

SURROUNDING COMMUNITY AGREEMENT

This SURROUNDING COMMUNITY AGREEMENT ("Agreement") is made and entered into this 5th day of November, 2013, by and between the TOWN OF WRENTHAM, a municipal corporation with its offices at 79 South St. Wrentham, MA 02093 (the "Town"), and SPRINGFIELD GAMING AND REDEVELOPMENT, LLC, a Delaware limited liability company, with its principal office at 825 Berkshire Boulevard, Wyomissing, PA 19610 ("SF Gaming") (collectively with the Town, the "Parties").

WHEREAS *M.G.L. c.23K*, establishes and provides for expanded gaming in the Commonwealth consistent with the terms and requirements set forth therein; and

WHEREAS SF Gaming has acquired the option to purchase certain land and improvements situated on approximately 88.9 acres located at 301 Washington Street, Plainville, Massachusetts (the "Premises"); and

WHEREAS SF Gaming has filed an application (the "Application") for a "Category 2 gaming license" as defined by *M.G.L. c.23K, §2* (the "License"), to construct and operate a gaming establishment with no table games and not more than 1,250 slot machines, together with ancillary entertainment and dining amenities to be located at the Premises (the "Project"); and

WHEREAS, under *M.G.L. c.23K, §15*, an applicant for a License to own and operate a gaming establishment must enter into an agreement with each of the Surrounding Communities (as defined by *M.G.L. c.23K, §2*) of the proposed gaming establishment, which shall set forth stipulations of responsibilities between each Surrounding Community and the applicant; and

WHEREAS the Parties believe that the Project will bring economic development to the region, including creating new jobs for residents of the Town and new sources of income for the Town, and accordingly the Town desires to support SF Gaming in the development of the Project; and

WHEREAS the Parties intend to address the potential impacts that will result from the development and operation of the gaming establishment at the Premises, and to facilitate the positive economic benefits to be derived by the Town from the Project; and

WHEREAS SF Gaming intends to hold the Town harmless against any substantial adverse costs directly attributable to the construction or operation of the Project; and

WHEREAS, in furtherance of those goals, and in satisfaction of the requirements of *M.G.L. c.23K*, the Parties are entering into this Agreement to set forth their mutual understandings in effectuating the purposes set forth above;

NOW, THEREFORE, in consideration of the covenants and mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be bound hereby, agree as follows:

1. Definitions.

- (i) Any term used herein that is defined by Section 2 of Chapter 23K of the *Massachusetts General Laws* shall be given such definition for the purposes of this Agreement.
- (ii) The term "Commencement of Operations" shall mean the earlier of: (a) the first date upon which the Project is open to the public with at least 1,000 slot machines in operation; or (b) the first anniversary of the date upon which the Project is first open to the public.
- (iii) The term "Expansion Date" shall mean any date on which: (a) the number of slot machines in operation at the Project rises to more than 10% above the number of slot machines in operation at the Project at Commencement of Operations; or (b) the number of slot machines in operation at the Project rises to more than 10% above the number of slot machines in operation at the Project on a prior Expansion Date.
- (iv) The term "Initial Impacts Date" shall mean any date that is (a) one year after Commencement of Operations; (b) one year after the most recent Expansion Date; or (c) one year after notice of SF Gaming's material modification of the traffic plan which is provided pursuant to section 4(iii) of this Agreement.
- (v) The term "Final Impacts Date" shall mean the earlier of: (a) the date upon which a resort casino is open to the public in both Region A and Region C; or (b) the tenth anniversary of Commencement of Operations.

2. Project Description.

- (i) SF Gaming will substantially comply with: (a) all material commitments regarding the design, construction and operation of the Project that are made to the Massachusetts Gaming Commission ("MGC") as part of SF Gaming's Category 2 license application, or subsequently amended and approved by the MGC; and (b) all material requirements of the gaming license regarding the design, construction and operation of the Project.
- (ii) No satellite parking or other ancillary facilities associated with the Project shall be constructed within the Town of Wrentham by SF Gaming or its affiliates.

3. Town Obligations.

- (i) The obligations of SF Gaming are expressly contingent on the adoption, by the Wrentham Board of Selectmen, of a resolution in support of SF Gaming's License application, substantially in the form set forth in "Exhibit A," attached hereto, no later than 15 days after execution of this Agreement

and continued compliance with the letter and spirit of that resolution of support through Commencement of Operations.

- (ii) The Town covenants and agrees that, prior to February 1 of each year during which the Project is in operation, it shall petition, or cause to be petitioned, the Massachusetts Gaming Commission for monies made available under M.G.L. c. 23K, including, but not limited to, those monies in the Community Mitigation Fund established by M.G.L. c.23K, §61, for the purpose of offsetting the Town's costs related to the construction and operation of the Project including education, transportation, infrastructure, housing, environmental, public safety and public health costs, and that any monies received by the Town from the Commission pursuant to any such petition shall be subtracted from SF Gaming's corresponding obligation under this Agreement to provide funding for such costs.

4. Project Mitigation.

- (i) By executing this Agreement, SF Gaming is representing that it is unaware of any anticipated materially adverse impacts to the Town or its residents and businesses from the construction or operation of the Project that are of a magnitude sufficient to make the implementation of project mitigation measures reasonably necessary prior to Commencement of Operations.
- (ii) Notwithstanding the representation made in Section 4(i) of this Agreement, SF Gaming shall cooperate with the Town in the design and conduct of impact studies to identify, based on empirical evidence, any materially adverse impacts to the Town or its residents and businesses from the construction or operation of the Project that are of a magnitude sufficient to make the implementation of project mitigation measures reasonably necessary; and to craft and implement such mitigation measures, as further described in Section 6 of this Agreement.
- (iii) SF Gaming shall reimburse the Town for any and all substantial and incremental costs, directly attributable to the construction or operation of the Project, that are incurred prior to the implementation of Project mitigations pursuant to Section 6(iv) of this Agreement.
- (iv) Section 5-33 of the Application states that SF Gaming is proposing “[a] comprehensive mitigation program..., including traffic signals at the [Project] site driveway and the I-495 SB Off-Ramp to Route 1 SB, roadway reconstruction, and proposed signal timing adjustments at five intersections. The improvements at the Route 1/Plainridge Site Drive would require that the Route 1 median be reconstructed to allow left turns both into and out of the [Project] site.” SG Gaming’s proposed traffic mitigation program is further set forth in Attachments 5-33-01 (Traffic Control), 5-33-02 (Preliminary Design Plans) and 5-33-03 (Traffic Impact Study) to the Application. SF Gaming shall promptly notify the Town of any significant

deviation from the traffic program set forth in Section 5-33 or Attachment 5-33-01, 5-33-02 or 5-33-03 of the Application that it intends to implement.

- (v) The Parties intend the Project mitigations set forth in this Section, together with the impact studies and contingent obligations set forth in Section 6 of this Agreement, to satisfy the requirement of a community impact fee, as set forth *M.G.L. c.23K, §15(9)*.

5. Offsetting Benefits.

- (i) SF Gaming shall, prior to the Commencement of Operations, work in good faith with the Town to advertise and hold at least one job fair for Town residents at a venue to be approved by the Town, at which SF Gaming will publicize its employment needs and take applications to be hired in connection with the Project;
- (ii) To the extent not inconsistent with its obligations under Section 3.A of the Host Community Agreement entered into with the Town of Plainville, SF Gaming shall instruct its general contractor to give preferential treatment to qualified Wrentham residents in hiring decisions made in connection with Project construction;
- (iii) SF Gaming shall give preferential treatment to qualified Wrentham vendors for the operation of the Project;
- (iv) SF Gaming shall cross-market and promote mutually agreed upon Wrentham businesses following Commencement of Operations; and
- (v) SF Gaming shall work with any live-entertainment venues within Wrentham on non-compete and cross-marketing agreements.

6. Impact Studies and Contingent Obligations.

- (i) Sixty (60) days prior to Commencement of Operations, SF Gaming shall fund a series of baseline studies, to be conducted by qualified contractors, to be jointly selected by the Parties. The baseline studies shall address traffic, public safety, emergency response, and problem gaming prior to the Commencement of Operations in accordance with scopes of services to be agreed upon by the Parties as outlined in "Exhibit B," attached hereto. The results of such studies, including any estimates of future changes in relevant conditions in the absence of the Project, shall be considered to be the baseline conditions, against which Project impacts shall be compared.
- (ii) Within 60 days of any Initial Impacts Date, SF Gaming shall fund a series of initial impact studies, to be conducted by qualified contractors to be jointly selected by the Parties. The initial impact studies shall address each of the tangible and verifiable conditions identified in the baseline studies to determine whether such conditions differ, as of the Initial Impacts Date,

from the baseline conditions, and to what extent any such difference or a portion thereof is predominantly attributable to the Project; provided, however, that any initial impact study conducted exclusively as a consequence of a notice of SF Gaming's material modification of the traffic plan pursuant to section 4(iii) of this Agreement shall be limited in scope to addressing traffic conditions. The initial impact studies shall include recommendations for mitigation of each difference or portion thereof that has been determined to be predominantly attributable to the Project, with preference to be given to commercially reasonable mitigation recommendations that reduce or eliminate the difference identified, and mitigations taking the form of increasing the Town's capacity to respond to such difference to be recommended only in the event that the difference cannot be eliminated in a commercially reasonable manner.

- (iii) No later than the Final Impacts Date, SF Gaming shall fund a series of final impact studies, to be conducted by qualified contractors to be jointly selected by the Parties. The final impact studies shall address each of the tangible and verifiable conditions identified in the baseline studies to determine whether such conditions differ, as of the Final Impacts Date, from the baseline conditions or those identified in the initial impact studies, and to what extent any such difference or a portion thereof is predominantly attributable to the Project. The final impact studies shall include recommendations for modifications to the mitigations recommended in any initial impact study.
- (iv) SF Gaming shall fully fund the cost of implementing (including pre-paying a reasonable period of expected maintenance costs) the mitigations of the tangible and verifiable impacts predominantly attributable to the Project as identified in an initial impact study, or any modification thereof recommended in a final impact study.

7. Administrative Provisions.

- (i) SF Gaming shall, on a periodic basis, upon the request of the Town, attend municipal meetings organized by the Town, at which it will address questions regarding the Project; and
- (ii) SF Gaming intends to support a variety of local charities and civic organizations. In the aggregate, the subsidiaries of Penn National Gaming, Inc. (the ultimate parent of SF Gaming) contributed approximately \$11.8 million to local causes in 2012. SF Gaming personnel intend to serve on local civic and municipal boards and help support organizations benefiting environmental causes.
- (iii) SF Gaming agrees to consult with the Town before undertaking any material expansions of the Project and to amend this Agreement as reasonably necessary and mutually agreed to account for such expansions prior to their

commencement; provided, however, that the Parties shall not execute any Agreement amendment that does not provide for studies and mitigations of the Project, including any proposed or existing expansion thereof, substantially equivalent to those set forth in Section 6 of this Agreement.

- (iv) This Agreement shall become effective on the date upon which it is fully executed by the Parties, unless lawfully terminated by either Party, so long as SF Gaming (or any parent, subsidiary or related entity) owns, controls or operates a valid Category 2 gaming license for the Premises. Nothing in this Agreement shall be construed to require the Project to stay open for any particular term. The non-breaching party may terminate this Agreement if a breach is not cured within 30 days of written notice.
- (v) Any notice required hereunder shall be made in writing and delivered by hand delivery or by facsimile or e-mail transmission, with a copy to follow by first class mail to the addresses given below. Notices shall be deemed given on the date delivered.

If to the Town:

Board of Selectmen
Town of Wrentham
Town Hall, Room 213
79 South Street
Wrentham, MA 02093

If to SF Gaming:

825 Berkshire Boulevard
Wyomissing, Pennsylvania 19610
Attention: Office of the General Counsel

- (vi) No provisions of this Agreement shall be construed in any manner so as to create any rights in any third parties not party to this Agreement. The Agreement shall be interpreted solely to define specific duties and responsibilities between the Town and SF Gaming, and shall not provide any basis for claims of any other individual, partnership, corporation, organization, or municipal entity.
- (vii) Neither Party may assign any interest in this Agreement, and shall not transfer any interest in this Agreement by novation or assignment, without the prior written consent of the non-assigning Party, which consent shall not be unreasonably delayed or denied; provided, however, that (i) there shall be no prohibition on the transfer of any interest in the Premises; (ii) a change of control of SF Gaming shall not be deemed an assignment hereunder, and (iii) SF Gaming may delegate any of its duties and obligations hereunder and may assign any of its rights and privileges hereunder, only to a successor licensee at the Premises or any successor entity or any one or

more affiliates, or survivor entities in connection with a merger, consolidation, roll up, or reorganization that is wholly owned by SF Gaming, Penn National Gaming, Inc. ("Penn"), or Delvest Corp., or a survivor entity in connection with a merger, consolidation, roll up, or reorganization, each of which shall thereupon be treated as SF Gaming for all purposes under this Agreement with respect to the duties or obligations so delegated or the rights or privileges so assigned, and the term "SF Gaming" shall thereafter be deemed to refer to such affiliate with respect to the duties or obligations so delegated or the rights or privileges so assigned. For the purposes of clarity, SF Gaming or Penn shareholders receiving a distribution from SF Gaming or Penn would have no liability, duties or obligations delegated to them under this Agreement.

- (viii) None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create, any relationship between the Parties other than that of independent parties contracting with each other for purposes of effecting the provisions of this Agreement. The Parties are not, and will not be construed to be, in a relationship of joint venture or partnership. Neither Party has the authority to make any statements, representations or commitments of any kind on behalf of the other Party, or to use the name of the other Party in any publication or advertisements, except with the written consent of the other Party. Subject to the payment of all reimbursable costs to the Town, prior to the opening of the gaming establishment, SF Gaming may terminate this Agreement and/or withdraw its gaming application without further liability to the Town.
- (ix) SF Gaming shall not be considered to be in default in the performance of its obligations under this Agreement to the extent that performance of any such obligation is impaired by a Force Majeure Event. If SF Gaming is prevented or delayed in the performance of any such obligation by a Force Majeure Event, it shall provide reasonable notice to the Town of the circumstances preventing or delaying performance and the expected duration thereof, if known. For the purposes of this Agreement, a Force Majeure Event is any circumstance not within the reasonable control, directly or indirectly, of the Party affected and includes, but is not limited to the following: strikes or other significant labor disputes; changes in applicable law; litigation affecting any Party, the Premises, or the operations at the Premises; significant supply shortages; adverse weather conditions and other acts of nature; acts of God, fire, other substantial property damage or any condition that prevents or significantly interferes with the operations of SF Gaming's gaming establishment; significant subsurface conditions; riot or civil unrest; the suspension or loss of SF Gaming's Category 2 gaming license; the forced closure of all gaming establishments by the Commonwealth of Massachusetts or the Massachusetts Gaming Commission; and actions or failures to act of any governmental authority or agency.

- (x) This Agreement and any Exhibits hereto constitute the entire agreement between the parties. No agents, representative, employee or officer of the Town or SF Gaming has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with this Agreement which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the Parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of this Agreement. No modifications, alterations, or changes to this Agreement or any of its terms shall be valid or binding unless accomplished by a written amendment signed by all Parties in accordance with the terms herein.
- (xi) This Agreement shall not be amended except upon written consent of all Parties hereto.
- (xii) This Agreement shall be governed by and construed under the laws of the Commonwealth of Massachusetts in effect on the date of the execution of such document, without giving effect to any choice of law or conflict of law provision or rule. The Parties hereby irrevocably submit to the exclusive jurisdiction of the Federal Courts of Massachusetts. In the event no federal jurisdiction exists or if the parties mutually agree in writing, the forum shall be the Superior Court of Middlesex County, Massachusetts, and such courts shall have sole and exclusive jurisdiction over any matter brought under, or by reason of this Agreement.
- (xiii) This Agreement shall be binding upon the Parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the Parties hereto and their respective permitted successors and assigns.
- (xiv) The Parties agree that in no event shall either party be liable for indirect, special, consequential or punitive damages or any damages arising out of or related to this Agreement.
- (xv) The Parties acknowledge that they were represented by separate and independent counsel in connection with the review, negotiation and drafting of this Agreement and that this Agreement shall not be subject to the principle of construing its meaning against the party that drafted same. Each Party acknowledges that, with respect to this Agreement, it relied solely on its own judgment and advisors in entering into this Agreement without relying in any manner on any statements, representations or recommendations of the other Party, that it understands and accepts the implications of this Agreement, and that it voluntarily entered into this Agreement.
- (xvi) This Agreement shall be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. To evidence the fact that it has executed this Agreement, a Party may send a copy of its

executed counterpart to the other Party by facsimile or electronic transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

- (xvii) If any provision of this Agreement is found to be or rendered void, invalid or unenforceable by any court of law, for any reason, such determination shall be construed as narrowly as possible, and the balance of the Agreement shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, and intending to be bound hereby, the Parties hereto have caused this Agreement to be duly executed on their behalf by their authorized officers and applicably attested, all as of the day and year first above written.

ATTEST:

SPRINGFIELD GAMING AND
REDEVELOPMENT, LLC,
a Delaware limited liability company

By:

Tommy H. McNeill
Witness

By:

Robert S. Spicci
Name: Robert S. Spicci
Title: SECRETARY

ATTEST:

TOWN OF WRENTHAM

Joseph F. Botaish
Joseph Botaish, Chairman

Stephen J. Langley
Stephen J. Langley, Vice-Chairman

Gail L. Pratt
Gail Pratt, Clerk

By:

Cynthia K. Thompson
Witness

Michael Carroll, Member

Charles Kennedy
Charles Kennedy, Member

Exhibit A

**TOWN OF WRENTHAM
BOARD OF SELECTMEN**

WHEREAS *M.G.L. c.23K*, establishes and provides for expanded gaming in the Commonwealth consistent with the terms and requirements set forth therein; and

WHEREAS Springfield Gaming and Redevelopment, LLC (SF Gaming) has acquired the option to purchase certain land and improvements situated on approximately 88.9 acres located at 301 Washington Street, Plainville, Massachusetts (the "Premises"); and

WHEREAS SF Gaming has filed an application for a "Category 2 gaming license" as defined by *M.G.L. c.23K*, §2, to construct and operate a gaming establishment with no table games and not more than 1,250 slot machines, together with ancillary entertainment and dining amenities to be located at the Premises; and

WHEREAS the Board of Selectmen believes that the proposed gaming establishment will bring economic development to the region; and

WHEREAS the Board of Selectmen wish to cooperate with and support the efforts of the Town of Plainville to secure the benefits of the proposed gaming establishment; and

WHEREAS the Board of Selectmen and SF Gaming have entered into a Surrounding Community Agreement, pursuant to *M.G.L. c.23K*, §15, to address potential negative impacts that may result from the development and operation of the gaming establishment, and to facilitate the positive economic benefits to be derived from the project; and

NOW, THEREFORE, the Board of Selectmen hereby state the Town's support for SF Gaming's license application and urge the Massachusetts Gaming Commission to act favorably thereon.

Exhibit B

OUTLINE OF SCOPE OF STUDIES

Baseline Studies:	To examine conditions prior to Commencement of Operations at Plainridge
Initial Impact Studies	To examine conditions as of an Initial Impact Date
Final Impact Studies	To examine conditions one year after Commencement of Operations of resort casinos in Regions A and C (or ten years after Commencement of Operations at Plainridge, whichever is sooner)

Traffic Study

- Study Area to include key points within Wrentham, including:
 - Route 1 between the Foxborough Town Line and the Plainville Town Line
 - Taunton Street between East Street and the Plainville Town Line
 - Thurston Street between East Street and Route 1
 - Madison Street between East Street and Route 1
 - Common Street between South Street and East Street
 - South Street between East Street/Franklin Street and the Plainville Town Line
- Appropriate Traffic Demand Management programs to be identified as determined to be necessary by impact studies
- Appropriate improvements to be identified as determined to be necessary by impact studies. For example:
 - Additional police personnel
 - Equipment (cruisers, radar units, portable speed signs)
 - Roadway improvements

Crime Study

- Compile data related to crime and usage of Wrentham Police Department
 - Consider both occurrences of crimes and crime rates.
 - Distinguish between types of crimes (drug-related, drunk-driving, prostitution, theft etc.)
 - Count instances where Wrentham police personnel are spending time in Plainville answering mutual aid calls.
 - In impact studies, note what crimes are directly attributable to the facility, either because they took place at the facility or involved parties going to/from the facility.
- Appropriate mitigation, to be implemented as determined necessary by the impact studies. For example:
 - Programs and community outreach aimed at curbing criminal behavior
 - Increased police personnel and equipment, if determined necessary

Public Safety and Emergency Response Study

- Compile data related to usage of Wrentham emergency response services, as well as response times
 - Distinguish between types of emergencies (fire, health emergencies, automobile accidents etc.)
 - Note what emergencies are directly attributable to facility, either because they took place at the facility or involved parties going to/from the facility.
 - Track whether Wrentham emergency response personnel are spending increased time in Plainville answering mutual aid calls.

Exhibit B

- Appropriate mitigation to be implemented as determined necessary in the impact studies. For example:
 - Programs and community outreach aimed at improving public safety
 - Increased EMS personnel and equipment, if determined necessary
 - 24/7 staffing
 - Traffic pre-emptors

Problem Gaming Study

- Compile data related to demand for and availability of problem gambling services among Wrentham residents
- Appropriate expansion of available services, beyond those already provided by the Massachusetts Problem Gaming Program and SG Gaming, as determined necessary in the impact studies

School Study

- At the time of any Initial Impacts Date or the Final Impacts Date, the Town will count the number of new students added in each grade at the King Philip Regional School District and Wrentham Elementary School for that particular school year. SF Gaming will assess its employee database on such date to determine how many of its employees have moved into Wrentham since the issuance of the License.
- If it is determined that the relocation of new SF Gaming employees into the Town has resulted in a particular King Philip grade level's increasing by 14 or more students or a particular Wrentham Elementary School grade level's increasing by 10 or more students, then a third-party study will be commissioned to assess the net impacts and recommend mitigation actions, which SF Gaming will be responsible for funding.
- If it is determined that the relocation of SF Gaming employees into the Town has resulted in the number of students requiring English Language Learner (ELL) services at either King Philip or Wrentham Elementary School increasing by 50 or more students, then a third-party study will be commissioned to assess the net impacts and recommend mitigation actions, which SF Gaming will be responsible for funding.

Water Study

- At the time of any Initial Impacts Date or the Final Impacts Date, if it has been determined that SF Gaming's average daily water usage during the prior year has exceeded 45,000 gallons per day and that Plainville's water withdrawals from the Taunton River Basin exceed its Baseline water withdrawal volume, as established by the Department of Environmental Protection, by at least the amount of SF Gaming's increase, then a third-party study will be commissioned to assess the net impacts of SF Gaming's water usage on the Town and recommend mitigation actions, which SF Gaming will be responsible for funding.