

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “Amendment”), is made as of the ____ day of May, 2020, by and among **GOLDEN EAGLE CONSULTING II, LLC (“GEC”)**, a Delaware limited liability company, the **PAMUNKEY INDIAN TRIBE** (the “Tribe”), a federally recognized Indian tribe, and the **CITY OF NORFOLK** (the “City”), a municipal corporation of the Commonwealth of Virginia.

RECITALS:

A. The City, GEC and the Tribe entered into that certain Option to Purchase dated as of January 10, 2020 (the “Option Agreement”), wherein the City granted to the Tribe and GEC an option to purchase certain real property from the City for the purpose of developing a commercial casino in the City of Norfolk.

B. The City, GEC, and the Tribe entered into that certain Development Agreement, dated as of January 10, 2020 (the “Development Agreement”), wherein the parties set forth terms and conditions upon which the Tribe and GEC would develop the Project (as defined in the Development Agreement) on the real property described in the Option Agreement.

C. Subsequent to the parties entering into the Option Agreement and the Development Agreement, the Commonwealth of Virginia enacted Va. Code §§ 58.1-4100 *et. seq.* (the “Casino Gaming Act”) to regulate the conduct of casino gaming in the Commonwealth.

D. GEC, the Tribe and the Tribe desire to make certain amendments to the Development Agreement to ensure that the development of the Project (as defined in the Development Agreement) will satisfy certain additional requirements set forth in the Casino Gaming Act.

AGREEMENTS:

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and in the Option Agreement, the receipt and sufficiency of which are hereby acknowledged, GEC, the Tribe and the City hereby agree as follows:

1. Minimum Capital Investment; Equity. Section 2 of the Development Agreement is hereby amended by including the following as a new subsection G thereof:

“G. MINIMUM CAPITAL INVESTMENT; EQUITY.”

Each of GEC and the Tribe agrees that (a) the Tribe and GEC shall be obligated to make a combined capital investment of at least Three Hundred Million and 00/100 Dollars (\$300,000,000.00) in the Project, including the value of the Subject Property and all furnishings, fixtures, and other improvements, and (b) the Tribe shall possess an equity interest equal to at least twenty percent (20%) of the Project within the meaning of Va. Code § 58.1-4108(B).”

2. Work Performed; Laborers, Workmen, Mechanics. Section 2 of the Development Agreement is hereby amended by including the following as a new subsection H thereof:

"H. WORK PERFORMED; LABORERS, WORKMEN, MECHANICS.

The Tribe and GEC shall comply with the following with respect to any contractor hired for construction at site of the Project:

(a) The Tribe shall pay the local prevailing wage rate as determined by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended, to each laborer, workman, and mechanic the Tribe's contractor employs on the site of the Project;

(b) The Tribe shall participate in apprenticeship programs that have been certified by the Department of Labor and Industry or the U.S. Department of Labor;

(c) The Tribe shall establish preferences for hiring residents of the City of Norfolk and adjacent localities, veterans, women, and minorities for work performed on the site of the Project;

(d) The Tribe shall provide health insurance and retirement benefits for all full-time employees performing work on the site of the Project; and

(e) The Tribe shall require that the provisions of clauses (a) through (d) of this Section 2.H. be included in every subcontract so that the provisions will be binding upon each subcontractor."

3. Employees; Hiring Preferences; Benefits. Section 7 of the Development Agreement is hereby amended by including the following as a new paragraph at the end thereof:

"In addition to the foregoing, the Tribe and GEC shall comply with the following with respect to employees working at the site of the Project:

(a) The Tribe shall pay any of its full-time employees performing work at the site of the Project an hourly wage or a salary, including tips, that equates to an hourly rate no less than 125 percent of the federal minimum wage;

(b) The Tribe shall establish preferences for hiring residents of the City of Norfolk and adjacent localities, veterans, women, and minorities for work performed at the site of the Project in compliance with any applicable federal law;

(c) The Tribe shall provide access to health insurance and retirement savings benefit opportunities for all full-time employees of the Tribe performing work at the site of the Project; and

(d) The Tribe shall require that any contract for services performed on the site of the Project, other than construction, with projected annual services fees exceeding Five Hundred Thousand and 00/100 Dollars (\$500,000.00), meet the requirements of the foregoing clauses (a), (b), and (c) with regard to full-time personnel of the subcontractor who will be performing services under the contract between the Tribe and the contractor or subcontractor, as applicable.”

4. Exclusivity; Prohibited Gaming. Each of GEC and the Tribe acknowledges and agrees that neither the second sentence of Section 2.A. of the Development Agreement, nor the provisions of Section 9.C of the Development Agreement, shall apply:

(a) to the extent otherwise agreed to by the City in that certain Deed of Lease and Development Agreement dated as of October 31, 2013, between the Norfolk District Associates, LLC, the Norfolk Redevelopment Housing Authority and the City, as amended by the First Amendment to Deed of Lease and Development Agreement dated as of April 13, 2016; or

(b) to the operation of skill games at ABC retail licensees and truck stops prior to July 1, 2021 to the extent authorized by Chapter 1217 of the 2020 Acts of the Virginia General Assembly as enacted on April 22, 2020.

5. Effect of Amendment. Except as expressly modified herein, the terms and conditions of the Development Agreement shall remain unchanged and in full force and effect.

6. Capitalized Terms. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Development Agreement.

7. Captions. The captions and paragraph headings contained in this Amendment are for convenience of reference only and shall not be used in construing or enforcing any of the provisions of this Amendment.

8. Dispute Resolution; Choice of Law. The provisions of Sections 10.H., 10.I. and 10.J. of the Development Agreement are incorporated herein by reference and made applicable to this Amendment, *mutatis mutandis*.

9. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document. Scanned electronically delivered signatures shall constitute original signatures for purposes of this Amendment.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the City, GEC and the Tribe have duly executed this Amendment as of the date first above written.

CITY

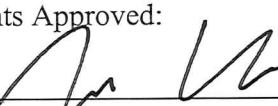
CITY OF NORFOLK, a municipal corporation of the Commonwealth of Virginia

By: 
Name: Dr. Larry H. Filer II
Title: City Manager

ATTEST:

City Clerk

Contents Approved:


Interim Director, Dept. of Development

Approved as to Form and Correctness:


Deputy City Attorney

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, do hereby certify that Dr. Larry H. Filer II, City Manager, and Richard A. Bull, City Clerk, of the City of Norfolk, whose names as such are signed to the foregoing First Amendment to Development Agreement, have acknowledged the same before me in the City and Commonwealth aforesaid.

Given under my hand this _____ day of May, 2020.

Notary Public

Registration Number: _____

My Commission Expires: _____

GEC

GOLDEN EAGLE CONSULTING II, LLC,
a Delaware limited liability company

By: Diane Green
Name: Diane Green
Title: Treasurer

STATE OF Tennessee
CITY/COUNTY OF Williamson, to-wit:

I, Tonya Johnson, a Notary Public in and for the City/County of Williamson, in the State of Tennessee, do hereby certify that Diane Green, the Treasurer of Golden Eagle Consulting II, LLC, whose name as such is signed to the foregoing First Amendment to Development Agreement, has acknowledged the same before me in the City/County and State aforesaid.

Given under my hand this 1st day of June, 2020.

Tonya Johnson
Notary Public

Registration Number: N/A

My Commission Expires: 01/24/23



TRIBE

PAMUNKEY INDIAN TRIBE,
a federally recognized Indian tribe

By: 
Name: Robert F. Gray
Title: CHIEF

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Richmond, to-wit:

I, Tracy Gibrall Craddock, a Notary Public in and for the City/County of Richmond, in the Commonwealth of Virginia, do hereby certify that Robert F. Gray, the Chief of the Pamunkey Indian Tribe, whose name as such is signed to the foregoing First Amendment to Development Agreement, has acknowledged the same before me in the City/County and Commonwealth aforesaid.

Given under my hand this 2nd day of June, 2020.


Notary Public

Registration Number: 7714399

My Commission Expires: 11/30/2021

