

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION**

**SURROUNDING COMMUNITY ARBITRATION BETWEEN
WYNN, MA LLC AND THE CITY OF CHELSEA**

REPORT AND FINAL ARBITRATION AWARD

The undersigned Arbitrator files this report with the Massachusetts Gaming Commission (Commission), and issues it to the parties hereto, pursuant to 205 CMR 125.01(6)(c)7, as amended. The parties are Wynn, MA LLC (Wynn) and the City of Chelsea (Chelsea).

Background

Wynn proposes to build and operate a casino and resort in Everett (Wynn casino). In addition to having signed a host community agreement with Everett, Wynn has signed surrounding community agreements with Malden, Medford, Cambridge, Lynn, and Melrose. See 205 CMR 125.01. Wynn has not signed agreements with the designated surrounding communities of Boston, Somerville, and Chelsea.

Unable to agree on a surrounding community agreement, Wynn and Chelsea commenced this arbitration pursuant to 205 CMR 125.01(6)(c), and selected the undersigned Arbitrator. On April 29, 2014, the parties submitted to the Arbitrator their respective best and final offers (BAFO) as required by G.L. c. 23K, sec. 15(9), and 205 CMR 125.01(6)(c)3, as amended.

On April 30, 2014, the Arbitrator conducted a preliminary hearing with counsel via conference call. On May 16, 2014 the parties submitted and the Arbitrator approved their Joint Proposed Scheduling Order. Pursuant to that Order the parties submitted pre-

hearing memoranda and other materials, and appeared for hearing before the Arbitrator on May 20, 22, and 29, and June 3, 2014. During the first three days of hearing the parties presented exhibits and sworn witness testimony. On the fourth hearing day they presented closing arguments.

The parties requested and obtained from the Commission permission to extend the date for filing and issuance of this Report and Final Arbitration Award to June 9, 2014.

Discussion and Report

A preliminary issue regarding the standard by which the Arbitrator is to evaluate each party's BAFO merits comment.

Chelsea contends that the Arbitrator's role is to determine which party's BAFO best identifies, addresses, and minimizes areas of "potential negative consequences" of the Wynn resort through impact mitigation payments, citing G.L. c 23K, sec. 1(8). Wynn contends that the Arbitrator's role is to determine which party's BAFO best addresses significant and adverse "known impacts" that are likely to result from the Wynn casino, citing G.L. c. 23K, sec. 15(9), and the Handbook for Binding Arbitration, at 2, 7.

The Arbitrator concludes that a "potential" impact must be more than remote if it is to merit mitigation under G.L. c. 23K and the Commission's regulations. Likewise, determining the "known" impact of a future event is an exercise in prediction, not certainty. Reading the statute as a whole and the regulations and Handbook in light of the statute, and considering the evidence and presentations of the parties, the Arbitrator concludes that the BAFO selected and incorporated herein satisfies the statutory and regulatory standard.¹

¹ In support of its position, Chelsea submitted a May 2, 2014 Commission Meeting Transcript recording the Commission's discussion and vote on the MGM Fundamental Inconsistency Petition (FIP) objecting to

In selecting one of the BAFOs submitted, the Arbitrator has considered and evaluated factors permitted by c. 23K and the Commission's regulations, including but not limited to the factors listed in the Handbook for Binding Arbitration, at 7-8.

The parties agree that the Wynn casino poses adverse impacts upon Chelsea with regard to traffic and transportation, and crime and public safety, and disagree as to the extent of those impacts and the payments necessary to mitigate them. In addition, Chelsea contends that the Wynn casino poses adverse educational and social impacts which require mitigation payments; Wynn disputes that such impacts will occur, and therefore that any payment in mitigation is necessary.

The Arbitrator discusses briefly below each of the agreed or alleged impacts referred to above, and states his conclusion as to each.²

1. Traffic and Transportation

Chelsea's BAFO, at para. 3, provides for a one-time upfront payment from Wynn totaling \$1,550,000, and an annual payment of \$250,000 to mitigate the Wynn casino's impact on "transportation infrastructure." Specifically, Chelsea allocates the annual payment to general road maintenance (see para. 3.1), and the one-time payment to mitigate traffic impacts at five intersections, as follows: Marginal Street and Pearl Street, \$600,000; Williams Street and Broadway, \$200,000; Williams Street and Spruce Street, \$250,000; Revere Beach Parkway (Route 16) and Webster Avenue, \$250,000; and

provisions in the Longmeadow BAFO for mitigation payments for impacts that were not "known" or "actual" impacts. The parties dispute whether the transcript constitutes a "Commission decision" which should be considered in this binding arbitration proceeding, and if so, the meaning of the decision. See Handbook for Binding Arbitration, at 8, para. 10. In view of the Arbitrator's conclusion above, no determination of the "Commission decision" issue is necessary.

² The Arbitrator, required to submit a report to the Commission, has not undertaken to provide a comprehensive statement of findings addressing each issue raised by the parties; rather, the report provides the parties and the Commission, as to the principal issues addressed by the parties, a brief statement of the reasons for the Arbitrator's award.

Revere Beach Parkway and Everett Avenue (in Everett), \$250,000. See paras. 3.2 through 3.6. Chelsea's BAFO also provides, at 1.2.A, that all fees and payments "shall be used and applied at Chelsea's sole discretion and determination toward any impact, infrastructure, improvement and/or mitigation measures Chelsea deems necessary and suitable."

Chelsea's proposed annual payment of \$250,000 for general road maintenance compares to the Wynn BAFO's provision for an annual payment of \$225,000 for "certain roadway improvements, as needed, to address aesthetic, quality, signage and safety needs." Wynn BAFO, para. 5.2.B. Like Chelsea's, Wynn's BAFO also provides that payments for transportation mitigation "shall be used and applied at Chelsea's sole discretion . . . toward any impact . . . related to the Project that Chelsea deems necessary and suitable." *Id.*, at 5.2.C. Thus, as to annual payments for road maintenance and improvement, the BAFOs provide roughly equivalent mitigation fees.

The parties' proposals with regard to a one-time, upfront payment for traffic mitigation, on the other hand, are divergent. Instead of the \$1,550,000 which Chelsea seeks with regard to the five intersections listed in its BAFO, Wynn's BAFO provides for a one-time, upfront payment of \$300,000 "to make certain roadway improvements on all transitional roads [e.g., roads continuing from Chelsea into Everett], . . . which shall include aesthetic, quality, signage and safety improvements." Wynn BAFO, para. 5.2.A. Because the Wynn BAFO allows Chelsea sole discretion regarding the use of that \$300,000, the question becomes whether that amount or the \$1,550,000 requested by Chelsea represents the adequate and reasonable amount for mitigation at the five intersections highlighted by Chelsea.

The evidence as to those intersections and other traffic impacts includes a report, "Transportation Impacts," prepared for Chelsea by the Metropolitan Area Planning Council (MAPC); testimony by John DePriest, Director of Planning and Development, Conservation Agent, and Chair, Zoning Board of Appeals for Chelsea; a report prepared by Chelsea City Manager Jay Ash, "Chelsea and the Potential Impacts of the Proposed Wynn Everett Casino" (City Manager's Report), and testimony by Mr. Ash; testimony by Keri Pyke, Wynn's transportation planning and traffic engineering consultant, who prepared the transportation analysis for Wynn's Draft Environmental Impact Report (DEIR) required by the Massachusetts Environmental Policy Act (MEPA); testimony by Christopher Gordon, Development Manager for the Wynn casino; and testimony by Jacqui Krum, Senior Vice President and General Counsel for Wynn Resorts Development.

After reviewing the evidence relating to traffic and transportation impacts, the Arbitrator concludes that studies conducted by Ms. Pyke and her firm of the five specific intersections listed in the Chelsea BAFO were conducted in accordance with MEPA and accepted engineering practices, and establish that the impact posed by the Wynn casino on traffic at those intersections will, at the worst, be limited. Measured at peak hours on Friday and Saturdays (the days of highest trip generation by the Wynn casino), the numbers of additional vehicles at three of those intersections are de minimis (eight additional vehicles during the Friday peak hour at Marginal Street/Pearl Street; eleven additional vehicles at Williams Street/Broadway; twelve additional vehicles at Williams Street/Spruce Street). The higher numbers of peak projected trips at Route 16/Webster Avenue, and Route 16/Everett Avenue in Everett, represent small fractions of the total

peak traffic, and will, if required under the MEPA review process, be mitigated by Wynn.³

The Arbitrator acknowledges Chelsea's concerns regarding "pass-through" traffic, and taxi and limo traffic in Chelsea related to Logan airport. No traffic studies were presented to support those concerns. Testimony as to whether taxi and other drivers from Logan airport would drive through Chelsea or take another route to the Wynn casino was conflicting and anecdotal.

The Arbitrator concludes that, with regard to the three intersections as to which the impact posed is de minimis (i.e., Marginal Street/Pearl Street, Williams Street/Broadway, Williams Street/Spruce Street), it is fair and reasonable that no mitigation payment be required, as opposed to the total of \$1,050,000 requested by Chelsea. As to the remaining two intersections (Route 16/Webster Avenue, Route 16/Everett Avenue), where the impact posed is limited, Chelsea's proposed one-time upfront payments total \$500,000. The Arbitrator concludes that the \$300,000 upfront payment proposed by Wynn, added to mitigation measures required under MEPA, provides adequate and reasonable mitigation for the impacts at those intersections.

2. Crime and Public Safety

Chelsea's BAFO states that Chelsea, "as a direct urban neighbor to the Host Community, and with existing high rates of reported crime as well as trouble-areas directly proximate to the Project Site, may be at a heightened susceptibility to increases in crime." *Id.*, para. 2. Para. 2.1.B provides for an annual payment of \$700,000 to offset "the yearly costs of police officer and detective salaries, benefits, outfitting (uniforms,

³ Through the MEPA process, Wynn will be responsible for approximately \$40-50 million in traffic mitigation in surrounding communities, including Chelsea.

weapons, radios, police cruisers, etc.).” Para. 7.1 provides for a \$50,000 annual payment to Chelsea “as a First Responder and Mutual Aid Impact Fee.” Thus, Chelsea’s BAFO provides for \$750,000 for public safety.

Wynn’s BAFO provides for a public safety mitigation fee of \$250,000 annually, “to enable Chelsea to fund staffing and other public safety initiatives related to increased pedestrian and vehicular traffic in Chelsea.” *Id.*, para. 5.3. That paragraph also provides that Chelsea may apply such payments toward “any impact . . . and/or mitigation measures Chelsea deems necessary and suitable.”

The parties’ principal dispute regarding a public safety mitigation fee is the amount necessary to mitigate the impact of any additional crime posed by the Wynn casino. Several witnesses, including Chelsea Police Chief Brian Kyes, City Manager Ash, Wynn consultants Bo J. Bernhard, Ph.D., and Suzanne Leckert, and Everett Police Chief Steven Mazzie, testified regarding crime and public safety impacts.

After considering the evidence, the Arbitrator concludes that the Wynn casino’s security force, working with the Everett Police Department, will adequately manage any crime resulting in the immediate area of Everett from the Wynn casino; that patrons of the Wynn casino will not in any significant numbers travel three-quarters of a mile by foot from the Wynn casino property to Chelsea through the industrial area that separates the two; that some Wynn casino patrons will stay at hotels existing or to be built in Chelsea, and will travel by vehicle to and from the Wynn casino; that the additional patrons and tourists drawn to Chelsea by the Wynn casino will cause some increase in the volume, but not the rate, of property crimes in Chelsea; that, even though a significant percentage of Chelsea’s residents are undocumented immigrants, the Wynn casino will

create a significant number of jobs in Chelsea; that as Chelsea's unemployment decreases, crime will decrease also; and that the Wynn casino does not pose a significant increase in violent crime in Chelsea.

Chelsea seeks \$700,000 specifically for seven additional officers, plus five vehicles and training and operations costs (see City Manager's Report, at 21-22) to mitigate the added crime impact which it argues is posed by the Wynn casino. Chelsea bases its request in part on a study indicating that "the average police expenditures in the 16 largest recent casino counties increased a brisk 126 percent." *Id.*, at 21. The testimony of Ms. Leckert and Dr. Bernhard points out that the figure of 126 percent substantially overstates the actual import of the study, which reported that of fifteen casino counties studied, eight increased spending faster than the state, while seven had slower spending increases than the state.

In any event, the Arbitrator concludes that the considerations listed above, taken together, may pose some additional burden on the Chelsea Police Department, and that the burden can be adequately and reasonably mitigated by the amount of \$250,000 proposed by Wynn. Chief Kyes testified that \$250,000 would enable him to add two and one-half new police officers. That amount may in fact fund more: if the cost to the department of each officer is \$70,000 "all in," City Manager's Report at 21, \$250,000 would fund three and one-half officers. In addition, in the past year the Chelsea Police Department added five new officers, bringing the total to 106. As Chief Kyes testified, the new hotels in Chelsea provided part of the rationale for the increase in his force. Thus, any increase in tourists staying in Chelsea hotels, drawn by the Wynn casino or

otherwise, has already been partially mitigated by the recent addition of officers to the Chelsea Police Department.

3. Educational and Social Impacts

The Chelsea BAFO proposes payments of \$50,000 annually to the City of Chelsea Neighborhood Stabilization Fund (para. 5.1), \$700,000 annually for “School and After School Programming” (para. 8.1), and \$100,000 annually for “additional social services for the purpose of actively mitigating addiction, mental health, and domestic violence issues” (para. 8.2).

The Wynn BAFO provides for no monetary payment for such purposes. Rather, Wynn proposes preferential treatment to “qualified Chelsea residents for contracting, subcontracting and servicing opportunities” in the construction of the casino, and outreach to Chelsea residents, participation in a job readiness training program, and preference to qualified Chelsea residents for jobs at the Wynn casino. *Id.*, paras. 3.2.A, 3.2.B. Wynn also proposes to “promote responsible gaming and to develop resources available to residents of Chelsea to address problem gaming.” *Id.*, at 4.1.

Dr. Mary Bourque, Superintendent of Schools, testified with regard to the many challenges which Chelsea’s schools face today. She testified about the “fragile community” which the schools serve, and the vulnerability of students who live amid poverty, crime, and addiction, including gambling. Unaddressed mental health issues, family dysfunction, student mobility, language issues, and risky and self-destructive behaviors leave students struggling to maintain the motivation for the aspirations and opportunities a high quality education can provide.

Dr. Bourque outlined a three-tiered approach of progressive prevention and intervention aimed at enabling students to succeed. The cost of the program would be \$1,700,000. The program is designed to address current conditions in Chelsea that affect student performance, conditions which are not related to the proposed Wynn casino.

Whether the Wynn casino would improve or exacerbate the conditions in which Chelsea's schools operate was the subject of evidence by both sides. Jobs which the Wynn casino would bring to Chelsea would alleviate poverty, although that benefit would probably not be uniform, especially among Chelsea's undocumented immigrant population. While the proximity of the Wynn casino might attract residents from Chelsea, studies of gambling behavior raise a substantial question whether residents of Chelsea who live under the poverty line, and who spend high percentages of their limited income on gambling compared with the state average, would go to the Wynn casino to gamble.

After considering all the evidence, the Arbitrator concludes that the educational and social conditions described by Dr. Bourque, City Manager Ash, and others are and will continue to be caused by conditions other than impacts posed by the Wynn casino. The \$700,000 school program payment proposed by Chelsea does not fairly and reasonably address the educational impact posed by the Wynn casino, and renders the total educational and social impact payments (\$850,000) requested by Chelsea excessive.

4. Other Mitigation Sources

205 CMR 127.00, "Reopening Mitigation Agreements," provides that the parties to a surrounding community agreement may reopen negotiations (and, if necessary, go to arbitration) upon the occurrence of "a substantial negative affect [sic] on a . . .

surrounding community . . . from an unforeseen event, act, or circumstance occurring after a mitigation agreement is executed and which directly undermines a basic premise on which the mitigation agreement was made, a principal purpose of the mitigation agreement, or a vital portion of the mitigation agreement without fault of the affected party.” Id., 127.01. The regulation thus provides Chelsea relief if unforeseen circumstances undermine the premises, principal purposes, or vital portions of the Chelsea/Wynn surrounding community agreement.

Chelsea may also seek relief by petitioning the Commission for funds available through the Gaming Tax Allocation.

FINAL AWARD

After hearing the parties and considering the evidence, the Arbitrator selects the Best and Final Offer of Wynn, MA LLC, which BAFO is attached to this Report and Final Arbitration Award, and the terms of which are incorporated into this Report in accordance with 205 CMR 125.01(6)(c)7, as amended.


Stephen E. Neel, Arbitrator

Date: June 9, 2014

SURROUNDING COMMUNITY AGREEMENT

By and Between the City of Chelsea, Massachusetts and Wynn MA, LLC

This Surrounding Community Agreement (this "Agreement") is made and entered into as of May [], 2014 (the "Effective Date"), by and between the City of Chelsea, Massachusetts ("Chelsea"), a municipal corporation organized under the laws of the Commonwealth of Massachusetts, with principal offices located at 500 Broadway, Chelsea, MA 02150, acting by and through its Manager, and Wynn, MA LLC ("Wynn"), a limited liability company organized under the laws of the State of Nevada, with principal address and offices located at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109. Hereafter, the parties may also be collectively referred to as the "Parties".

GENERAL RECITALS

Pursuant to Chapter 194 of the Acts and Resolves of 2011, and Commonwealth of Massachusetts General Laws Chapter 23K, the Massachusetts Gaming Act (the "Act"), Wynn has applied to the Massachusetts Gaming Commission (the "Commission") for a Category 1 gaming license to develop a luxury hotel and destination resort on the site (the "Project Site") depicted in Exhibit A in Everett, Massachusetts (the "Project");

And whereas, Chelsea may be impacted by the development of the Project, and the Act and regulations relating thereto, including 205 CMR 125.00 *et seq.*, permit Wynn to enter surrounding community agreements to address surrounding community impact as well as demonstrate advancement of the Act and public support for its proposed development;

And whereas, Wynn desires to mitigate any adverse impacts from the development and operation of the Project through the means described herein in accordance with the Act, and Chelsea desires to mitigate any anticipated adverse impacts from the development and operation of the Project through the means described herein, and to work proactively with Wynn to capitalize on the unique nature of Chelsea's community resources;

Accordingly, in consideration of the terms and conditions set forth herein and to effectuate the purposes set forth above the Parties enter this Agreement and hereby agree to be bound by the terms and conditions set forth herein.

TERMS AND CONDITIONS

1. Stipulations of Known Impacts

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

1.2. The Parties acknowledge and agree that the proximity of the Project to the border of Chelsea may result in additional pedestrian and vehicular traffic in Chelsea. The projects identified in the provisions in this Agreement regarding infrastructure improvements will mitigate such impacts and remedy longstanding background traffic conditions.

1.3. The Project may have an impact on municipal services and require additional expenditures by Chelsea in order to provide such services. Wynn's payments to Chelsea under this Agreement will provide Chelsea with adequate resources to mitigate any such impacts and Chelsea acknowledges and agrees that such payments adequately mitigate all such impacts.

2. Business Impact

2.1. The Parties recognize and agree that the Project is likely to provide certain opportunities for the local business community in Chelsea. The Parties will work together to communicate with the local business community to ensure that the community is best prepared to take advantage of these opportunities. In furtherance thereof, contingent upon the receipt of an unconditional, non-appealable License, Wynn has agreed to pay to Chelsea an annual payment of Seventy Five Thousand Dollars (\$75,000.00), which amount shall be due on or before the ninetieth (90th) day following the opening of the Project to the general public and on each annual anniversary thereof. The annual payment shall continue for as long as Wynn, or any parent, subsidiary or related entity, owns, controls or operates a commercial gaming facility at the Project Site. The purpose of this annual payment is to enable Chelsea, in coordination with Wynn, to develop initiatives to prepare local businesses to take advantage of the opportunities provided by the Project.

2.2. On an annual basis, subject to its obligations to the City of Everett, Wynn shall make a good faith effort to utilize local contractors and suppliers for the construction and future operations of the Project and shall afford such opportunities to local vendors when such contractors and suppliers are properly qualified and price competitive. Such efforts shall include actively soliciting bids from Chelsea vendors through local advertisements, coordination with the Chelsea Chamber of Commerce and such other reasonable measures as Chelsea may from time to time request. In furtherance thereof, following the opening of the Project to the public, on an annual basis, Wynn agrees to use good faith efforts to purchase at least Two Million Five Hundred Thousand Dollars (\$2,500,000.00) of goods and services from vendors with a principal place of business in Chelsea. Wynn shall work with Chelsea to hold vendor fairs that provide Chelsea businesses with information concerning the process of providing goods and services to the Project. Wynn shall, on at least an annual basis, consult with the Chelsea Chamber of Commerce and such other business groups or associations as Chelsea may reasonably request to identify opportunities in furtherance of the objectives set forth in this Section. Wynn shall, upon reasonable request, meet with Chelsea to provide updates on Wynn's efforts to comply with this Section 2.1. Notwithstanding anything herein to the contrary, Wynn's obligations under this Section 2.1. shall be subject to the availability of such goods and services at a level of quality that is consistent with the Project specifications and on commercially reasonable terms.

2.3. Wynn agrees to work with and assist local businesses in Chelsea to become "Wynn certified" in order to participate in this local purchasing program. Wynn certification represents a Wynn specific vendor qualification program that requires vendors to be pre-qualified, which may include but not be limited to background checks and other screening methods utilized to qualify vendors.

2.4. In recognition of the unique cultural, historical and entertainment attractions near the Project, Wynn has developed a proprietary concierge program for the purpose of cross-marketing these attractions. Chelsea has agreed to participate in this cross-marketing venture for the purpose of promoting its local businesses and other attractions. Prior to the opening of the Project, the Parties will work together and in coordination with Chelsea's Chamber of Commerce to include Chelsea businesses in the Concierge Program so that they may benefit from the Project.

3. Jobs Program

3.1. The Parties acknowledge that Chelsea desires to help its community members and residents who are interested in attaining employment at the Project. The Parties agree that Chelsea's demographic is an appropriate, suitable, desirable and employable work force for the Project, and therefore it is mutually beneficial to provide a structured program to educate Chelsea's residents about available employment opportunities.

3.2. In recognition of the above, the Parties agree as follows:

3.2.A. Wynn will work in a good faith, legal and non-discriminatory manner with the Project's construction manager to give preferential treatment to qualified Chelsea residents for contracting, subcontracting and servicing opportunities in the development and construction of the Project. Following the engagement of a construction manager, Wynn shall, in coordination with Chelsea, advertise and hold at least one event for Chelsea residents at venues to be approved by Chelsea, at which it will publicize its construction needs and explain to attendees the process by which they may seek to be hired in connection with the construction of the Project.

3.2.B. Prior to beginning the process of hiring employees (other than internally) for the Project, Wynn shall advertise and hold at least one event for Chelsea residents at venues to be approved by Chelsea, at which it will publicize its hiring needs and explain to attendees the process by which they may seek to be hired in connection with the Project. In addition, Wynn will work with non-profit entities to develop a job readiness training program that will be available to all residents of Chelsea. In addition, Wynn will work with non-profit entities to develop a job readiness training program that will be available to residents of Chelsea. In seeking to fill vacancies at the Project, Wynn will give preference to properly qualified residents of Chelsea, to the extent that such a practice and its implementation is consistent with Federal, State or Municipal law or regulation.

3.2.C. Notwithstanding anything herein to the contrary, in recognition of Wynn's host community agreement with the City of Everett and Wynn's surrounding community agreement with the City of Malden, the Parties acknowledge and agree that the preference provided in this Section 3 shall be secondary to the preferences provided by Wynn in such agreements. The preferences provided in this Section 3 shall be on a pooled basis with any other community that enters into a surrounding community agreement with Wynn.

3.2.D. Wynn agrees to work with Chelsea on an annual basis to identify prospective, qualified Chelsea employees to effectuate the terms and conditions herein.

4. Responsible Gaming

4.1. The Parties shall coordinate in good faith to promote responsible gaming and to develop resources available to residents of Chelsea to address problem gambling. In furtherance thereof, Wynn agrees that it will use commercially reasonable efforts to not send any marketing materials to residents of Chelsea who have opted to participate in Wynn's self-exclusion or self-limitation programs that enable individuals to opt out of receiving marketing materials. In addition, Wynn shall provide Chelsea and its residents with access to any compulsive gambling services associated with the Project and shall make available to Chelsea its resources and employees as may be reasonably necessary to publicize the services and conduct any educational programs. Further, to address any unanticipated adverse impacts, Wynn agrees to reasonably support Chelsea's requests to the Commission or other state agencies for grants from the Community Mitigation Fund established under the Act.

5. Transportation Impacts

5.1. Based on the trip distribution pattern for the Project and a review of both the local and regional transportation system, Wynn studied the following intersections in Chelsea and contingent upon the receipt by Wynn of an unconditional, non-appealable License, Wynn agreed to complete all necessary improvements as determined in accordance with the MEPA process:

1. Chestnut Street/Williams Street, Chelsea;
2. Revere Beach Parkway (Route 16)/Union Street, Chelsea
3. Revere Beach Parkway (Route 16)/Washington Avenue, Chelsea;
4. Revere Beach Parkway (Route 16)/Webster Avenue, Chelsea; and
5. Revere Beach Parkway (Route 16)/U.S. Route 1 Interchange, Chelsea/Revere.

The foregoing improvements are estimated to cost approximately Two Hundred Seventy Five Thousand Dollars (\$275,000.00).

5.2. The Parties recognize and agree that due to the shared border between the City of Everett and Chelsea, the roadway system flows from one city to the other. Therefore, certain improvements may be required in order to maintain a consistent aesthetic, quality, signage and safety Improvements. In recognition of the foregoing, and contingent upon the receipt of an unconditional, non-appealable License, Wynn has agreed to pay to Chelsea the following amounts (collectively, the "Transitional Roads Payment"):

5.2.A. A one time, upfront, non-refundable payment of Three Hundred Thousand Dollars (\$300,000.00), which amount shall be due upon the award of the License. The purpose of this payment is to enable Chelsea to make certain roadway improvements on all transitional roads in preparation for the Project, which shall include aesthetic, quality, signage and safety improvements.

5.2.B. An annual payment of Two Hundred Twenty Five Thousand Dollars (\$225,000.00), which amount shall be due on or before the ninetieth (90th) day following the opening of the Project to the general public and on each annual anniversary thereof. The annual payment shall continue for as long as Wynn, or any parent, subsidiary or related entity, owns, controls or operates a commercial gaming facility at the Project Site. The purpose of this payment is to enable Chelsea to make certain roadway improvements, as needed, to address aesthetic, quality, signage and safety needs.

5.2.C. Notwithstanding anything herein to the contrary, the Transitional Roads Payment shall remain in the exclusive custody and control of Chelsea, and shall be used and applied at Chelsea's sole discretion and determination toward any impact, infrastructure, improvement and/or mitigation measures related to the Project that Chelsea deems necessary and suitable.

5.3. To mitigate any additional pedestrian and vehicular traffic that may occur within Chelsea due to the shared border between the City of Everett and Chelsea, the Parties recognize and agree that there may be a need for increased police, fire, traffic and public works personnel to maintain roadway safety. In recognition of the above, and contingent upon the receipt of an unconditional, non-appealable License, Wynn has agreed to pay to Chelsea an annual payment of Two Hundred Fifty Thousand Dollars (\$250,000.00), which amount shall be due on or before the ninetieth (90th) day following the opening of the Project to the general public and on each annual anniversary thereof. The annual payment shall continue for as long as Wynn, or any parent, subsidiary or related entity, owns, controls or operates a commercial gaming facility at the Project Site. The purpose of this payment is to enable Chelsea to fund staffing and other public safety initiatives related to increased pedestrian and vehicular traffic in Chelsea. Notwithstanding anything herein to the contrary, this payment shall remain in the exclusive custody and control of Chelsea, and shall be used and applied at Chelsea's sole discretion and determination toward any impact, infrastructure, improvement and/or mitigation measures Chelsea deems necessary and suitable.

5.4. In an effort to limit the number of casino visitors leaving the facility who should not be operating a motor vehicle, as part of its training program, Wynn agrees to incorporate a training program (e.g., TIPS (Training Intervention Procedures and Services Program)) for alcohol servers and other employees.

6. Other Obligations

6.1. In consideration of the obligations hereunder to be taken by Wynn, and in further recognition of the many benefits the Project will bring to Chelsea, Chelsea shall do the following (with all reasonable costs incurred by Chelsea to be paid by Wynn, subject to prior written approval of such costs and Wynn's right to receive documentation of such cost):

6.1.A. Chelsea agrees to work with and assist Wynn and its contractors and agents to obtain any and all permits, certifications, legislation or regulatory approvals from governmental entities and officials.

6.1.B. Chelsea, in coordination with Wynn and the City of Everett, shall exercise best efforts to petition the Massachusetts Gaming Commission for monies made available under the Act, including, but not limited to, those monies in the Community Mitigation Fund and the Transportation Infrastructure Fund.

6.2. Wynn shall, on a periodic basis, upon the reasonable request of Chelsea, attend meetings organized by Chelsea, at which it will address questions regarding the Project.

7. Chelsea Community Fund

7.1. The Parties recognize the importance of supporting the Chelsea community and share a mutual desire to utilize this Agreement to provide ongoing support to the many important non-profit organizations throughout Chelsea.

7.2. In recognition of the above, and contingent upon the receipt of an unconditional, non-appealable License, Wynn has agreed to pay to Chelsea an annual payment of One Hundred Thousand Dollars (\$100,000.00), which amount shall be due on or before the ninetieth (90th) day following the opening of the Project to the general public and on each annual anniversary thereof. The annual payment shall continue for as long as Wynn, or any parent, subsidiary or related entity, owns, controls or operates a commercial gaming facility at the Project Site. The City Manager of Chelsea agrees to establish a Committee tasked with reviewing requests for assistance from qualified organizations and making determinations on the awarding of any portion of this payment. The purpose of this payment is to support the community's broad range of cultural events, street fairs, art shows, festivals and related activities that promote the community's heritage, quality of life, recreational and cultural activities.

8. Additional Terms and Conditions

8.1. Term. This Agreement shall remain in effect for such time as Wynn maintains, operates and controls the Project pursuant to the License.

8.2. Definitions. All definitions contained in the Act and regulations promulgated thereto are incorporated herein by reference as if fully set forth herein and shall be applicable hereto where relevant.

8.3. Non-Transferrable - Non-Assignable. Neither Wynn nor Chelsea may transfer or assign its rights or obligations under this Agreement without the prior written consent of the other Party. In the event of a sale, transfer, assignment and/or conveyance of an unconditional, non-appealable License by Wynn to an unrelated entity, the Parties agree that this surrounding community agreement shall be treated consistently with all other surrounding community agreements as prescribed and required by the Commission in granting such transfer or assignment.

8.4. Captions and Headings. The captions and headings in this Agreement are inserted for convenience of reference only and in no way shall affect, modify, define, limit or be used in construing the scope or intent of this Agreement or any of the provisions hereof. Where the context requires, all singular words in the Agreement shall be construed to include their plural and all words of neuter gender shall be construed to include the masculine and feminine forms of such words.

8.5. Severability. If any term of this Agreement or the application thereof to any person or circumstance shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and this Agreement shall otherwise remain in full force and effect.

8.6. Amendments-Modifications. No amendment or modification of this Agreement shall be deemed valid unless mutually agreed upon and duly authorized by the Parties and effectuated by a written amendment signed by the Parties.

8.7. Amendments-Modifications to the Act and Gaming Regulations. The Parties acknowledge that from time to time following commencement of this Agreement that additional regulations may be promulgated, and/or statutes and regulations may be amended from time to time. The Parties agree to be bound by said amended and/or modified regulations and statutes, and further agree to renegotiate any terms and conditions contained herein which may be substantially and materially modified by any said amended and/or modified regulations and statutes.

8.8. Compliance with Massachusetts and Federal Laws. In the performance of this Agreement, Wynn agrees to comply with and shall use reasonable efforts to cause all agents, contractors, subcontractors and suppliers to comply with all applicable laws, ordinances, regulations and orders from time to time in effect relating to nondiscrimination, equal employment opportunity, contract compliance and affirmative action.

8.9 Organizational Status in State of Organization and in the Commonwealth of Massachusetts. Wynn acknowledges that it shall notify Chelsea promptly in writing in the event of any change in its organizational status and/or standing under the laws and regulations of its State of Incorporation and under the laws and regulations of the Commonwealth of Massachusetts. Wynn agrees to remain in good standing and maintain adherence to all laws, regulations and requirements applicable to licenses and permits issued to Wynn pursuant to the Act.

8.10. Notices. All notices required or permitted to be given hereunder shall be in writing and delivered by hand or courier service; by a nationally-recognized delivery service, by mailing, postage prepaid via certified mail, to the following addresses, or to other addresses as may be furnished by the parties from time to time in writing hereafter:
In the case of notice to Chelsea:

To: [insert]

with copies to: [insert]

In the case of notice to Wynn:

To: Wynn MA, LLC
c/o Wynn Resorts, Limited
3131 Las Vegas Blvd. South
Las Vegas, NV 89109
Attn: Kim Sinatra, Sr. VP and General Counsel

and in the case of either Party, to such other address as shall be designated by written notice given to the other Party in accordance with this section. Any such notice shall be deemed given when so delivered by hand, by courier delivery on date of service, or if mailed, when delivery receipt is signed by the party designated herein as accepting notice. Service to Chelsea shall not be deemed effective unless accomplished during normal business hours and days of operation of Chelsea. Each Party shall ensure that the other party is notified in writing immediately of any changes in the contact and address information above.

8.11. Failure and Waiver. Failure of either Party to require strict performance of the terms and conditions herein shall not be deemed a waiver of any rights and remedies available to such Party, and shall not be deemed a waiver of subsequent default or nonperformance of said terms or conditions in the future. No actual waiver by a Party of performance of any terms, conditions or obligations under this Agreement shall be effective unless agreed upon and

in writing signed by such Party. No waiver of either Party to require strict performance of any terms and conditions shall constitute a waiver of such Party's right to demand strict compliance with the terms and conditions of this Agreement.

8.12. Notice of Default and Rights in the Event of Default. Each Party shall have thirty (30) days from receipt of written notice of failure, violation or default to cure said failure, violation or default. If such failure, violation or default cannot in good faith be cured within such thirty (30) day period, the defaulting Party shall notify the other Party immediately in writing and diligently pursue curing said default to completion. Except as expressly provided herein, the rights and remedies of the Parties, whether provided by law or by this Agreement, shall be cumulative, and the exercise by a Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other Party.

8.13. Governing Law and Forum in Event of Dispute. This Agreement shall be subject to, governed under, and construed in accordance with the laws and regulations of the Commonwealth of Massachusetts, including any amendments thereto which may occur from time to time following execution of this Agreement, and said laws and regulations shall govern the validity, enforcement of terms, conditions, rights and obligations, and performance of this Agreement. The Parties further agree that any legal proceedings whether in law or equity arising hereunder shall be instituted in the Commonwealth of Massachusetts Middlesex County Superior Court. The prevailing Party in any action shall recover its litigation costs (including attorneys' fees and expert witness fees). Notwithstanding the foregoing provisions for forum selection, the Parties agree that before resorting to any formal dispute resolution process concerning any dispute arising from or in any way relating to this Agreement, the Parties will first engage in good faith negotiations in an effort to find a solution that services their respective and mutual interests.

8.14. Studies and Triggering Events. Section 71 of the Act requires the Commission to establish an annual research agenda to assist in understanding the social and economic effects of casino gambling in Massachusetts and to minimize the harmful impacts. Section 71 identifies three essential elements of this research agenda: (1) understanding the social and economic effects of expanded gambling, (2) implementing a baseline study of problem gambling and the existing prevention and treatment programs that address its harmful consequences, and (3) obtaining scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling. In furtherance thereof, the Commission has commissioned a \$3.6 million baseline study to be conducted by the University of Massachusetts Amherst School of Public Health and Health Science on the social and economic impacts of casino gambling in Massachusetts. Additional studies will be undertaken once the gaming establishments are open for the specific purpose of determining impacts. In addition, consistent with the regulations promulgated by the Commission and, in particular, 205 CMR 127.00 Reopening Mitigation Agreements, Wynn and Chelsea shall negotiate in good faith to determine whether an amendment to this Agreement is necessary if a "triggering event" (as defined in 205 CMR 127.02) occurs.

8.15. Escalation of Payments. Beginning with the sixteenth (16th) annual payment made by Wynn to Chelsea, the annual payments identified on Exhibit B attached hereto and incorporated herein by this reference shall increase by five percent (5%), as set forth in Exhibit B. Thereafter, during the term of this Agreement, such five percent (5%) increase shall be applied to the applicable annual payments after the payment of every five (5) annual payments as more specifically set forth in Exhibit B.

IN WITNESS WHEREOF, the parties, by and through the signatories below, acknowledge they are duly authorized and have the full power, right and authority to enter into, execute, deliver, and perform the terms and conditions of this Agreement, and hereto have hereunto set their hands and seals on this [___] day of May, 2014.

City of Chelsea:

Wynn MA, LLC

City Manager Jay Ash

Exhibit A

[INSERT SITE MAP]



Figure 1-3
Existing Site Conditions (1 of 2)
Source: Feldman Professional Land Surveyors, 2013

Exhibit B

Exhibit B

Beginning with the sixteenth (16th) annual payment, each of the annual payments set forth herein shall increase by five percent (5.0%) as set forth below:

	First 15 Payments	Subsequent Five Payments, Beginning with 16 th Annual Payment
Business Development Fund	\$75,000.00	\$78,750.00
Public Safety Payment	\$250,000.00	\$262,500.00
Non-Profit Contribution	\$100,000.00	\$105,000.00
Transitional Road Payment	\$225,000.00	\$236,250.00
TOTAL	\$650,000.00	\$682,500.00

Thereafter, during the term of this Agreement, after the payment of five additional payments, each of the annual payments set forth hereunder shall increase by five percent (5.0%) as set forth in the example below:

	20th Annual Payment	Subsequent Five Payments, Beginning with 21st Annual Payment
Business Development Fund	\$78,750.00	\$82,687.50
Public Safety Payment	\$262,500.00	\$275,625.00
Non-Profit Contribution	\$105,000.00	\$110,250.00
Transitional Road Payment	\$236,250.00	\$248,062.50
TOTAL	\$682,500.00	\$716,625.00