

CONFIDENTIAL

**AMENDMENT NO. 1 TO
PROPERTY DISPOSITION
AND
DEVELOPMENT AGREEMENT**

Dated as of _____, 2022

by and between the

TOWN OF PRESTON

and the

MOHEGAN TRIBAL GAMING AUTHORITY

**Relating to the Disposition and Development of
“Preston Riverwalk”, the
Former Norwich State Hospital Site in
Preston, Connecticut**

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THIS AMENDMENT NO. 1 TO PROPERTY DISPOSITION AND DEVELOPMENT AGREEMENT (this “Amendment No. 1”) is made and entered into as of the ___ day of _____, 2022 with reference to the Property Disposition and Development Agreement dated as of the 19th day of April, 2017 (the “Agreement”) by and between the TOWN OF PRESTON, a Connecticut municipal corporation (acting by and through the Preston Redevelopment Agency to the extent of its rights, powers and responsibilities under the PRA Ordinance and the Special Act (both as hereinafter defined) and other Applicable Laws), and the MOHEGAN TRIBAL GAMING AUTHORITY, a governmental instrumentality of the Mohegan Tribe of Indians of Connecticut. Capitalized words and terms used herein and not otherwise defined herein, including in the recitals which follow, shall have the respective meanings assigned to such words and terms in the Agreement.

RECITALS

A. The Town and MTGA made and entered the Agreement in order to set forth the definitive terms and conditions governing the conveyance of the Property (as defined in the Agreement) to MTGA and the development and use thereof by MTGA.

B. The Town and MTGA desire to amend the Agreement in certain respects to reflect the terms and conditions of the 2021 State Brownfield Financial Assistance (as such term is defined in Annex I attached hereto) and amend and modify certain related terms and conditions of the Agreement as more fully set forth herein.

C. The execution of this Amendment No. 1 on behalf of the Town by the First Selectwoman was authorized by a vote of the Board of Selectmen on _____, 2022, and the execution of this Agreement on behalf of MTGA by the Chairman of its Management Board was authorized by a vote of such Management Board on _____, 2022, and the Board of Selectmen has scheduled a Town Meeting for _____, 2022, as required by the General Statutes, for the purposes of approval of this

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Amendment No. 1, which approval is a condition precedent to the effectiveness of this Agreement as more particularly provided in Article II hereof.

D, The execution of this Amendment No. 1 by the Chairman of the PRA was authorized by a vote of the PRA on _____, 2022 to evidence the approval thereof by the PRA and for the purpose of the exercise of the its rights, powers and responsibilities under the PRA Ordinance, the Special Act and other Applicable Laws.

E. The execution of this Amendment No. 1 by the Chairman of the Tribe was authorized by a vote of the Tribal Council of the Tribe on _____, 2022 to evidence the approval thereof by the Tribe.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, agreements and covenants set forth herein, the Parties hereto agree to amend the Agreement as follows:

ARTICLE I

AMENDMENT OF AGREEMENT

Section 1.01 Amendment of Agreement. Effective as of the Amendment No. 1 Effective Date, but subject to the satisfaction of the conditions precedent set forth in ARTICLE II hereof, the parties hereto agree that the Agreement is hereby amended as set forth in the marked text on Annex I attached hereto (the “Amended Agreement”). In Annex I, deletions of text in the Amended Agreement are indicated by struck-through text (indicated textually in the same manner as the following example: ~~stricken-text~~) and insertions of text are indicated by double-underlined text (indicated textually in the same manner as the following example: double-underlined text). As so amended, the Agreement shall continue in full force and effect as set forth in Section 2.02. Capitalized terms used

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herein and not otherwise defined herein shall have the respective meanings given to them in the Amended Agreement.

ARTICLE II

EFFECTIVENESS; TERM

Section 2.01 Execution; Effectiveness.

(a) This Amendment No. 1 shall not become effective until (i) it is executed and delivered on behalf of the Town by its First Selectwoman, on behalf of MTGA by the Chairman of its Management Board, and on behalf of the Tribe by its Chairman (solely for purposes of Article X of the Agreement), (ii) it has been executed and delivered by the Chairman of the PRA to evidence such approval and for the purpose of the exercise of the rights, powers and responsibilities of the PRA under the PRA Ordinance and Part I of Chapter 130 of the General Statutes, as waived or varied by the Agreement under authority of the Special Act or other Applicable Laws (all as provided in Section 15.03 of the Agreement), (iii) the 2021 State Assistance Agreement has been fully executed and the state bond funding provided for therein has been fully authorized and is committed in the amount of Nine Million Dollars (\$9,000,000), and (iv) this Amendment No. 1 has been approved at Town Meeting as required by the General Statutes. The date on which all such conditions to effectiveness have been satisfied is referred to herein as the “Amendment No. 1 Effective Date”.

(b) If any condition to effectiveness set forth in subsections (a)(i), (a)(ii), (a)(iii), or (a)(iv), above, has not been satisfied within ninety (90) days of the date of execution of this Amendment No. 1 by the Town, the PRA, MTGA and the Tribe (which date of execution shall be deemed for this purpose to be dated the date set forth in the first paragraph of this Amendment No. 1), or within such further period as may be agreed to in writing by the Town, the PRA and MTGA, then this Amendment No. 1 shall thereupon be deemed cancelled and of no further force or effect, without the necessity of any election or notice by either party.

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Section 2.02 Effect of Amendment.

The Town and MTGA hereby agree and acknowledge that, except as provided in this Amendment No. 1, the Agreement remains in full force and effect and has not been modified or amended in any respect, it being the intention of the Town and MTGA that, upon the Amendment No. 1 Effective Date, this Amendment No. 1 and the Agreement be read, construed and interpreted as one and the same agreement. Upon the effectiveness hereof, each reference to the Agreement in the Agreement (including any reference to “this Agreement,” “hereunder,” “herein” or words of like import referring thereto) shall mean and be a reference to the Amended Agreement.

ARTICLE III

MISCELLANEOUS PROVISIONS

Section 3.01 No Waiver.

A failure by any Party to enforce or require compliance with any provisions of this Amendment No. 1 at any time during the term of the Agreement shall in no way affect the validity of this Amendment No. 1 and the Agreement, or any portion hereof, and shall not be deemed a waiver of the right of any Party thereafter to enforce any and each such provision.

Section 3.02 Severability.

In case any provision in this Amendment No. 1 shall be held invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions hereof will not in any way be affected or impaired thereby.

Section 3.03 Amendments.

No amendment or modification of this Amendment No. 1 shall be effective unless in writing and signed by each of the Parties.

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Section 3.04 Entire Understanding.

This Amendment No. 1 shall constitute the entire understanding among the Parties and shall supersede any and all previous understandings pertaining to the subject matter of this Amendment No. 1.

Section 3.05 Governing Law.

This Amendment No. 1 shall be governed by and construed in accordance with the internal laws of the State of Connecticut.

Section 3.06 Counterparts.

This Amendment No. 1 may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE NEXT FOLLOWS]

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IN WITNESS WHEREOF, the undersigned have caused this Amendment No. 1 to be signed by their duly authorized representatives, as such and not individually, as of the day and year first written above.

WITNESS:

TOWN OF PRESTON

By: _____

Name: _____

Title: _____

PRESTON REDEVELOPMENT AGENCY (for purposes of the exercise of its rights, powers and responsibilities under the PRA Ordinance as provided in Section 15.03 of the Agreement)

By: _____

Name: _____

Title: _____

MOHEGAN TRIBAL GAMING AUTHORITY

By: _____

Name: _____

Title: _____

THE MOHEGAN TRIBE OF INDIANS OF CONNECTICUT (solely for purposes of Article X of the Agreement)

By: _____

Name: _____

Title: _____

STATE OF CONNECTICUT)

) ss:

COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____ of Mohegan Tribal Gaming Authority, a governmental instrumentality of the Mohegan Tribe of Indians of Connecticut, on behalf of said governmental instrumentality.

Name:
Commissioner of Superior Court
Notary Public
My Commission Expires:

STATE OF CONNECTICUT)

) ss:

COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____ of The Mohegan Tribe of Indians of Connecticut, a sovereign tribe recognized by the United States of America pursuant to C.F.R §83, on behalf of said sovereign tribe.

Name:
Commissioner of Superior Court
Notary Public
My Commission Expires:

ANNEX I