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FIRST AMENDMENT TO THE SETTLEMENT AGREEMENT AMONG THE CITY OF GLENDALE, THE TOHONO O'ODHAM NATION, AND THE TOHONO O'ODHAM GAMING ENTERPRISE

This First Amendment is made and entered into on November 10, 2015 ~~2015~~ (the "***Effective Date***"), among the Tohono O'odham Nation ("***Nation***"), the Tohono O'odham Gaming Enterprise ("***Gaming Enterprise***"), and the City of Glendale ("***City***") (collectively, the "***Parties***"). The Gaming Enterprise's obligations under this Agreement are limited to those obligations expressly stated to be obligations of the Gaming Enterprise and no others.

RECITALS:

A. The City Council approved the Settlement Agreement between the City, Nation and Gaming Enterprise (the "**Agreement**") on August 12, 2014.

B. The Agreement settles all disputes between the Parties relating to the Property, including, but not limited to, their disputes about the Nation's construction and operation of the WVR Project on the Property.

C. The Parties agree that they benefit from the Agreement and the payments set forth in the Agreement, as hereby amended, were and are not an assessment, tax or fee, but were and are made in consideration of settling litigation, legislative pursuits, to fund the operation of a local government agency, to promote the Nation's economic development and other rights and obligations set forth in the Agreement.

D. The Parties acknowledge and agree that Glendale has reasonably relied upon the opinion letters from counsel required by Section 20 of the Agreement, as additional consideration for entering into the Agreement and this First Amendment.

E. Since the approval of the Agreement by the City Council, the Nation has considered operating the West Valley Resort with Class II gaming devices.

F. The purpose of this First Amendment is to amend the Agreement so that Nation's obligation to make annual payments to the City will be triggered by the Nation operating either Class II Gaming or Class III Gaming at the West Valley Resort.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises and mutual promises set forth in this First Amendment, the Parties, confirm and agree as follows:

1. <u>Modifications of the Agreement.</u>

A. The definition of "Class III Gaming" on page 2 of the Agreement will be deleted and replaced with the following: "Class II Gaming" and "Class III Gaming" have the meanings given to the terms in the Compact.

B. In every instance where the term "Class III Gaming" appears in Sections 3 and 9 of the Agreement, the term will be deleted and replaced with "Class II Gaming or Class III Gaming."

2. Confirmation of the Agreement. As modified in Paragraph 1 above, the Agreement, and all of its terms and conditions, are hereby reconfirmed.

3. Conflict of Interest. This First Amendment is subject to the terms of A.R.S. § 38-511.

4. Counterparts. For convenience, this First Amendment may be executed in one or more counterparts and each executed counterpart shall for all purposes be deemed an original and shall have the same force and effect as an original, but all of which together shall constitute in the aggregate but one and the same instrument. The Agreement, as modified by this First Amendment, constitutes the entire agreement between the Parties and supersedes all previous written or oral agreements or understandings regarding the subject matter of the Agreement, as modified by this First Amendment.

5. Definitions and Conflicting Provisions. Unless otherwise separately defined in this First Amendment, all capitalized terms contained herein shall be given the meaning set forth for such terms in the Agreement. All of the terms, provisions and conditions of the Agreement, this First Amendment or any other agreement to which the City, the Nation, and the Gaming Enterprise are or may become parties which are not expressly modified, amended or clarified by this First Amendment (or which, in context, must be deemed modified, amended or clarified hereby) shall remain in full force and effect. In the event of any conflict between this First Amendment and the Agreement, the provisions of this First Amendment shall control. The Parties acknowledge and agree that the Parties shall have a right to rely, and will be relying, on the terms, provisions and conditions of this First Amendment.

IN WITNESS WHEREOF, the parties have executed this First Amendment on the date(s) written below.

City of Glendale

By: _____
Richard Bowers, Acting, City Manager

Date: 11-13-15

Tohono O'odham Nation

By: _____
Edward D. Manuel, Chairman

Date: 12-14-15

Approved as to Form:

By: _____
Michael D. Bailey, City Attorney

By: _____
Pamela Hanna, City Clerk

Approved as to Form:

By: _____
Laura Berglan, Acting Attorney General

Tohono O'odham Gaming Enterprise

By: _____
Angelina Listo, Chairwoman

Date: 12-29-2015

Approved as to Form:

By: _____
Britt E. Clapham II, General Counsel