MassDCR <u>DCR</u>	Construction and Access Permit
MWRA	8 <u>Sewer Use Discharge Permit (or waiver) and an 8(M) Permit</u>
MassDEP	<p>Chapter 91 Waterways License;</p> <p><u>Section 401 Water Quality Certification (“WQC”);</u> Chapter 91 Dredging Permit; Notification of Construction/Demolition;</p> <p>Air Plan Approval or Environmental Results Program Certification; Section 401 Water Quality Certification; and Asbestos Removal Permit (if required).</p>

³ The 2016 Section 61 Findings noted that the Project may have also required approval for modification to I-93 and other portions of the National Highway System from the Federal Highway Administration. However, modifications to I-93 were not ultimately required. The Project also requires review by the Massachusetts Port Authority (“Massport”) for certain mitigation measures proposed on Massport property. Finally, the Project may require additional local licenses to operate, such as review of plans by the Everett Fire Department and licensing for food establishments within the Gaming Establishment by various City of Everett departments. See NPC at pp. 1-20.

⁴ After completion of the MEPA review, issuance of the Secretary’s SSFEIR Certificate, and issuance of the Commission’s 2016 Section 61 Findings, the Commission voted to issue the final Category 1 Gaming License to Wynn on April 25, 2016, and notice of the Commission’s vote on the final License was published in the Environmental Monitor on May 11, 2016.

Agency	Permit(s) <u>Issued or Completed</u> <u>Required or Pending</u>
<u>EOEEA</u>	<u>Municipal Harbor Plan Approval</u>
<u>CZM</u>	<u>Federal Consistency Review</u>
<u>Department of Housing and Community Development</u>	<u>Approval of urban renewal plan</u>
City of Everett Conservation Commission (or a Superseding Order of Conditions (SOC) from MassDEP if the local Order is appealed)²	Order of Conditions <u>for on-site work</u>
City of Boston Transportation Department & Public Improvements Commission	Approval for Off-Site Roadway Improvements
U.S. Army Corps of Engineers (“ACOE”)	Section 404 Clean Water Act Permit and Section 10 Permit
Federal Aviation Administration	Determination of No Hazard to Air Navigation ³
<u>Massachusetts Aeronautics Commission</u>	<u>Airspace Review</u>
U.S. Environmental Protection Agency	National Pollutant Discharge Elimination System (“NPDES”) Construction General Permit <u>and Remediation General Permit</u>

~~The Project may also require approval for modification to I-93 and other portions of the National Highway System from the Federal Highway Administration. If so, the Project may be subject to~~

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

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

~~review pursuant to the National Environmental Policy Act) and the National Historic Preservation Act. The Project may also require Federal Consistency Review by Coastal Zone Management. It also requires review by the Massachusetts Port Authority (“Massport”) for certain mitigation measures proposed on Massport property.~~

VII. EXECUTED MITIGATION AGREEMENTS

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

1. The Host Community Agreement with the City of Everett dated April 19, 2013 (approved by local referendum pursuant to G.L. c. 23K, § 15(13), on June 22, 2013);
2. Surrounding Community Agreements with the following municipalities:
 - a. The City of Boston (“Boston”), dated January 27, 2016;⁴⁵
 - b. The City of Cambridge (“Cambridge”), dated April 22, 2014;
 - c. The City of Chelsea (“Chelsea”), dated June 9, ~~2014~~⁵2014.⁶
 - d. The City of Malden (“Malden”), dated November 12, 2013;
 - e. The City of Medford (Medford”), dated April 11, 2014; and
 - f. The City of Somerville (“Somerville”), dated June 12, ~~2014~~.⁶2014.⁷

⁴⁵ By written decision dated May 15, 2014, the Commission determined that the “Wynn gaming establishment is located solely in Everett. Accordingly, by definition, the City of Boston is not a host community to that project.” On May 15, 2014, the Commission voted to formally deem the City of Boston a surrounding community to the Wynn Project (May 15, 2014 Tr. pp. 123-124). After Boston declined to participate in the Commission’s binding arbitration process under 205 CMR 125.01, the Commission voted on August 7, 2014, to “deem the city of Boston to have waived its surrounding community status with respect to the application for a Category 1 casino license filed by Wynn MA, LLC.” (August 7, 2014 Tr. pp. 195-96). Subsequently, Boston and Wynn executed and submitted to the Commission the Surrounding Community Agreement dated as of January 27, 2016. On February 4, 2016, the Commission voted to accept the Surrounding Community Agreement, to reinstate Boston as a surrounding community to Wynn’s proposed Category 1 Gaming Establishment in Everett, and to determine that the terms of the Surrounding Community Agreement will replace Sections 3 and 4 of the conditions in Wynn’s conditional License related to Boston. *See* Vote Regarding Litigation Release and Surrounding Community Agreement dated February 4, 2016.

⁵⁶ Pursuant to 205 CMR 125.01(6)(c), Wynn participated in binding arbitration with Chelsea. The Arbitrator issued a Report and Final Arbitration Award dated June 9, 2014, selecting Wynn’s Best and Final Offer (“BAFO”) to Chelsea and thereby specifying its terms as the surrounding community agreement between Wynn and Chelsea. The provisions of Wynn’s BAFO to Chelsea attached to the Report and Final Arbitration Award dated June 9, 2014, were incorporated by reference as conditions in the conditional License.

⁶⁷ Pursuant to 205 CMR 125.01(6)(c), Wynn also participated in binding arbitration with Somerville. An Arbitration panel issued a Report and Final Arbitration Award dated June 9, 2014, selecting Wynn’s BAFO and thereby

3. Neighboring Communities Agreements with the following municipalities:
 - a. The City of Lynn (“Lynn”), dated January 28, 2014; and
 - b. The City of Melrose (“Melrose”), dated January 28, 2014;
4. The Impacted Live Entertainment Venues Agreement including with the Massachusetts Performing Arts Coalition, dated January 20, 2014; and
5. The Massachusetts State Lottery effective as of September 5, 2014.

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

VIII. MEPA SECTION 61 FINDINGS AND CONDITIONS

A. Scope of Commission Section 61 Findings

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

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

B. Enhanced Public Participation in Commission Section 61 Findings

specifying its terms as the surrounding community agreement between Wynn and Somerville. Wynn and Somerville subsequently executed the Surrounding Community Agreement referenced in the text.

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

1. In these Second Amended Section 61 Findings, the Commission has considered and revised as appropriate, the draft Section 61 Findings included in the SSFEIR and NPC.
2. In these Second Amended Section 61 Findings, the Commission has included and ~~included~~incorporated by reference the Section 61 Findings from all other State Agencies including, but not limited to, MassDOT’s Section 61 Findings. See below.
3. In preparing ~~these~~the 2016 Section 61 Findings, the Commission engaged Green International and City Point Partners as consultants, whose representative made a public presentation at the Commission’s open meeting on March 22, 2016 at 1:00 PM and who have provided recommendations regarding additional conditions that should be added to the Commission’s draft and ~~Final~~final 2016 Section 61 Findings (as restated in these Second Amended Section 61 Findings).
4. The Commission posted a March 17, 2016 preview draft of the 2016 Section 61 Findings and the consultants’ report on the MGC website on March 18, 2016; posted the Commission’s draft of the 2016 Section 61 Findings on the MGC website after the meeting on March 22, 2016; and solicited written comments on the draft 2016 Section 61 Findings on or before April 11, 2016 at 4:00 PM.
5. On March 29, 2016, at 5:00 PM ~~MGC~~the Commission held a public hearing on the draft 2016 Section 61 Findings at the Boston Convention and Exhibition Center, 415 Summer Street, Boston.
6. ~~These~~The 2016 Section 61 Findings ~~incorporate~~incorporated consideration of public comments received at the Commission’s public hearing on March 29, 2016, and prior to the close of public comments on April 11, ~~2016,~~2016.
7. Upon the completion of the above process, the Commission ~~will incorporate~~incorporated its ~~Final~~final 2016 Section 61 Findings into the Gaming License and ~~the Commission will file the Final~~filed the final 2016 Section 61 Findings with the MEPA Office.
8. The Commission ~~will conduct a~~has since then conducted regular quarterly review concerning compliance with the Commission’s ~~Final~~final 2016 Section 61 Findings and the conditions of the Gaming License.

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

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

Agency	Date	Env. Monitor
MWRA	1/12/16	1/20/16
Massport	1/21/16	2/10 24/16
MassDEP	1/22/16	<u>2/10/16</u>
MassDOT, MBTA and DCR ⁷	4/ 65 / 16 16 ⁸	4/ 7 6/16

Subject to the limitations listed below regarding the MEPA Section 61 Conditions, the Commission incorporates these Section 61 Findings by other State Agencies (and any final Section 61 Findings by these other State Agencies pursuant thereto) into the Commission’s Second Amended Section 61 Findings. Wynn shall comply with the detailed mitigation measures provided by the final Section 61 Findings issued by each other State Agency with jurisdiction to take Agency Action with respect to the Project including, without limitation, MassDEP, MassDOT, MBTA, MassDCR, Massport and MWRA. Wynn shall also comply with all applicable and lawful terms and conditions of any final federal, state, or local permit or approval required for the Project.⁸⁹

D. Limitations Regarding MEPA Section 61 Conditions

The Commission in its discretion expressly reserves the right to take, and nothing herein shall prevent the Commission from taking, further action with respect to these Second Amended Section 61 Findings, the License for the Gaming Establishment, and/or any conditions contained in these Second Amended Section 61 Findings or the License for the Gaming Establishment, pursuant to 205 CMR 127 or otherwise. Without limitation, to continue to ensure that all feasible measures are taken to avoid or minimize impacts of the Project and damage to the environment, the Commission, in its discretion, expressly reserves the right to modify or amend its Second Amended Section 61 Findings as a result of any Section 61 Findings or final Agency Action issued or finalized by other Agencies after the Commission’s 2016 Section 61 Findings. If the terms of (a) any other Agency’s Section 61 Findings or final Agency Action, (b) any other governmental permit or approval, (c) any denial of any other governmental permit or approval, (d) any process

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

⁸ The combined MassDOT/MBTA/DCR Section 61 Findings were dated March 31, 2016, and executed by DCR on March 31, by MBTA on April 4, and by MassDOT on April 5, 2016.

⁸⁹ By complying with the Secretary’s SSFEIR Certificate and NPC Certificate and by incorporating and requiring compliance with the final Section 61 Findings by other State Agencies (and their resulting final permits and approvals), the Commission neither assumes control over nor takes responsibility for matters that, by statute and regulations, are committed to the jurisdiction, control and expertise of other State Agencies. However, the Commission does exercise its own discretion and authority under the Gaming Act and MEPA and their respective regulations to issue its own Section 61 Findings and to incorporate its final Second Amended Section 61 Findings into the Gaming License.

required to obtain such permit or approval, or (e) any provision of any of the Mitigation Agreements listed above, conflict with the Commission's Second Amended Section 61 Findings or the mitigation measures set forth below, or render such mitigation measures infeasible or impossible, Wynn shall notify the Commission of that conflict for resolution by the Commission pursuant to G.L. c. 23K and 205 CMR 120.01 and 120.02. Pursuant to G.L. c. 23K, § 10(c), the Commission reserves its rights to determine which infrastructure improvements onsite and around the vicinity of the Gaming Establishment, including projects to account for traffic mitigation as determined by the Commission, shall be completed before the Gaming Establishment shall be approved for opening.

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

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

- (1) Measures described in SFEIR Chapter 3, and SFEIR Tables 3-2: Proposed DEP Mitigation Measures by Wynn MA, LLC, 3-3: Proposed DCR Mitigation Measures by Wynn MA, LLC, and 3-4: Summary of Proposed Mitigation Measures by Wynn MA, LLC;
- (2) Measures to mitigate impacts on wetlands, waterways and water quality set forth in FEIR Chapter 3, FEIR Section 13.4.1, and FEIR Tables 13-1 and 13-3, Proposed Wetlands, Waterways and Water Quality Mitigation Measures;
- (3) Measures to mitigate air quality impacts set forth in FEIR Chapter 5, FEIR Section 13.4.5, and FEIR Tables 13-1 and 13-3;
- (4) The transportation demand management ("TDM") program strategies for patrons and employees as noted in FEIR Chapter 4;
- (5) Measures to mitigate greenhouse gas impacts and promote sustainable development set forth in FEIR Chapter 6, FEIR Section 13.4.6, and FEIR Tables 13-1 and 13-3, Greenhouse Gas Emission Mitigation Measures;
- (6) Measures to mitigate storm water impacts set forth in FEIR Chapter 7, FEIR Section 13.4.4, and FEIR Tables 13-1 and 13-3, Stormwater Mitigation Measures;

- (7) Measures to mitigate impacts on water supply set forth in FEIR Chapter 8, FEIR Section 13.4.2, and FEIR Table 13-1, Proposed Water Use Mitigation Measures;
- (8) Measures to mitigate wastewater impacts set forth in FEIR Chapter 9, FEIR Section 13.4.3, and FEIR Tables 13-1 and 13-3, Proposed Wastewater and Sewer Mitigation Measures;
- (9) Measures to mitigate solid and hazardous wastes impacts set forth in FEIR Chapter 10 and FEIR Section 13.4.7 (Brownfields Remediation);
- (10) Measures to mitigate impacts on historic and archaeological resources set forth in FEIR Chapter 11;
- (11) Measures to mitigate construction-related impacts set forth in FEIR Chapters 12 and 13;
- (12) Measures to mitigate impacts on open space set forth in FEIR Chapter 2.3.8 and FEIR Section Table 13-4; ~~and~~
- (13) Measures identified in SSFEIR Chapter ~~4-4~~;
- (14) Measures to mitigate impacts identified in NPC Chapter 4.6; and
- (15) Measures to mitigate impacts identified in NPC Chapter 5.

In addition, Wynn shall comply with all measures to mitigate transportation impacts set forth in FEIR Chapter 4, FEIR Section 13.3, FEIR Tables 13-2 and 13-4, Table of Proposed Transportation Mitigation Measures, SFEIR Chapter 3 and SFEIR Table 3-1: Proposed Transportation Mitigation Measures by Wynn MA, LLC, and SSFEIR Chapter 4 as supplemented and amended in the SFEIR, SSFEIR and FEIR, SFEIR ~~and~~, SSFEIR, and NPC Certificates, and shall comply with any additional conditions that the Commission imposes in the License pursuant to 205 CMR 120.02(1)(a).

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

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

The environmental review process culminating in the ~~SSFEIR~~NPC and the ~~SSFEIR~~NPC Certificate, and the Section 61 Findings issued by the other State Agencies listed above require detailed and specific mitigation measures and off-site improvements to avoid or minimize the impacts of the Project and damage to the environment within the scope of MEPA and its

implementing regulations.⁹¹⁰ The Commission incorporates by reference the mitigation measures specified by the Section 61 Findings of these State Agencies having expertise in their respective areas of subject matter jurisdiction. The Commission also incorporates by reference Mitigation Agreements listed above which mitigate other impacts on the host and surrounding communities from the development and operation of a gaming establishment within the scope of the Gaming Act and its implementing regulations. Without limitation, the Commission incorporates by reference the acknowledgement and agreement of the City of Boston in § 1.2 of the Boston SCA Surrounding Community Agreement (“Boston SCA”) regarding mitigation of the transportation impacts of the Project.¹⁰¹¹ The Commission finds pursuant to G.L. c. 30, § 61 and 301 CMR 11.12(5), and based on the results of the MEPA process that, subject to the mitigation measures imposed as conditions by the Commission’s Second Amended Section 61 Findings herein, all feasible measures have been taken to avoid or minimize impacts of the Project and damage to the environment.

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

⁹¹⁰ See, e.g., MassDOT/MBTA/DCR Section 61 Findings (§§ V and VII), MWRA Section 61 Findings (at page 5), Massport Section 61 Findings (¶ B), and DEP Section 61 Findings (DEP’s Written Determination and Draft Special Conditions on Waterways Application, page 7, and Combined 401 Water Quality Certification, page 5).

¹⁰¹¹ Section 1.2 of the Boston SCA stipulates that, while the Project will result in additional vehicular traffic that may burden the transportation infrastructure in Boston, particularly in the Sullivan Square area in the neighborhood of Charlestown, Boston acknowledges and agrees that “Wynn’s mitigation under the Massachusetts Environmental Policy Act (‘MEPA’) and its payments to Boston under this [Surrounding Community] Agreement will mitigate any transportation impacts of the Project” and that “such mitigation will adequately mitigate all such impacts.”

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
1. EVERETT MITIGATION		
<i>In accordance with the SSFEIR Certificate <u>Secretary's applicable Certificates</u> as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</i>		
<p><i>Revere Beach Parkway (Route 16)/Mystic View Road/Santilli Highway/Route 99 Connector Improvements</i></p> <p><i>(Santilli Circle)</i></p>	<ul style="list-style-type: none"> • <i>Modify the approach from Frontage Road into the rotary to allow for two formal lanes.</i> • <i>Widen circle at Santilli Highway approach to allow for three travel lanes.</i> • <i>Provide improved pedestrian and bicycle connection from Frontage Road to Mystic View Road.</i> • <i>Reconfigure channelizing island on south side of rotary near Mystic View Road.</i> • <i>Provide traffic signal improvements at the signalized locations around the traffic circle.</i> • <i>Provide landscaping improvements to the center of the circle.</i> • <i>Provide new guide signage and pavement markings.⁺⁺¹²</i> <p><i>These geometric and traffic signal improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled "Santilli Circle Conceptual Improvement Plan (Figure 2-24A, B, C, and D)" included in the SFEIR, as revised in accordance with the revised conceptual plans entitled, "Proposed Modifications to SSFEIR 2023 Build Condition at Santilli Circle & Santilli Highway (Figure 1 & 2)" included in a Technical Memorandum dated March 3, 2016 to be reviewed and approved by MassDOT, with such refinements thereto as are approved by MassDOT through the 100 percent design submission.</i></p> <p><i>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit ("RSA") at Santilli Circle due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to</i></p>	<p><i>Prior to opening.</i></p>

⁺⁺¹² The SSFEIR Certificate indicated that Wynn will perform a Road Safety Audit ("RSA") during 25% design to identify safety improvements to be implemented as mitigation where feasible, incorporate RSA recommendations into final design where feasible, and coordinate with MassDOT to identify funding source for implementation of RSA recommendations. Since that time, as set forth below, Wynn has conducted the RSA and recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of Wynn. These Second Amended Section 61 Findings require that Wynn fund the approved road safety improvements resulting from the RSA recommendations as and to the extent set forth in MassDOT/MBTA/DCR Section 61 Findings. See below.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	<p>address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at Santilli Circle, the Proponent shall incorporate in the conceptual design plans for Santilli Circle all the potential safety enhancements with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes as listed in the RSA Report in Table 3: Potential Safety Enhancement Summary--Santilli Circle.</p>	
<p>Revere Beach Parkway (Route 16)/Broadway/Main Street (Sweetser Circle)</p>	<ul style="list-style-type: none"> • Reconstruct circle and approaches to function as a two-lane modern roundabout. • Reconfigure the existing Broadway (Route 99) northbound approach to allow for three travel lanes providing free flow access to Route 16 eastbound. • Provide shared use path on northwest side of rotary to improve bicycle access. • Install new signage to provide direction to bicyclists on how to navigate the rotary safely. • Provide landscaping and improvements on the north side of the circle. • Maintain pedestrian signal across Route 16 eastbound exit from rotary. <p>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled "Sweetser Circle Conceptual Improvement Plan (Figure 2-25A, B, and C)" included in the SFEIR, with such refinements thereto as are approved by MassDOT through the 100 percent design submission.</p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (RSA) at Sweetser Circle due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at Sweetser Circle, the Proponent shall incorporate in the conceptual design plans for Sweetser Circle all the potential safety enhancements with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes as listed in the RSA Report in Table 4: Potential Safety Enhancement Summary--Sweetser Circle.</p>	<p>Prior to opening.</p>
<ul style="list-style-type: none"> • Route 99 	<ul style="list-style-type: none"> • Construction of the site driveway and signalization of the Route 99 (Broadway)/Horizon Way intersection. 	<p>Prior to</p>

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<ul style="list-style-type: none"> (Broadway)/ Horizon Way (Site Driveway) • Route 99 (Broadway)/ Lynde Street • Route 99 (Broadway)/ Thorndike Street • Bow Street/Mystic Street • Bow Street/Lynde Street • Bow Street/Thorndike Street • Beacham Street/Robin Street • Route 99 (Broadway)/ Bowdoin Street • Route 99 	<ul style="list-style-type: none"> • Reconstruct Lower Broadway as a 4-lane boulevard with turn lanes at major intersections. • Upgrade/replace/install traffic control signals. • Reconstruct or construct sidewalks and bicycle lanes where required. • Install street trees and lighting. • Improve and provide access MBTA bus stops along Lower Broadway. • Installation of technology along Broadway/Alford Street (Route 99), near project entrance, to allow for signal prioritization for buses. <p>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Lower Broadway/ Alford Street (Route 99) Improvement Plan (Figures 2-12A, B, and C)” and refinements thereto through the 100 percent design. ¹²¹³</p> <p>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent (Wynn) has conducted a Road Safety Audit (“RSA”) along this corridor due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project’s impacts at the intersections along this corridor, the Proponent shall incorporate in the conceptual design plans for the corridor all the potential safety enhancements with <u>“low”</u> and/or <u>“medium”</u> costs and with “short-term” and/or “mid-term” timeframes as listed in the RSA Report in Table 3: Potential Safety Enhancement Summary- Lower Broadway.</p>	<p>opening.</p>

¹²¹³ As these various intersections are not under MassDOT jurisdiction, the determination of appropriate mitigation measures (if necessary) and the determination appropriate design and construction details will be made between Wynn and Everett as stated in the MassDOT/MBTA/DCR Section 61 Findings.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<i>(Broadway)/ Beacham Street intersection (service driveway)</i>		
<i>Broadway/Norwood Street/Chelsea Street⁺³¹⁴</i>	<i>Optimize traffic signal timing, phasing and coordination. This intersection is not under MassDOT jurisdiction. The determination of appropriate design and construction details at this intersection should be made between Wynn and the City of Everett.</i>	<i>Prior to opening.</i>
<i>Lower Broadway Truck Route</i>	<ul style="list-style-type: none"> • Upgrade Robin Street and Dexter Street to serve as a truck route. • Provide full depth reconstruction of the existing roadway to accommodate heavy vehicles. • Reconstruct Robin Street and Dexter Street to include heavy-duty pavement, corner radii improvements, sidewalk reconstruction (where present), drainage system modifications (minor), signs and pavement markings. 	<i>Prior to opening.</i>
<i>Ferry Street/Broadway (Route 99)⁺⁴¹⁵</i>	<i>Retime and optimize traffic signal.</i>	<i>Prior to opening.</i>
<i>Intersections not under MassDOT jurisdiction</i>	<i>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersections are not under MassDOT jurisdiction. If necessary, the determination of any appropriate mitigation measures and/or design and construction details at these intersections should be made between Wynn and Everett.</i>	<i>Prior to opening.</i>

⁺³ ~~See prior footnote.~~

¹⁴ See prior footnote.

⁺⁴ ~~See prior footnote.~~

¹⁵ See prior footnote.

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

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

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
	38/Harvard Street. ¹⁵¹⁶	
Mystic Valley Parkway (Route 16)/Route 16 Southbound Connector	<ul style="list-style-type: none"> • Implement traffic Signal retiming and optimization. • Implement ADA Improvements. <p><i>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, prior to any site occupancy, the Proponent (Wynn) will implement these improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</i></p> <p><i>In addition, as set forth in the MassDOT/MBTA/DCR Section 61 Findings, the Proponent has conducted a Road Safety Audit (RSA) at this intersection due to its inclusion in a Highway Safety Improvement Plan (HSIP) cluster. The RSA has identified a list of recommended safety improvements to address both existing and future conditions. These recommendations were summarized in the RSA Report dated March 10, 2016 submitted to MassDOT by AECOM on behalf of the Proponent. To improve safety conditions and mitigate the Project's impacts at this intersection, the Proponent shall incorporate in the conceptual design plans for this intersection all the potential safety enhancements as listed in the RSA Report in Table 4: Potential Safety Enhancement Summary – Mystic Valley Parkway/Route 38/Harvard Street.¹⁶¹⁷</i></p>	Prior to opening.

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

¹⁶The Commission's Second Amended Section 61 Findings incorporate MassDOT/MBTA/DCR Section 61 Findings with respect to the RSA recommendations for this intersection. If the intent of the MassDOT/MBTA/DCR Section 61 Findings is to describe the safety enhancements for this intersection as those with "low" and/or "medium" costs and with "short-term" and/or "mid-term" timeframes, the Commission's Second Amended Section 61 Findings would similarly track that requirement.

~~¹⁶See prior footnote.~~

¹⁷See prior footnote.

SUBJECT MATTER	MITIGATION OR IMPROVEMENT MEASURE	SCHEDULE
<i>Wellington Circle Study</i>	<i>Provide \$1.5 million to MassDOT toward a transportation study to develop alternatives for a long-term fix of Wellington Circle.¹⁸</i>	<i>Prior to opening.</i>
<i>Intersections not under MassDOT jurisdiction</i>	<p><i>As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no additional feasible means to avoid or minimize the project's traffic impacts at the following locations that the Proponent (Wynn) could be required to implement:</i></p> <ul style="list-style-type: none"> • <i>Route 28 (Fellsway West)/Fulton Street Intersection</i> • <i>Route 28 (Fellsway West)/Route 60 (Salem Street) Intersection</i> • <i>Route 28 (Fellsway)/Central Avenue/Medford Street Intersection</i> • <i>Route 28 (Fellsway)/Riverside Avenue Intersection</i> 	<i>Prior to opening.</i>
<i>Other Intersections</i>	<p><i>As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project's traffic impacts at this location that Wynn could be required to implement:</i></p> <ul style="list-style-type: none"> • <i>Route 16 (Mystic Valley Parkway)/Locust Street Intersection</i> • <i>Route 16 (Mystic Valley Parkway)/Commercial Street Intersection</i> 	<i>N/A</i>
<i>Other Mitigation under Surrounding Community Agreement</i>	<p><i>In addition to the MEPA mitigation measures described above, Wynn shall comply with the requirements of the Medford Surrounding Community Agreement ("Medford SCA"). Without limitation, subject to the terms and conditions thereof, Wynn shall pay to Medford the Transportation Hub Payment under Section 1.2 and the annual Public Safety Payment under Section 2.2 thereof.</i></p>	<i>Ongoing pursuant to schedule set forth in the Medford SCA.</i>
<u>3. MALDEN MITIGATION</u>	3. MALDEN MITIGATION	
	<u>In accordance with the Secretary's applicable Certificates as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</u>	
<i>Other Mitigation</i>	<i>In addition to the multimodal improvements to MBTA's Malden Center Station and other MBTA property</i>	<i>Ongoing</i>

¹⁸ [This measure is the same as the study referred to in § 5.3 of the Somerville SCA as described below.](#)

<i>SUBJECT MATTER</i>	<i>MITIGATION OR IMPROVEMENT MEASURE</i>	<i>SCHEDUL E</i>
<i>under Surrounding Community Agreement</i>	<i>described below pursuant to MEPA, Wynn shall comply with the requirements of the Malden Surrounding Community Agreement (“Malden SCA”). Without limitation, subject to the terms and conditions thereof, Wynn shall pay to Malden the Transportation Hub Payment under Section 1.2, the Transitional Roads Payment under Section 2.2, and the Public Safety Payment under Section 3.2 thereof.</i>	<i>pursuant to schedule set forth in the Malden SCA</i>

A&K DRAFT: 4/30/19

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
4. BOSTON MITIGATION		
<i>In accordance with the SSFEIR Certificate <u>Secretary's applicable Certificates</u> as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings and in the Boston SCA, Wynn shall:</i>		
<p><i>Sullivan Square Mitigation Program</i></p> <p><i>Main Street/Maffa Way/Cambridge Street/Alford Street Intersection (Sullivan Square)</i></p>	<ul style="list-style-type: none"> • <i>Optimize signal timing for Maffa Way/Cambridge Street; interconnect and coordinate traffic signals, modify the Main Street approach.</i>¹⁷¹⁹ • <i>Install a traffic signal interconnection conduit system and associated equipment (pull boxes and wiring) from Sullivan Square to Austin Street.</i> • <i>Reconstruct busway between Cambridge Street and Maffa Way.</i> • <i>Reconstruct the southbound approach of Alford Street at Cambridge Street.</i> • <i>Install new traffic signals at Cambridge Street/Spice Street/MBTA Busway and Maffa Way/Busway.</i>¹⁸²⁰ • <i>Upgrade/replace traffic signal equipment/signs/pavement markings.</i>¹⁹²¹ • <i>Optimize traffic signal timing, phasing and coordination.</i> • <i>Reconstruct Spice Street.</i> • <i>Reconstruct D Street.</i>²⁰²² 	<p><i>Prior to opening, except for Regional Working Group which shall be ongoing.</i></p>

¹⁷¹⁹ The SSFEIR Certificate ~~indicates~~ and NPC Certificate indicate that Wynn will “widen the Main Street approach to provide two lanes.” The Boston SCA indicates that Wynn will “modify the Main Street approach.” These Second Amended Section 61 Findings anticipate that Wynn and Boston will finalize the modification of the Main Street approach during review by the Boston Transportation Department & Public Improvements Commission.

¹⁸²⁰ The Boston SCA further specifies that this mitigation measure also includes “new traffic signals at ... Maffa Way/Beacham Street Extension, and Main Street (west)/Beacham Street.”

¹⁹²¹ The Boston SCA further specifies that this mitigation measure also includes “new signal controllers with adaptive signal control capabilities and new Pan-Tilt-Zoom (PTZ) cameras,” and requires that Wynn “[i]nstall necessary additional loop detection to ensure adaptive signal control capabilities.” For the Cambridge Street/I-93 northbound off-ramp, the Boston SCA specifically requires Wynn to “[u]pgrade traffic signals, including new controller with adaptive signal control capabilities and new PTZ camera.”

²⁰²² According to the SSFEIR Certificate, “The railroad right-of-way (ROW) referred to in the SSFEIR as D Street is owned by Massport. Comments from Massport indicate that this ROW is not a public way and proposed improvements would require approval by Massport.” The MassDOT/MBTA/DCR Section 61

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
<p><i>Alford Street/Main Street/Sever Street/Cambridge Street (Sullivan Square)</i></p> <p><i>Cambridge Street/Spice Street/Sullivan Square Drive Intersection</i></p> <p><i>Maffa Way/Beacham Street Extension Intersection</i></p> <p><i>Cambridge Street/I-93 northbound off-ramp</i></p>	<ul style="list-style-type: none"> • <i>Reconstruct sidewalks on west side of rotary between Sullivan Square station and Alford Street Bridge.</i> • <i>Reconstruct sidewalks and upgrade lighting and streetscape in rotary between Cambridge Street and Main Street (east).</i> • <i>Provide bicycle lanes on Cambridge Street.</i> • <i>Reconstruct MBTA lower busway and parking area at Sullivan Square station, including new traffic signal at Maffa Way/station entrance.</i> • <i>Construct BUS ONLY left-turn lane from Main Street into Sullivan Square Station.</i> <p><i>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Sullivan Square Conceptual Improvement Plan (Figure 2-91)” included in the SFEIR and approved by MassDOT. This plan will be refined as the design progresses to the 100 percent level.</i></p> <p><i>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Sullivan Square, the Maffa Way/Beacham Street Extension Intersection, the Maffa Way/MBTA Bus Lane Intersection, the D Street/Rutherford Avenue Intersection, and the Spice Street/D Street Intersection are not under MassDOT jurisdiction. However, because traffic operations at these locations may affect traffic operations at the I-93 Northbound off- Ramp and/or the MBTA bus operations or Sullivan Square Station driveways, Wynn will prepare and submit conceptual and 100 percent plans to MassDOT and MBTA for review and approval (as specified in the MassDOT/MBTA/DCR Section 61 Findings), in consultation with the City of Boston, prior to the construction of these intersections or improvements.</i></p> <p><i>Moreover, enhanced transportation planning for long-term transportation improvements that can support</i></p>	

Findings state that, “Prior to the issuance of the Vehicular Access Permit for the project, the Proponent will submit to the MassDOT District 4, and District 6 Offices satisfactory documentation to demonstrate that all necessary ROW along D Street has been acquired from the Massachusetts Port Authority (Massport) for the implementation of the mitigation measures detailed in this finding....” In Massport’s Section 61 Findings, Massport has concluded that, subject to its review and approval of detailed plans and specifications to support the request for a license for the construction of the transportation mitigation improvements on Massport’s D Street property, “the Project’s proposed transportation improvements on Massport’s D Street Property are expected to result in no adverse environmental impacts.”

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
<i>And Related Intersections</i>	<i>sustainable redevelopment and economic growth in and around Sullivan Square will occur through the Regional Working Group required by the SSFEIR Certificate and discussed separately below.</i>	
<i>Dexter Street/Alford Street (Route 99)</i>	<ul style="list-style-type: none"> • Upgrade/replace traffic signal equipment/signs/pavement markings.^{24,23} • Optimize traffic signal timing, phasing, and coordination. <p><i>Without limitation, these improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled “Lower Broadway/ Alford Street (Route 99) Improvement Plan (Figure 2-12)” and refinements thereto as the design progresses to the 100 percent level.</i></p>	<i>Prior to opening.</i>
<i>Rutherford Avenue (Route 99)/Route 1 Ramps</i>	<p><i>Optimize traffic signal timing and phasing.</i></p> <p><i>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the traffic signal plans are to be submitted to and approved by MassDOT. This plan will be refined as the design progresses to the 100 percent level.</i></p>	<i>Prior to opening.</i>
<i>Other Intersection not under MassDOT jurisdiction</i>	<p><i>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersection is not under MassDOT jurisdiction:</i></p> <ul style="list-style-type: none"> • <i>Main Street/Beacham Street Intersection.</i> <p><i>The determination of appropriate design and construction details of this intersection should be made between the proponent and the City of Boston.</i></p>	<i>Prior to opening.</i>
<i>Other Intersections</i>	<p><i>As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the project’s traffic impacts at the following locations that Wynn could be required to implement at this time:</i></p> <ul style="list-style-type: none"> • <i>Rutherford Avenue/ Austin Street Intersection.</i> 	<i>Per results of Regional Working Group.</i>

^{24,23} The Boston SCA further specifies that this mitigation measures includes “PTZ camera.”

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
	<ul style="list-style-type: none"> I-93 ramps/Rutherford Avenue/Chelsea Street Intersection (City Square). <p>Rather, enhanced transportation planning will occur through the Regional Working Group required by the SSFEIR Certificate and discussed separately below.</p>	
Sullivan Square Landscaping	<p>Improve landscaping within the rotary at Sullivan Square and immediately north of the rotary adjacent to Rutherford Avenue <u>in Sullivan Square in accordance with the 100% design plans as approved by MassDOT and the City of Boston.</u></p>	Prior to opening.
Cooperation and Outreach	<ul style="list-style-type: none"> Continue to work with MassDOT and Boston to refine geometric improvements and optimize traffic operations. Continue discussions with affected property owners impacted by improvements regarding necessary grants of right of way. 	Prior to opening and ongoing.
	<p><i>In accordance with the SSFEIR Certificate²² Secretary's applicable Certificates²⁴ as more particularly specified and conditioned in the Boston SCA, Wynn shall comply with the following conditions:</i></p>	
Long-term Financial Commitment to Transportation Mitigation for Sullivan Square	<p>Pursuant to and subject to §§ 7.3, 7.4 and 7.5 of the Boston SCA, Wynn shall provide payments of \$2.5 million per year for 10 years into the SSIP Fund toward the Sullivan Square Infrastructure Project, as defined therein.</p> <p>Prior to the Opening Date, pursuant to and subject to § 7.5 of the Boston SCA, Wynn shall negotiate with Boston in good faith an escrow agreement pertaining to the SSIP Fund. If Wynn and Boston do not reach an escrow agreement prior to the Opening Date, Wynn shall report to the Commission on or within 30 days after the Opening Date for action by the Commission as may be necessary with respect thereto.</p>	Annually for 10 years beginning on the first anniversary of the Opening Date.

²²²⁴ In the SSFEIR Certificate, the Secretary noted that under the Reopener Provision of the conditional Gaming License (Section 2 condition 32), “the City of Boston can reopen negotiations for Surrounding Community Status any time prior to opening of the gaming establishment and the MGC has the authority to amend and modify mitigation as appropriate.” Wynn and the City have done so. See Commission’s Vote Regarding Litigation Release and Surrounding Community Agreement dated February 4, 2016.

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
<p>Long-term Commitment Transportation Demand Management relative to Sullivan Square and Boston</p>	<p>Pursuant to and subject to § 7.1.B of the Boston SCA, Wynn shall monitor traffic and, if there are operational deficiencies at the monitored locations and either (1) the measured traffic volumes for the Project exceed 110% of the projected values; or (2) the distribution of Project-related traffic from the Project Site entrance to the roadway network varies by more than 10% of the trip assignment assumed for the Project, then Wynn shall be responsible for the costs of implementing additional mitigation measures including but not limited to those measures listed in § 7.1.B of the Boston SCA.²³²⁵</p> <p>Pursuant to and subject to § 7.1.B of the Boston SCA, Wynn shall engage and pay for an independent organization approved by the Commission to complete the monitoring program.</p> <p>Consistent with the MassDOT/MBTA/DCR Section 61 Findings, at least annually on the anniversary of the Opening Date, or on such other schedule as Wynn and Boston may agree, Wynn shall report to the Commission and Boston the results of the monitoring program, any operational deficiencies at the monitored locations related to metrics (1) and (2) above, and the plan for, schedule for and status of implementing any additional mitigation measures with respect thereto.</p> <p>See also Transportation Monitoring Program, in § VIII.F.11 below.</p>	<p>Commences prior to the initial occupancy of the Project and continues for a period of 10 years.</p>
<p>Community Outreach</p>	<p>Pursuant to and subject to § 8.8 of the Boston SCA, Wynn shall engage in community outreach to the Charlestown neighborhood and consult with the neighborhood regarding the progress of the Project including any transportation mitigation or changes in transportation mitigation plans.</p>	<p>Ongoing.</p>

²³²⁵ The terms “projected values” and “measured traffic values” in the first condition should be measured based on Friday and Saturday peak hour trip volumes; and the phrase “more than 10% of the trip assignment assumed for the Project” in the second condition should be understood to mean more than 80.3% of Gaming Establishment traffic travels through Sullivan Square (which represents a variation of 10% from the projected traffic through Sullivan Square).

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
Community Impact Fee ²⁴²⁶	<p>Pursuant to and subject to § 2.1 of the Boston SCA, following the Opening Date and throughout the term of the License for as long as Wynn, or any parent, subsidiary or related entity, owns, controls, or operates a commercial gaming facility at the Project Site, Wynn shall make an annual payment of \$2 million to Boston (the “Community Impact Fee”), subject to escalation pursuant to § 10.16 of the Boston SCA, for the purposes set forth therein.</p> <p>Pursuant to and subject to § 2.2 of the Boston SCA, the Commission has released to Boston at Wynn’s request Wynn’s check in the amount of \$1 million. If that check does not clear because of the passage of time since it was cut, Wynn shall promptly provide a replacement check in that amount to Boston.</p> <p>Pursuant to and subject to § 2.3 of the Boston SCA, the Community Impact Fee shall remain in the exclusive custody and control of Boston, and shall be used and applied at Boston’s sole discretion and determination toward any impact, infrastructure, improvement and/or mitigation measures related to the Project that Boston deems necessary and suitable.</p>	<p>Annually on or before the ninetieth (90th) day following the Opening Date.</p> <p>Completed.</p>
5. REVERE MITIGATION		
	<p><i>In accordance with the SSFEIR Certificate Secretary’s applicable Certificates as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</i></p>	
Beach Street/Everett Street/Route 1A/Route 16/Route 60 Intersection (Bell	<ul style="list-style-type: none"> • Upgrade/replace traffic signal equipment/signs/pavement markings. • Optimize traffic signal timing, phasing and coordination. <p>As and to the extent set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p>	Prior to opening.

²⁴²⁶ Pursuant to and subject to §§ 2.1-2.3 of the Boston SCA, the Community Impact Fee may be used by the City for transportation mitigation or other purposes. Reference to this Community Impact Fee is included in this section because its potential uses include without limitation funding relative to transportation infrastructure impacts and the Sullivan Square Infrastructure Project (as defined in Section 7.4 of the Boston SCA) related to the Project.

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
Circle)		
6. CHELSEA MITIGATION		
	<i>In accordance with the SSFEIR Certificate Secretary's applicable Certificates as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall:</i>	
Route 16 (Revere Beach Parkway)/Washington Avenue	<ul style="list-style-type: none"> • Replace traffic signal equipment. • Furnish new signs/pavement markings. • Optimize traffic signal timing, phasing and coordination. <p><i>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at this intersection in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</i></p>	Prior to opening.
Route 16 (Revere Beach Parkway)/Everett Avenue ^{25,27}	Optimize traffic signal timing, phasing and coordination.	Prior to opening.

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

²⁷ The SSFEIR Certificate refers to this intersection in Chelsea and indicates that Wynn has committed to optimize traffic signal timing, phasing and coordination at this intersection. The MassDOT/MBTA/DCR Section 61 Findings (at pages 5-6) refer to this intersection in Chelsea and that Wynn will apply to MassDOT for a Vehicular Access Permit to implement improvements for modifications at this location; however, those Findings (at pages 4 and 16) list this intersection in Everett

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
Route 16 (Revere Beach Parkway)/Webster Avenue /Garfield Avenue	<p>Optimize traffic signal timing, phasing and coordination.</p> <p>As set forth in the MassDOT/MBTA/DCR Section 61 Findings, Wynn will implement the improvements at this intersection as applicable in accordance with conceptual and 100 percent plans to be submitted to and approved by MassDOT and DCR. This plan will be refined as the design progresses to the 100 percent level.</p>	<u>Prior to opening.</u>
Intersections not under MassDOT jurisdiction	<p>As stated in the MassDOT/MBTA/DCR Section 61 Findings, the following intersection is not under MassDOT jurisdiction:</p> <ul style="list-style-type: none"> ▪ Williams Street/Chestnut Street Intersection. <p>If necessary, the determination of appropriate mitigation measures at this intersection should be made between the Proponent and the City of Chelsea.</p> <p>As an adjunct to the ongoing monitoring required under these <u>Second Amended</u> Section 61 Findings, the Commission requests that Wynn investigate whether this location becomes the subject of significant additional cut-through traffic between Logan Airport and the gaming establishment. If it does, the Commission reserves the right to impose additional mitigation requirements on Wynn to address such significant additional cut-through traffic, including, without limitation, replacing traffic signal equipment; installing new signage and pavement markings; and/or optimizing traffic signal timing, phasing and coordination. The implementation of any such measures at this intersection should be coordinated between Wynn and the City of Chelsea.</p>	Ongoing.
Other	As stated in the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize	N/A

and indicate that “there are no feasible means to avoid or minimize the project’s traffic impacts at this location that the Proponent could be required to implement.” In public comments dated March 22, 2016, on the Commission’s draft Section 61 Findings, the Chelsea City Manager asked “that Wynn be required, as part of its traffic mitigation, to improve the Route 16/Everett Avenue intersection by means of replacing traffic signal equipment, installing new signage and pavement markings and optimizing traffic signal timing phasing and coordination.” These Second Amended Section 61 Findings require that Wynn optimize traffic signal timing, phasing and coordination at this intersection as and to the extent authorized or required by MassDOT.

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
Intersections	<p>the project's traffic impacts at this location that Wynn could be required to implement:</p> <ul style="list-style-type: none"> Route 16 (Revere Beach Parkway)/Union Street Intersection. 	
Other Mitigation under Surrounding Community Agreement Arbitration Award	<p>In addition to the MEPA mitigation measures described above, Wynn shall comply with the conditions in Chelsea Surrounding Community Agreement Arbitration Award in the form of Wynn's BAFO to Chelsea attached to the Report and Final Arbitration Award dated June 9, 2014 (the "BAFO"), including, without limitation the requirements of Section 5 regarding Transportation Impacts. Without limitation, subject to the terms and conditions thereof, Wynn shall make to Chelsea the Transitional Roads Payment pursuant to Section 5.2 thereof and the additional annual mitigation payment under Section 5.3 thereof.</p>	Ongoing pursuant to schedule set forth in the BAFO.
<u>7. SOMERVILLE MITIGATION</u>	7. SOMERVILLE MITIGATION	
	<p>In accordance with the SSFEIR Certificate <u>Secretary's applicable Certificates</u> and (as applicable) as more particularly specified and conditioned in the Somerville Surrounding Community Agreement ("Somerville SCA"), Wynn shall comply without limitation with the following conditions.^{26 28}</p>	
Orange Line Subsidy	<p>Wynn will provide an annual Orange Line operating subsidy to the MBTA to support additional passenger capacity on the Orange Line, discussed below, which will directly benefit (without limitation) the residents, commuters and visitors to and from Assembly Station in Somerville.^{27 29}</p>	See below.
Roadways	<p>In accordance with the SSFEIR Certificate as more particularly specified and conditioned in Section V of the MassDOT/MBTA/DCR Section 61 Findings, there are no feasible means to avoid or minimize the Project's</p>	N/A.

^{26 28} In Section 1.2 of the Somerville SCA, "The Parties acknowledge and agree that the proximity of the Project to the Assembly Row and Assembly Square developments may result in additional pedestrian and vehicular traffic in Somerville. The projects identified in the provisions in this Agreement regarding infrastructure improvements are intended to mitigate such impacts."

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

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

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
	<p>traffic impacts that the Project Proponent (Wynn) could be required to implement at the following locations:</p> <ul style="list-style-type: none"> • I-93 Ramps/Route 38 (Mystic Avenue) Intersection. • I-93 NB Off-ramp/Route 28 (McGrath Highway) Intersection. • Route 38 (Mystic Avenue)/ Route 28 (McGrath Highway) Intersection. • Broadway/ Route 28 (McGrath Highway) Intersection.^{28,30} 	
<p>Sullivan Square^{29,31}</p>	<p>Wynn will fund and undertake improvements to Sullivan Square in accordance with the SSFEIR Certificate and these <u>Second Amended</u> Section 61 Findings.</p> <p>Wynn will comply § 5.2 of the Somerville SCA and these <u>Second Amended</u> Section 61 Findings relative to developing a comprehensive traffic solution for Sullivan Square. See provisions regarding the Regional Working Group required by the SSFEIR Certificate and discussed below in these <u>Second Amended</u> Section 61 Findings.</p> <p>As an adjunct to the ongoing monitoring required under § 7.1.B of the Boston SCA, the independent</p>	<p>Prior to opening.</p> <p>Ongoing.</p>

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

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

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

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

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDULE</u>
	<i>organization approved by the Commission should monitor traffic at the following intersection and, if there are material operational deficiencies at the monitored location caused by the two new signalized intersections associated with the Project’s mitigation measures, should recommend feasible mitigation measures, if any, to mitigate those deficiencies: Intersection of Broadway / Mt. Vernon Street / Alfred A. Lombardi Way.</i>	Ongoing.
Wellington Circle ^{30,32}	<p><i>Wynn will fund and undertake improvements to Wellington Circle in accordance with the SSFEIR Certificate and these Second Amended Section 61 Findings.</i></p> <p><i>Wynn will comply § 5.3 of the Somerville SCA and these Second Amended Section 61 Findings relative to funding a study concerning permanent improvements to Wellington Circle, funding up to 25% or \$1.5 million of the concept design following the study, and cooperating with efforts by the relevant community or communities to seek future funding from the Transportation Infrastructure and Development Fund relative to Wellington Circle.</i></p>	<p>Prior to opening.</p> <p>Ongoing.</p>
Public Safety Mitigation Payment	<p><i>Pursuant to § 5.4 of the Somerville SCA, and contingent upon the receipt of a non-appealable License, Wynn will pay to Somerville an annual payment of \$250,000 (plus escalation per Exhibit B of the Somerville SCA) “to enable Somerville to fund staffing and other public safety initiatives related to increased pedestrian and vehicular traffic in Somerville and additional costs, if any, incurred in mutual aid responses to the Project.”</i></p> <p><i>Pursuant to § 5.4 of the Somerville SCA and with the specific conditions of these Second Amended Section 61 Findings, Wynn will take steps to facilitate pedestrian and bicycle access along the Mystic River and Broadway.</i></p> <p><i>Pursuant to § 5.4 of the Somerville SCA and with the specific conditions of these Second Amended Section 61</i></p>	Annually per the requirements of the Somerville SCA.

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

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

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

<u>SUBJECT MATTER</u>	<u>MITIGATION OR IMPROVEMENT MEASURE</u>	<u>SCHEDUL E</u>
	<i>Intervention Procedures and Services Program)) for alcohol servers and other employees.</i>	

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

	<p><i>reduction programs.</i></p> <ul style="list-style-type: none">• <i>Provide on-site sale of MBTA passes for employees and for guests of the Project, including on-site Full Service MBTA Fare Vending Machine <u>when such machines are available.</u></i>• <i>Schedule employee shift beginnings and endings outside specified peak traffic periods.</i>• <i>Implement carpool/vanpool matching programs.</i>• <i>Disseminate promotional materials, including newsletters about TDM program in print at the Project's on-site Transportation Resource Center, and online.</i>• <i>Provide patron Orange Line Shuttle Service to Wellington and Malden Center stations, 2 locations, 20 Minute Headways, 20 Hrs./day, 30-60 passenger vehicles.</i>• <i>Provide Employee Shuttle Buses 2 Locations, 20 Minute Headways, 24 Hrs./day.</i>• <i>Improve and provide access to MBTA bus stops along Lower Broadway.</i>• <i>Implement improvements to Wellington and Malden Center Stations to accommodate Wynn patron shuttle service at curbside.</i>• <i>Premium Park & Ride Shuttle buses 3 Locations, 90 Minute Headways, 12 Hrs./day.</i>• <i>Provide Neighborhood Shuttle Continuous Loop, 20 Minute Headways, 24 Hrs./day.</i>• <i>Provide for potential future expansion of shuttle service to include service to Logan International Airport, North Station, and South Station and other major transportation hubs through coordination with Everett and the MBTA.</i>• <i>Provide water shuttle service to the Project Site, including associated docks and facilities and the use of customized ferry vessels to support passenger transport between the Project Site and key Boston Harbor sites.</i>• <i>Participate in the MBTA Corporate Pass Program to the extent practical and as allowable pursuant to commercial tenant lease requirements.</i>• <i>Furnish electric vehicle charging stations within the proposed parking garage.</i>• <i>Furnish car sharing services in the garage at the Project Site.</i>• <i>Provide preferential parking for car/vanpools and alternatively fueled vehicles.</i>• <i>Provide a "Guaranteed-Ride-Home" in case of emergency to employees that</i>	
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	<i>commute to the Project by means other than private automobile.</i>	
10. MBTA FACILITY IMPROVEMENTS & LAND TRANSFER MITIGATION		
	<i>In accordance with the SSFEIR Certificate <u>Secretary's applicable Certificates</u> as more particularly specified and conditioned in Section VII of the MassDOT/MBTA/DCR Section 61 Findings, Wynn shall comply with the following conditions:</i>	
<i>Wellington Station Improvements</i>	<p><i>Wynn shall make multimodal improvements to MBTA's Wellington Station including dedicated curb space for the patron shuttles, reconfiguration of the existing parking lot to support the construction of a fourth curb cut north of the existing/taxi/auto pick-up/drop-off area, and reconfiguration of the existing MBTA parking lot to create additional parking spaces.</i></p> <p><i>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled "Wellington Station Curbside Reconfiguration (Figure 2-13)" included in the SSFEIR, with such refinements thereto as are approved by the MBTA through the 100 percent design submission.</i></p>	<i>Prior to opening.</i>
<i>Malden Center Station Improvements</i>	<p><i>Wynn shall make multimodal improvements to MBTA's Malden Center Station to accommodate shuttle bus service at curbside, associated bus layover space, and construction of a passenger shelter on MBTA property near the corner of the busway and Centre Street.</i></p> <p><i>These improvements shall be substantially as described in the MassDOT/MBTA/DCR Section 61 Findings and as set forth in the conceptual plan entitled "Malden Center Station Curbside Reconfiguration (Figure 2-14)" included in the SSFEIR, with such refinements thereto as are approved by the MBTA through the 100 percent design submission.</i></p>	<i>Prior to opening.</i>
<i>Sullivan Square Bus Station Improvements</i>	<i>Wynn shall make multimodal improvements to at and adjacent to MBTA's Sullivan Square Station. These improvements include creation of a new circulation pattern including the alteration and reconstruction of the existing busways and the</i>	<i>Prior to opening.</i>

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

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

<p><i>Transportation Monitoring Program</i></p>	<p><i>Wynn shall engage and pay for an independent organization approved by MassDOT to undertake a comprehensive transportation monitoring program. Monitoring shall commence prior to the initial occupancy of either hotel or gaming components of the Project, whichever occurs first, to establish a baseline, and will continue for a period of 10 years. At least annually, Wynn shall provide a report on the Transportation Monitoring Program to the Commission (with a copy to MassDOT), which will include without limitation a report on the implementation of the TDM program described herein. Wynn shall provide more frequent reports as may be required from time to time by the Commission or MassDOT.</i></p> <p><i>The scope, locations, methodology, timing and frequency of the transportation monitoring program shall comply with the requirements of the MassDOT/MBTA/DCR Section 61 Findings, and may be adjusted by MassDOT as necessary to ensure that the geographic extent of the data collected is sufficient to measure the impact of the Project and to reflect changes in the transportation system that may occur after the completion of the Project. The transportation monitoring program shall include Roadway Data Collection, Capacity Analyses, Parking Data Collection, Public Transportation Data Collection, and a Travel Mode Analysis, all as specified by the MassDOT/MBTA/DCR Section 61 Findings and adjusted from time to time by MassDOT as necessary.</i></p> <p><i>Without limitation, this monitoring shall be done at the locations, for the time periods and in accordance with the requirements and methodology specified by MassDOT and the MassDOT/MBTA/DCR Section 61 Findings, and will include the following additional intersections:</i></p> <ul style="list-style-type: none"> • <i>Broadway / Mt. Vernon Street / Alfred A. Lombardi Way (Somerville)</i> • <i>Williams Street / Chestnut Street (Chelsea)</i> <p><i>At these additional intersection<u>intersections</u>, Wynn shall conduct peak period manual turning movement counts, vehicle classification, and pedestrian/bicycle counts on a Thursday and Friday between 4:00 PM-6:00 PM and on a Saturday between 2:00 PM-5:00 PM. The Commission may require additional data to be</i></p>	<p><i>Prior to the initial occupancy (to establish a baseline), and continuing for a period of 10 years.</i></p>
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	<p><i>collected if the Commission determines that the submitted data are insufficient.</i></p> <p><i>Wynn shall comply with the requirements for both the transportation monitoring program required by the MassDOT/MBTA/DCR Section 61 Findings and with the transportation monitoring program required by § 7.1.B of the Boston SCA as incorporated above in the Commission’s <u>Second Amended</u> Section 61 Findings and in the License; provided, however, that Wynn shall work cooperatively with MassDOT, DCR, the City of Boston and the Commission to avoid unnecessary duplication of effort or any conflicting requirements.</i></p> <p><i>The Commission will review the monitoring results to determine whether the mitigation triggers listed in § 7.1.B of the Boston SCA have been exceeded and whether additional data should be collected; and the Commission reserves the right to determine the appropriate mitigation in the event there are any such operational deficiencies or imminent traffic problems associated with traffic to and from the Gaming Establishment, including but not limited to those additional mitigation measures listed in § 7.1.B of the Boston SCA. If the additional mitigation measures involve changes to roadways, intersections, or traffic signals under the jurisdiction of the City of Boston, Wynn shall cooperate with Boston concerning the permitting and implementation of the additional mitigation measures, pursuant to the Boston SCA.</i></p> <p><i>See also Long-term Commitment Transportation Demand Management relative to Sullivan Square and Boston, in § VIII.F.4 above.</i></p>	
<p><i>Mystic River Pedestrian-Bicycle Bridge Feasibility Study</i></p>	<p><i>Wynn shall <u>either (a) provide \$250,000 to DCR for planning and engineering services for a possible pedestrian bridge crossing of the Mystic River linking Somerville and Everett, or (b) retain and pay for a qualified design, planning and engineering firm to conduct and complete the Mystic River Pedestrian-Bicycle Bridge Feasibility Study with a scope of work reasonably acceptable to DCR.</u></i></p>	<p><i>Prior to opening.</i></p>
<p><i>Water Transportation Vessels</i></p>	<p><i>Wynn shall:</i></p> <ul style="list-style-type: none"> • <i>Provide dock facilities and customized ferry vessels to support passenger water transportation service between the Project Site and key Boston Harbor landing</i> 	<p><i>At opening.</i></p>

	<p>sites;</p> <ul style="list-style-type: none"> • Provide a touch and go dock for transient boat access to the Project Site; • Consistent with Section 4.5.1.1 of the FEIR, provide water transportation level of service consisting of at least three custom-built, 49-passenger vessels, operating at different frequencies, as listed in the FEIR (that provides sufficient seating and headways to accommodate the expected passenger levels identified in the FEIR (2,908 passengers on Friday, 3,634 passengers on Saturday and 2,713 passengers average day, except when impracticable due to weather conditions). Current plans call for three custom-built 35 passenger vessels to be available at the project opening with a fourth 35 passenger vessel to be available within 90 days of the project opening. These requirements are subject to adjustment based on customer demand to support Wynn’s overall mode share, and except when impracticable due to weather conditions); • Ensure that customized passenger vessels supporting water transportation service to and from the Gaming Establishment are designed and built to be able to pass safely under the Alford Street (Rt-99) Draw Bridge across the Mystic River, mile 1.4, between Boston and Everett, at high tide in the closed position; • Implement reasonable restrictions to prohibit or discourage patrons arriving to or departing from the Gaming Establishment in private vessels that would cause the Alford Street (Rt-99) Draw Bridge to open during or affecting peak vehicular transportation hours on Alford Street and in Sullivan Square. 	<p>At opening and Ongoing.</p>
<p>Annual Monitoring and Reporting Program</p>	<p>Without limiting the transportation monitoring programs required by the MassDOT/MBTA/DCR Section 61 Findings and by § 7.1.B of the Boston SCA Wynn shall also conduct a post-development traffic monitoring and employee survey program (including without limitation vehicular, public transit, and ferry service) in order to evaluate the adequacy of transportation mitigation measures including the TDM program for \$30,000 annually.</p>	<p>At opening and Ongoing.</p>
<p>12. WASTEWATER, WATER USE, AND WETLANDS AND WATERWAYS MEASURES</p>		
	<p>In accordance with the Secretary’s applicable Certificates and MWRA’s, DEP’s and MassDOT/MBTA/DCR’s respective Section 61 Findings, Wynn shall comply with all of the following mitigation measures and conditions:</p>	

<p><i>Wastewater</i></p>	<ul style="list-style-type: none"> • <i>Implement or fund sewer system improvements that remove Infiltration and Inflow (“I/I”) equivalent to 4 gallons removed for every gallon of new wastewater generated (currently estimated at 283,489^{314,649} GPD);</i> • <i>Assist in modifications to regional wastewater infrastructure modifications that will reduce the incidence of combined sewer overflows (“CSOs”) into the Mystic River associated with the Cambridge Sewer Branch, including the installation of grease traps and gas/oil separators.</i> 	<p><i>Prior to opening as to I/I and ongoing as to CSOs.</i></p>
<p><i>Water use</i></p>	<ul style="list-style-type: none"> • <i>Follow Leadership in Energy and Environmental Design (“LEED”) standards of Gold or higher, and incorporate water conservation measures that are intended to reduce the potable water demand on the MWRA water supply system;</i> • <i>Utilize water-efficient plumbing fixtures, low-flow lavatory faucets and shower heads;</i> • <i>Through rainwater harvesting, grey water reuse and the installation of alternatives to natural turf landscaping, the Project will further reduce water demand and use;</i> • <i>Include extensive indoor and outdoor landscaping;</i> • <i>Utilize timers, soil moisture indicators and rainfall sensors to reduce potable water use on landscaping.</i> 	<p><i>During construction.</i></p>
<p><i>Wetlands, waterways, and water quality certification</i></p>	<ul style="list-style-type: none"> • <i>Remediate, revegetate and enhance 550 linear feet of existing shoreline with enhanced “living shoreline;”</i> • <i>Remove invasive vegetation and planting of native herbaceous and shrub vegetation along part of existing Coastal Bank and Riverfront Area,³³</i> • <i>Consult with MassDEP to develop specifications for the living shoreline and bank restoration;</i> • <i>Transform 10,900 +/- SF of disturbed Coastal Beach/Tidal Flats, Coastal Bank, and Riverfront Area to Salt Marsh;</i> • <i>Clean up debris within the Land Under the Ocean, Coastal Beach and Coastal</i> 	<p><i>During construction and prior to opening.</i></p>

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

	<p><i>Bank resource areas;</i></p> <ul style="list-style-type: none"> • <i>Dredge to remove contaminated sediments from the harbor bottom to provide ample draft for water transportation, recreational vessels and a proposed floating dock;</i> • <i>Replace existing bulkhead and construction of new bulkheads within areas of existing degraded Coastal Beach and Coastal Bank areas;</i> • <i>Ensure that <u>100% of</u> the ground floor of the Gaming Establishment will be a facility for public accommodation;</i> • <i>Construct high quality landscaped open space along the edge of the Mystic River and the existing degraded Coastal Bank, Buffer Zone and Riverfront Area, including a harborwalk with high-quality amenities along the edge of the Mystic opening this site to public access and connecting it to Lower Broadway to the east;</i> • <i>Create a Gateway Park Connector multi-use path with benches, lighting, signage, plantings, and other amenities, linking the harborwalk on the Project Site under the MBTA rail line through to the DCR's Gateway Park to the west along the Mystic River, including bicycle and pedestrian connections;</i>³²³⁴ • <i>Provide a pile-supported pier/walkway, a gangway, and Americans with Disabilities Act-compliant floating water transportation dock designed to support future water transportation service to Downtown Boston and other regional water transportation destinations, as well as transient vessels;</i> • <i>Develop an attractive public destination for water dependent uses along the waterfront, including significant open space, outdoor seating, viewing areas, a gazebo and public docks;</i> • <i>Further consider opportunities to improve shellfish resources at appropriate locations in consultation with the Division of Marine Fisheries ("DMF").</i>³³³⁵ 	
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³²³⁴ According to the MassDOT/MBTA/DCR Section 61 Findings, "DCR understands the value of the improvements to DCR's Gateway Park will total \$2,000,000 and will be provided prior to site occupancy."

~~³³ The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.~~

³⁵ The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.

<p>Public Access</p>	<ul style="list-style-type: none"> • As stated above regarding Other Transportation Measures, <u>either (a) provide \$250,000 to DCR for planning and engineering services related to an investigation of a potential for a possible pedestrian bridge crossing of the Mystic River linking Somerville and Everett; or (b) retain and pay for a qualified design, planning and engineering firm to conduct and complete the Mystic River Pedestrian-Bicycle Bridge Feasibility Study with a scope of work reasonably acceptable to DCR.</u> • Participate in a process to study the feasibility of extending the Northern Strand Community Trail to Everett. • Provide over 190,000 sq. ft. of facilities for public accommodation to provide destinations and activation of the Project Site. • Provide 2 acres more open space than required by G.L. c. 91. 	<p>Prior to opening.</p> <p>During construction/prior to opening, and ongoing.</p>
<p>Re-purpose Adjacent Waterfront Real Property</p>	<p>Pursuant to and subject to § 8.6 of the Boston SCA, Wynn shall pay to Boston \$250,000 for the purpose of covering Boston's legal, engineering and other professional services to be incurred by Boston under said § 8.6 in an effort to re-purpose the waterfront real property adjacent to and within the vicinity of the Project Site [i.e. the Boston Water and Sewer Commission's Material Handling Facility] and to return such waterfront real property to public access.</p>	<p>One-time payment prior to opening.</p>
<p>Stormwater</p>	<ul style="list-style-type: none"> • Implement a stormwater management system that will improve the quality of runoff on-site. These measures include: <ul style="list-style-type: none"> ○ On-site mitigation measures: <ul style="list-style-type: none"> ▪ Two new outfalls will discharge treated stormwater into the Mystic River; ▪ Green Roof installation; ▪ Best Management Practices ("BMPs") such as pavement sweeping, deep sump catch basins, tree box filters, filtering bioretention areas, four (4) proprietary stormwater separators, and stormwater media filters. These BMPs will be designed to remove at least 80% of the average annual load of Total Suspended Solids; and ▪ Catch basins, silt fences, hay bales and crushed stone will be used during 	<p>Prior to opening.</p>

	<p><i>construction to prevent sediment removal from entering runoff;</i></p> <ul style="list-style-type: none"> ○ <i>Offsite mitigation measure associated with transportation improvements will include bioretention or subsurface infiltration chambers, deep sump catch basins or proprietary stormwater separators.</i> • <i>Prepare a Stormwater Pollution Prevention Plan (SWPPP) in support of a Notice of Intent (NOI) filing with the EPA for coverage under NPDES Construction General Permit (CGP);</i> • <i>Incorporate new stormwater management systems in compliance with applicable requirements of State and City of Everett Stormwater Management Standards. The SWPPP and long-term stormwater improvements will provide stormwater mitigation measures to be implemented both during and after construction to improve water quality; and</i> • <i>Portions of the Project Site which currently drain into the MBTA 36-inch storm drain under existing conditions will be re-directed to the Project’s stormwater management system.</i> 	
<p>13. GREENHOUSE GAS AND AIR QUALITY IMPACTS</p>		
<p><i>MassDEP Air Plan Approval or Environmental Results Program/Greenhouse Gas Reductions</i></p>	<ul style="list-style-type: none"> • <i>Design the Project buildings to be certifiable under a LEED rating of Gold or higher;</i> • <i>Operate utilizing a series of best operating practices consistent with LEED principles to maintain the energy use, water efficiency, atmospheric, materials and resources use, and indoor air quality goals;</i> 	<p><i>During construction and post occupancy.</i></p>

	<ul style="list-style-type: none">• Comply with the Energy Stretch Code adopted by the City of Everett pursuant to the Green Communities Act of 2008;• Provide a self-certification to the MEPA Office regarding compliance with GHG reductions upon completion of construction;³⁴³⁶• Provide a lighting plan, approved by the City of Everett, for the Commission's review, and demonstrate to the Commission that the plan is reasonably consistent with the proposed LEED certification;• Commit to a comprehensive list of Energy Efficiency Measures (EEM) that are predicted to reduce CO2 emissions 27.4%.³⁵³⁷ These proposed EE measures <u>EEM</u> include:<ul style="list-style-type: none">○ Installing street trees and lighting;○ Cool roofs;○ Central chiller plant with better efficiency than Code;○ Demand Control Ventilation (DCV) for the casino, public entertainment, and retail areas;○ Energy Recovery Ventilation (ERV) to reduce chiller energy use;○ Building envelopes with roof and window insulation better than Code;○ Skylights over the entry atrium and along the retail promenade (daylighting controls will be tied to this extensive system of skylights);○ Lower light power density 20% better than Code;○ Low-energy Electronic Gaming Machines <u>(where feasible)</u>³⁸;	
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³⁴³⁶ The MassDOT/MBTA/DCR Section 61 Findings, incorporated herein by reference, provide that the Self Certification shall be (a) signed by an appropriate professional (e.g. engineer, architect, general contractor); (b) attest that Wynn has incorporated into the project all the GHG mitigation measures, or their equivalent, that were committed to in the EIRs to achieve the proposed stationary GHG emission reduction; (c) supported by as-built plans and shall include an update with respect to those measures that are operational in nature (i.e. TDM program, recycling, Energy Star-rated equipment, etc.); and (d) include any changes to these measures from those identified in the EIRs, the schedule for implementation of all measures, and how progress toward achieving these measures will be advanced, if not currently implemented. The Self Certification and all supporting plans and documents shall be provided to the MEPA office (with a copy to the Commission) within three (3) months of the completion of the Project.

³⁵³⁷ The SSFEIR lists two different reduction goals depending on which ASHRAE standards are used. The higher standard is listed here.

³⁸ Provided that this commitment will not limit gaming machine selection based primarily on customer preference.

	<ul style="list-style-type: none">○ Metal halideLED lighting for all parking structures;○ High efficiency elevators with regenerative VVVF drives and LED lights;○ Demand Control Exhaust Ventilation (DCEV) with variable frequency drive (VFD) fans for enclosed parking structures;○ Kitchen and restaurant refrigeration energy efficiency design to reduce energy use;○ Energy-STAR appliances;○ Enhanced building commissioning; and○ Occupancy controls for non-occupied or infrequently occupied spaces.• Install a photo-voltaic system on the podium building roof or other location, and/or purchase from local service providers of green power of annual electric consumption equaling 10% or more of the Project's annual electric consumption;• Improve intersections to reduce vehicle idling and TDM measures to reduce trips will reduce Project-related motor vehicle CO2 emissions by 13.0%. When combined, (stationary source plus transportation), the Project's total CO2 emissions reductions are 25.7% percent compared to the Base Case;• Install cogeneration plantplant using a nominal 1-MW microturbine, providing approximately 20% of the Project's annual electrical consumption and significant amounts of absorption cooling, heat and hot water. Wynn will consult with MassDEP regarding the system prior to filing a permitting application.• Consider additional improvements in energy efficient design and expansion of commitment to renewable energy; ³⁶39• Consider electronic gaming machine energy use and provide information to EOEEA and the Commission regarding same; ³⁷40• Plan for and account for the effects of Sea Level Rise by elevating the proposed structures non-service and garage floor elevations to 15 to 16 feet above the 100-year flood level. The Project will also incorporate the following design	
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³⁶[39](#) The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.

³⁷[40](#) The Commission notes that this measure is encouraged, but not required by SFEIR Certificate.

	<p><i>criteria:</i></p> <ul style="list-style-type: none"> • <i>☞ Parking garages entrances and other openings into below grade spaces will be elevated a minimum of 3.35 feet above the 100-year flood level, or will be sufficiently flood proofed to avoid damage from coastal storms;</i> • <i>☞ Critical infrastructure and HVAC equipment will be elevated above projected flood levels;</i> <ul style="list-style-type: none"> • <i>Consider additional measures during subsequent design phases, including, but not limited to: rain gardens and swales; protection for service equipment (HVAC, electrical, fuel, water, sewage), installation of back-water flow valves and sump pumps; protection of entrances from snow and ice; enhanced building insulation; cool/green roofing; resilient back-up power and systems; backup power sources for elevators; insulation of refrigeration equipment and elevation of utility hook-ups, mechanical devices, electrical service panel, water heaters, and IT services above potential flood levels.</i> 	
<p>14. HAZARDOUS WASTE</p>		
<p><i>Hazardous Waste Remediation</i></p>	<ul style="list-style-type: none"> • <i>Remediation of areas of significant soil contamination, including soil removal and soil stabilization, will be initiated by Wynn at the commencement of Project construction and will be substantially completed in the first phase of Site construction (approximately 6 months);</i> • <i>During subsequent construction of the Project elements (casino, hotel, and retail buildings, site roadways and utilities, and waterfront improvements), additional contaminated soil will be removed, and Wynn will manage additional soil excavation and groundwater dewatering in accordance with the MCP;</i> • <i>All Project facilities, including the public harbor walk and other waterfront open space amenities, will be fully suitable for planned recreational and visitor uses;</i> • <i>Any hazardous materials excavated during construction will be managed in accordance with MassDEP guidelines, addressed, and disposed of accordingly, including treatment where applicable;</i> • <i>The parking garage will be waterproofed and designed to resist hydrostatic uplift pressures so that permanent, long term dewatering is not required. Dewatering will be required during construction and will be conducted pursuant to a</i> 	<p><i>Prior to opening/as permitted under MCP.</i></p>

	<p><i>Remediation General Discharge Permit under the NPDES program; and</i></p> <ul style="list-style-type: none"> <i>• Comply with G.L. c. 21E and the MCP in all areas of the Project including construction of the service road and shared entrances.</i> 	
<p><u><i>Sediment Remediation</i></u></p>	<p><u><i>In accordance with the Secretary’s applicable Certificates and DEP’s Section 61 Findings, Wynn shall comply with all of the following mitigation measures and conditions, as well as all requirements set forth in the Chapter 91 Dredge Permit and 401 Dredge Water Quality Certificate from DEP, the additional Federal Consistency Review by CZM triggered by the NPC; all conditions and mitigation measures set forth in any additional Orders of Conditions from the Boston Conservation Commission and from the Everett Conservation Commission (or a Superseding Order of Conditions (SOC) from DEP if a local Order is appealed), the specific requirements of Chapter 21E and the MCP.</i></u></p> <p><u><i>In addition, Wynn shall:</i></u></p> <ul style="list-style-type: none"> <u><i>• Perform all dredging activities under the supervision of a Licensed Site Professional and meet the performance standards of the MCP.</i></u> <u><i>• Avoid impacts to the two remnant patches of salt marsh within Boston.</i></u> <u><i>• If salt marsh is inadvertently impacted during the dredging/capping operations, plant Spartina species in the same general location as the existing patches, and in an area encompassing a larger area than was impacted, to enhance the intertidal habitat value of the area.</i></u> <u><i>• Install turbidity barriers and floating oil booms during dredging and capping to protect water quality.</i></u> <u><i>• Conduct water quality monitoring during remediation to identify impacts and support early intervention and mitigation.</i></u> <u><i>• Perform all dredging activities under the supervision of a Licensed Site Professional and meet the performance standards of the MCP.</i></u> <u><i>• Observe Time of Year (TOY) restrictions for in-water work recommended by the DMF. Without limitation, silt-generating in-water activities must only be conducted between September 30 and February 15.</i></u> 	<p><u><i>Prior to Opening</i></u></p>

	<ul style="list-style-type: none"> • <u>Coordinate post-remediation monitoring with the DMF and the National Marine Fisheries Service to ensure that the sub-tidal and intertidal habitat is adequately restored.</u> • <u>Develop a management plan for the living shoreline and other areas of the Harborwalk which will ensure public access and engagement as the living shoreline habitats grow and mature over time.</u> 	
<p>15. CONSTRUCTION MITIGATION</p>		
<p><i>Traffic and Transportation</i></p>	<ul style="list-style-type: none"> • <i>Implement phased starting of trades to off-peak hours, 7:00 a.m. and earlier starts;</i> • <i>Utilize lean building practices to maximize off-site prefabrication;</i> • <i>Develop separate construction staging and traffic management plans for these improvements as part of their respective construction bid documents;</i> • <i>The relocation of utilities to Gateway Center, which include water, electrical and communications, will be coordinated with the foundations of the Project garage;</i> • <i>On-site parking by construction workers will be minimized. Most personal vehicles will be restricted from parking at or around the construction site so as to reduce the impact to traffic;</i> • <i>Worker parking shall not be allowed on site except for company vehicles required to perform the work;</i> • <i>Off-site locations at which construction workers can park will be provided with shuttle bus services for worker transportation to and from the Project Site;</i> • <i>Due to the proximity of public transit systems, employees will be encouraged to use the MBTA. In addition, Wynn will offer carpooling incentives;</i> • <i>The Project will provide an off-site area at which trucks may be staged. Truck</i> 	<p><i>During construction.</i></p>

	<p><i>routes will be coordinated before the start of construction, and the Construction Manager will routinely check truck routes to ensure compliance with the approved plan;</i></p> <ul style="list-style-type: none"> • <i>The Construction Manager will establish and maintain designated material staging and delivery areas;</i> • <i>Given the existing traffic patterns, right-turns onto and off of the Project Site through the main site entrance are anticipated;</i> • <i>Wheel wash stations will be installed and maintained at construction site exits by the Construction Manager as needed. Street sweeping/vacuuming of all impacted City streets and sidewalks shall be performed by the Construction Manager on an as needed basis;</i> • <i>As set forth in FEIR § 12.2.12, and subject to the reasonable direction of the Police Chief, there will be full-time police detail at the site entrance to facilitate the safe delivery of materials to and from the site with as little disruption to the traffic on Lower Broadway as possible. As needed, police details will control the traffic signals along Lower Broadway to facilitate traffic movements near the Project Site;</i> • <i>Secured fencing and barricades will be used to isolate construction areas on the Project Site from pedestrian and vehicle traffic.</i> 	
<p><i>Utilities</i></p>	<ul style="list-style-type: none"> • <i>Existing utility tunnels under the MBTA Commuter Rail are anticipated to be reused to minimize disruption to rail service and operation. The construction of utilities servicing the Project primarily will take place on-site;</i> • <i>Connections to the water main and sanitary sewer in Broadway will occur during off peak hours; and</i> • <i>The stormwater management system will be functional prior to installing binder course in the service area or entry drive.</i> 	<p><i>During construction.</i></p>
<p><i>Air quality</i></p>	<ul style="list-style-type: none"> • <i>The contractors will implement dust control measures during active construction. The selection of specific dust control measures will be activity dependent, but the following types of control measures will be implemented:</i> <ul style="list-style-type: none"> ○ <i>Road and construction area watering;</i> ○ <i>Chemical stabilization;</i> 	<p><i>During construction.</i></p>

	<ul style="list-style-type: none"> o Sand fencing <u>;</u> o Wind speed control; o Perimeter sprinklers; o Tire washing stations; o On-site speed controls; o Covered stockpiles; and o Street sweeping. <ul style="list-style-type: none"> • Additional air quality measures to reduce air emissions will include low-sulfur diesel in construction equipment, retrofit equipment as needed, and prohibiting excessive idling (per 310 CMR 7.11); and • If on-site material crushing activities will take place, appropriate notifications will be made at least 30 days prior to the commencement of such activities to local officials and to MassDEP in accordance with 310 CMR 16.05(3)(e)(6). 	
<p>Noise and vibration</p>	<ul style="list-style-type: none"> • Instituting a program that includes allowable construction timeframes to ensure compliance with the local requirements; • Locating stationary noise sources, including staging areas, as far a possible from noise-sensitive receptors; • Constructing artificial or using natural barriers to shield construction noise; • Combining noisy operations to occur in the same time period (the total noise level produced will not be substantially greater than the level produced if the operations were performed separately); • Using properly maintained equipment mufflers and providing enclosures on equipment operating continuously; • Turning off idling equipment; • Using quieter alternatives for equipment where feasible; • Selecting a quieter construction operation and technique where feasible; • Monitoring noise levels during the construction period to demonstrate compliance; • Conducting baseline noise level monitoring prior to construction and periodic monitoring of noise levels during construction. Noise monitoring shall be conducted at the site perimeter locations and locations near adjacent buildings; 	<p>During construction.</p>

	<ul style="list-style-type: none"> • <i>Work activities that generate unavoidable excessive noise will be included in the two-week look-ahead schedule submitted by the construction managers;</i> • <i>Project specifications will include vibration limits to avoid potential damage to nearby utilities, buildings, and the adjacent rail line; and</i> • <i>If necessary to reduce vibration levels, pile locations proximate to sensitive structures will be pre-augured.</i> 	
<p><i>Stormwater and Erosion and Sediment Control</i></p>	<ul style="list-style-type: none"> • <i>Storm water pollution prevention measures will include good housekeeping such as properly storing materials, spill prevention and response plans, and proper storage and disposal of solid wastes;</i> • <i>The Construction Manager will be responsible for preventing the tracking of sediments beyond the construction site and for controlling dust by using stabilized construction exits, street sweeping, and watering if necessary;</i> • <i>Temporary construction dewatering discharges will be appropriately controlled and discharged in accordance with the NPDES, state, and local dewatering standards;</i> • <i>Erosion and sediment risks will be reduced by avoiding prolonged exposure of bare soil, providing temporary and permanent stabilization as soon as practical, controlling storm water runoff, installing sediment and erosion controls, and providing frequent inspections and maintenance;</i> • <i>Erosion and sediment controls will be installed prior to any earth disturbing activities;</i> • <i>BMPs must be employed to control storm water flows through the Project Site and avoid the transport of sediments off site and towards surface waters or onto local roads. These may include silt fencing, hay bales, compost filter berms, sediment traps, check dams, diversion swales, sediment basins and/or settling tanks, and drain inlet protections;</i> • <i>Stockpile area(s) will be designated on-site. Stockpiles of off-site fill will be stabilized with temporary seeding and mulching, or provided with a tarp to prevent blowing dust, if the soil will not be used within a 14-day period;</i> • <i>Stockpiles of on-site fill will be covered with polyethylene sheeting to prevent dust migration, and hay bales or silt fence may be placed around the perimeter of the stockpiles to prevent the migration of soils during rain events;</i> 	<p><i>Prior to and during construction.</i></p>

	<ul style="list-style-type: none"> • <i>Soil stabilization will be initiated immediately after earth-disturbing activities have permanently or temporarily ceased. Temporary stabilization will be provided as soon as possible, but no later than 14 days after construction activity ceases on any particular area;</i> • <i>Areas at final grade will be provided with permanent plantings or seeding prior to the opening of the Project;</i> • <i>These control measures will be specific to the contractor's equipment, construction activity, and seasonal variability; and</i> • <i>Inspections will be performed in accordance with the SWPPP to be prepared for the Project. This includes inspection by a qualified individual of storm water controls, stabilization measures, disturbed areas, storage areas, and points of discharge at least every 7 days and within 24 hours of a storm event of ½ inches or greater.</i> 	
<p><i>Infrastructure Protection</i></p>	<ul style="list-style-type: none"> • <i>Existing public and private infrastructure located within the public right-of-way will be protected during construction;</i> • <i>Existing infrastructure within easements on the Project Site will be protected or relocated with the coordination of the utility companies prior to the start of construction;</i> • <i>The Construction Manager will notify utility companies and call “Dig Safe” prior to excavation;</i> • <i>The Construction Manager will be required to coordinate all protection measures, temporary supports, and temporary shutdowns of all utilities with the appropriate utility owners and/or agencies;</i> • <i>The Construction Manager will be required to provide adequate notification to the utility owner prior to any work commencing on their utility;</i> • <i>Wynn shall prepare and submit for review by MWRA a construction plan, calculations and an analysis of the MWRA's pipeline (prepared by a professional engineer licensed in the State of Massachusetts), which shall take into consideration the contractor's equipment, including vibration machines that would be used over MWRA's pipeline in instances where the existing roadway surface will be completely excavated away removing the protection of the HS-20 surface loading barrier; and Wynn will be required to upgrade existing water or sewer</i> 	<p><i>Prior to, during and after construction.</i></p>

	<p><i>infrastructure to protect these facilities during and after construction. See MWRA Section 61 Findings (pp. 4-5);</i></p> <ul style="list-style-type: none"> <i>• Wynn will conduct additional survey work, test pits and vacuum excavation to precisely identify the locations of utilities and construction monitoring and post construction surveys to ensure the integrity of MWRA infrastructure. See MWRA Section 61 Findings (p. 6);</i> <i>• In the event a utility cannot be maintained in service during switch over to a temporary or permanent system, the Construction Manager will be required to coordinate the shutdown with the utility owners and project abutters to minimize impacts and inconveniences;</i> <i>• Measures for proposed dredging and waterfront infrastructure installations will include providing floating debris barriers and turbidity curtains for water work; and</i> <i>• Measures for dredging would include the use of an environmental style bucket to minimize turbidity, and monitoring turbidity in accordance with federal, state, and local permit approvals.</i> 	
<p><i>Recycling program</i></p>	<ul style="list-style-type: none"> <i>• Construction waste material from demolition and new construction will be recycled when possible;</i> <i>• The disposal contract will include specific requirements that will ensure that construction procedures allow for the sufficient space for the necessary segregation, reprocessing, reuse, and recycling of materials; and</i> <i>• For those materials that cannot be recycled, solid waste will be transported in covered trucks to an approved solid waste facility, per MassDEP's Regulations for Solid Waste Facilities, 310 CMR 16.00. This requirement will be specified in the disposal contract.</i> 	<p><i>During construction.</i></p>
<p><i>Pest Control and Wildlife</i></p>	<ul style="list-style-type: none"> <i>• The extermination of rodents will be required prior to demolition, excavation, and foundation installation;</i> <i>• Proposed work within the tidal zone and below MLW will be subject to time of year restrictions from the Massachusetts Division of Marine Fisheries, which are intended to protect migratory fish as they travel up and down river and to protect</i> 	<p><i>Prior to and during construction.</i></p>

	<p>winter flounder spawning and nursery habitat; and</p> <ul style="list-style-type: none"> • Channel dredging operations will be conducted only during those times of the year permitted by state and federal agencies, so as to reduce possible adverse impacts to ecological populations within the dredged area. 	
<p>Laundry Effluent</p>	<ul style="list-style-type: none"> • Obtain<u>If required, obtain</u> and comply with the conditions of a sewer discharge permit prior to and while discharging laundry wastewater into the MWRA sewer system. See MWRA Section 61 Findings (pp. 6-7). 	<p>Prior to discharging laundry wastewater into the MWRA sewer system.</p>

IX. SEGMENTATION

The NPC Certificate notes that the MEPA regulations contain anti-segmentation provisions to ensure that projects are not segmented to evade, curtail or defer MEPA review. In addition to having acquired the Site of the Gaming Establishment, the Proponent and/or its subsidiaries or affiliates have reportedly acquired additional properties in Everett including, without limitation: (a) the 37.5 acre Rivergreen Technology Park located approximately one mile from the Site of the Gaming Establishment; (b) the 3.5 acre Lynde Playground located on Route 99; and (c) the 1.5-acre site Boston Freightliner facility located on Bow and Mystic Streets. See the Secretary's Certificate dated January 20, 2017, concerning the Rivergreen Notice of Project Change (EEA # 14478) (the "Rivergreen NPC Certificate").⁴¹

The NPC Certificate (at page 7) concludes that Wynn "should consult with the MEPA Office regarding additional acquisition and development in the project area and potential MEPA review to ensure that projects are not improperly segmented." The Rivergreen NPC Certificate (at page 6) "strongly encourage[s] the Proponents to consult with the MEPA Office regarding the applicability of MEPA review if and when long-term uses are developed for the Lynde Playground and the Boston Freightliner site, and if additional property is acquired and/or new development is proposed."

Wynn shall keep the Commission timely and fully informed with respect to all such matters, including without limitation the results of any such consultations with the MEPA Office, any such notice(s) of project change, and any such MEPA review. The Commission fully reserves its rights to evaluate, regulate, condition, and/or require mitigation with respect to any such matters as they relate to the Commission's jurisdiction and/or the Gaming Establishment, and to further amend the Commission's Section 61 Findings, and all amendments thereto, and/or the License for the Gaming Establishment as appropriate with respect thereto.

X. ~~IX.~~ REGIONAL WORKING GROUP

The SSFEIR Certificate ~~requires~~required Wynn to participate in and provide a proportionate share of funding for a Regional Working Group³⁸⁴² with MassDOT to assess and develop long-term

⁴¹ Lynde Playground and the Boston Freightliner facility are located within the area included in the Everett Redevelopment Authority's ("ERA") Lower Broadway District Urban Renewal Plan ("URP"), which has been subject to MEPA review (EEA# 15414). See the Secretary's Rivergreen NPC Certificate (at page 4). On November 15, 2018, the ERA submitted a notice of project change proposing a temporary change in use of a site within the URP that included part of the Lynde Playground for a municipal parking facility, including parking for the Gaming Establishment. The Commission and MassDOT submitted comments to the Secretary that urged the ERA to consider the transportation mitigation measures developed in connection with the Project as the ERA considered the temporary use of this parcel. On December 21, 2018, the Secretary issued a certificate on the ERA's notice of project change finding that the ERA's project did not require preparation of an Environmental Impact Report, but noting that the ERA should work with the Regional Working Group (described below) to make sure the ERA's parcel is developed consistent with the Regional Working Group's proposal.

³⁸⁴² As the Attorney General notes in her public comments dated April 11, 2016, the Regional Working Group was originally named the Sullivan Square Working Group. It changed its name to the Lower Mystic Valley Working

transportation improvements to support sustainable redevelopment and economic growth in and around Sullivan Square.³⁹⁴³ The Regional Working Group ~~will be~~ was led by MassDOT and ~~include~~ included, among others, the Executive Office of Housing and Economic Development, MAPC, DCR, Wynn, and the cities of Boston, Everett, and Somerville. See Section VIII of the MassDOT/MBTA/DCR Section 61 Findings entitled “Sullivan Square and Rutherford Avenue Planning Process.” The Commission ~~requires~~ required Wynn to participate in the Regional Working Group process as a condition of ~~these~~ its 2016 Section 61 Findings and of the License. However, as the Secretary ~~has~~ concluded in the SSFEIR Certificate, “the practical, rational and effective approach to addressing broader regional transportation impacts for this project is through enhanced transportation planning processes, not through the prism of this single project.” As a result, the Commission ~~will~~ did not require completion of long-term infrastructure improvements implemented as a result of the Regional Working Group process prior to opening of the Gaming Establishment pursuant to G.L. c. 23K. ~~In accordance with these~~

The Regional Working Group released a report of its findings on March 11, 2019 (the “Regional Working Group Report”). The Regional Working Group Report (at p. 5) notes that “[w]hile the gaming facility will generate substantial new traffic in the area, there are numerous other developments that have been recently built, permitted, or planned, all of which will add more travel demand in the area.” The Regional Working Group Report recommends a “a systematic and holistic approach to transportation” in the area in and around Sullivan Square, including transit service improvements such as increased investment in the Orange line and local bus service, enacting new transportation demand management policies to limit single occupant vehicle trips in the area, additional roadway improvements such as bicycle lanes and pedestrian paths and bridges, and continued regional coordination. *Id.* at p. 8. Further, the Regional Working Group Report recognized that the MEPA process that led to the creation of the Working Group “required only study of issues and did not require or mandate implementation actions or funding mechanisms.” *Id.* at p. 13.

As noted in the Regional Working Group Report (at p. 18), “[w]hile the Working Group was in the early stages of its process, the City of Boston, after a thorough public engagement process separate from the Working Group, selected a preferred design for the Rutherford Avenue/Sullivan Square Project. This design seeks to accommodate both local and regional interests; improve access and safety for bicyclists and pedestrians; creates dedicated bus lanes; and allow for the redevelopment of Sullivan Square.” These infrastructure improvements remain at an early stage in design. In

Group; however, its primary focus largely remains on Sullivan Square. These Second Amended Section 61 Findings refer to the group as the Regional Working Group.

³⁹⁴³ Pursuant to § 7.3 of the Boston SCA, Wynn has committed to provide \$250,000 in funding to support the Regional Working Group. As the SSFEIR Certificate requires Wynn to provide a proportionate share of funding for the Regional Working Group, this \$250,000 contribution shall not be deemed to be a cap on Wynn’s contribution if its proportionate share is determined to exceed this amount. Rather, as a condition of these Second Amended Section 61 Findings, to be incorporated as a condition of the License, Wynn shall contribute \$250,000 or (if larger) its overall proportionate share consistent with the SSFEIR Certificate to the Regional Working Group regardless of whether that overall proportionate share exceeds \$250,000. Any amount due in excess of \$250,000 will be calculated and paid annually unless otherwise specified by the Commission in a reopener pursuant to 205 CMR 120.

addition to the infrastructure improvements, as referenced earlier in these Second Amended Section 61 Findings, the Regional Working Group also made a number of recommendations for transit service improvements and new transportation demand management measures.⁴⁴

These Second Amended Section 61 Findings and the License will continue to require that the License include a reopener pursuant to 205 CMR 120 if it is necessary for the Commission to adjust Wynn's contribution to either the proportionate share of funding for a Regional Working Group, or the long-term infrastructure improvements to be implemented as a result of the Regional Working Group process, or both.⁴⁰

Finally, Wynn shall use its best efforts to work with the MBTA, MassDOT, and DCR on any future plans to create mass transit opportunities that serve the Gaming Establishment, including without limitation working with the MBTA, MassDOT and DCR on right of way issues. Wynn shall consider making a reasonable contribution as may be determined by the Commission to the cost of implementation of such mass transit opportunities.

XI. ~~X.~~ FINDINGS

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

1. Environmental impacts resulting from the proposed Project within the scope of MEPA are those impacts described in the FEIR, SFEIR, ~~and SSFEIR,~~ and NPC and the corresponding Secretary's Certificates regarding each.

⁴⁴ Pursuant to §§ 7.1A of the Boston SCA, Wynn shall be fully responsible for the costs of implementing the Mitigation Improvements, defined therein, which are currently estimated to cost Fifteen Million, Eight Hundred and Fifty Thousand, Two Hundred and Twenty Nine Dollars (\$15,850,229). In addition, pursuant to and subject to Section VIII.F.4 of these Second Amended Section 61 Findings and §§ 7.3, 7.4 and 7.5 of the Boston SCA, Wynn is required to make substantial payments toward the Sullivan Square Infrastructure Project and toward the Boston Community Impact Fee. To the extent those payments toward the Mitigation Improvements, Sullivan Square Infrastructure Project and Boston Community Impact Fee are made and used toward long-term transportation mitigation and infrastructure improvements in and around Sullivan Square, those payments shall be counted toward Wynn's fair proportionate share of the capital costs of the long-term infrastructure improvements to be implemented as a result of the Regional Working Group process.

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

2. Wynn shall comply with and implement (a) all conditions in the Commission’s conditional License for the Project (except those conditions that have been expressly modified and amended by the Commission’s action on the Boston SCA), (b) the terms and conditions of the Mitigation Agreements, (c) the mitigation measures described in these Second Amended Section 61 Findings, and the applicable provisions of the FEIR, the SFEIR, the SSFEIR, the NPC and the Secretary’s corresponding Certificates regarding the same, (d) the final Second Amended Section 61 Findings and conditions issued by other State Agencies in their respective final Agency Action on the Project, and (e) all conditions imposed by the Commission in its final Agency Action and final License for the Project pursuant to 205 CMR 120.02(1)(a).

3. Appropriate conditions will be included in any final License issued for the Project pursuant to 301 CMR 11.12(5)(b) and 205 CMR 120 to ensure implementation of the conditions and mitigation measures identified herein.

4. The Commission will establish a schedule for and conduct a regular quarterly review of compliance with the Second Amended Section 61 Findings and the conditions of the Gaming License.

Gayle Cameron, Massachusetts Gaming Commission

Date

Bruce Stebbins, Massachusetts Gaming Commission

Date

Enrique Zuniga, Massachusetts Gaming Commission

Date

Document comparison by Workshare 9.5 on Wednesday, May 1, 2019 3:30:17 PM

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