

INTERGOVERNMENTAL AGREEMENT

This INTERGOVERNMENTAL AGREEMENT (“**Agreement**”) is made and entered into on the _____ day of _____, 2005, by and between the **EASTERN SHAWNEE TRIBE OF OKLAHOMA** (“**Tribe**”), and the **CITY OF MONROE, OHIO** (“**Monroe**”), an Ohio municipal corporation.

I. PREAMBLE AND GUIDING PRINCIPLES

The Tribe is a federally recognized Indian tribe by the Secretary of the Interior, organized under the Oklahoma Indian Welfare Act of 1936, with a constitution approved by the Secretary of the Interior as of April 4, 1994, and amended March 1, 1999, possessing inherent sovereign powers.

The City of Monroe is an Ohio municipal corporation organized as a charter municipality created under the Constitution and laws of the State of Ohio and maintaining a Council-Manager form of government.

The Tribe is presently considering the establishment of a gaming facility in its former homeland within the present day State of Ohio as a means of producing revenues through which it may improve the social and economic status of its members and increase the strength and self-sufficiency of the Tribe as a whole.

Monroe has been identified as a potential location for the development and construction of such a gaming facility.

Monroe recognizes the positive impact that gaming may provide to the Tribe’s citizens. The Tribe will utilize revenues generated by gaming to fund programs that provide important governmental services to the Tribe’s citizens. These programs and services include education, health and human resources, housing development, road construction and maintenance, sewer and water projects, police and fire services, economic development, and any other purpose authorized under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*

Monroe further recognizes that the positive economic effects of such gaming will extend beyond the Tribe and to the City, its neighbors, and the surrounding communities in Butler County and Warren County. These economic benefits, which include increased tourism and related economic development activities, will generally benefit all of Ohio and Monroe, in particular. Additionally, the project will help to foster mutual respect and understanding among Indian and non-Indians and a deeper appreciation for the history of Ohio among all.

The Tribe recognizes the unique economic and social costs associated with the operation of a gaming facility, including traffic, safety and other costs, and the need to provide Monroe and other impacted governmental entities, with compensation for addressing these gaming-related costs.

Both parties realize that a positive intergovernmental relationship based upon mutual respect and cooperation will inure to the benefit of the other and mitigate the potential for misunderstanding and conflict.

Both Parties further recognize that before the Tribe may lawfully offer gaming within the State of Ohio under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 et seq., full compliance with the IGRA and all other pertinent legal requirements will be required, and both Parties desire to work in harmony toward such objective.

Accordingly, the signatories to this agreement desire to:

- (a) Advance the mutual goals of their governments through improved intergovernmental relations;
- (b) provide a practical framework for productive relationships between and among the parties; and
- (c) establish realistic and achievable objectives that will help facilitate this relationship and thereby enhance economic growth and opportunities for both the Tribe and Monroe.

Each Party to this agreement assures the other that it will respect the governmental integrity of the other Party to this agreement and will strive always to act in the utmost good faith toward one another.

Each Party to this agreement acknowledges and respects the values and culture represented by the other Party to this agreement and the importance of mutual support and cooperation to the greater good of the citizenry of each.

II. Definitions

- A. “Intergovernmental Agreement” (Agreement) refers to this Agreement and all supplementary agreements referenced in this Agreement which upon approval and execution by the governing bodies of the Tribe and City of Monroe (collectively “Parties”) binds the Parties to those promises and commitments set forth herein subject to certain conditions and contingencies.
- B. “Monroe” is defined as the City of Monroe, Ohio, an Ohio municipal corporation organized as a charter municipality created under the Constitution and laws of the State of Ohio and maintaining a Council-Manager form of government.
- C. “Tribe” is defined as the Eastern Shawnee Tribe of Oklahoma, a federally recognized Indian tribe by the Secretary of the Interior, organized under the Oklahoma Indian Welfare Act of 1936, with a constitution approved by the Secretary of the Interior as of April 4, 1994, and amended March 1, 1999, which is recognized as possessing powers of self-government.

- D. “Project” refers to the planning, creation, establishment, design, development, construction, and operation of a Tribally-owned entertainment center to be developed within the boundaries of 150 acres of Real Property within the City of Monroe currently owned by Corridor 75 Park, Ltd., and which lies partly in Butler County, Ohio and partly in Warren County, Ohio, which shall consist of a gaming center to the extent permitted under the laws of the State of Ohio and/or the IGRA and related commercial facilities including entertainment; lodging and conference; restaurant and food services; retail; gas station, parking and such other related services and facilities as set forth in this Agreement or which may be developed by the Tribe in the future.
- E. “Real Property” means the real property described in Exhibit A. The Real Property may be titled in the name of the United States, as Trustee for the benefit of the Tribe, in order to qualify as “Indian Lands” within the meaning of the Indian Gaming Regulatory Act.
- F. “Net Revenue” is defined as the total amount of all revenues derived from or produced by any Gaming Machines less
- (a) Amounts paid out as, or paid for, prizes in connection with the operation Gaming Machines; and;
 - (b) Operating expenses of the Gaming Machines.
- G. “Gaming Machines” refers to any electronic or electromechanical machine which contains a microprocessor with random number generator capability which allows a player to play games of chance, some of which may be affected by skill, which machine is affected by the insertion of a coin, token, cash, or by the use of a credit, and which awards game credits, cash, tokens, or replays, or a written statement of the player’s accumulated credits, which written statements are redeemable for cash.
- H. “Legal Requirements” means singularly and collectively including without limitation the conditions set forth in the Real Estate Purchase Agreement between Corridor 75 Park, Ltd. and the Tribe, dated October 6, 2004; and compliance with the provisions of all applicable federal and tribal laws required for the establishment of Eastern Shawnee Indian lands upon which to construct the Project and lawfully offer Class II and/or Class III gaming pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et. seq.*
- I. “Infrastructure and Site Development Costs” refers to all reasonable and customary costs associated with the construction of public infrastructure required to adequately service the 150-acre Project site. “Infrastructure and Site Development Costs” shall not refer to any infrastructure constructed or used in any manner within the delineated 150-acre Project area as described in Exhibit A.

III. PROJECT DESCRIPTION

The Project will open as a commercial entertainment establishment with development in three (3) stages:

- (1) Stage I will include a gaming facility and food services area (“**Phase I**”).
- (2) Stage II will include gaming expansion and hotel development, which may include such amenities as an indoor pool, health area, meeting or convention space, and shops (“**Phase II**”).
- (3) Stage III will include an expansion of the entertainment facilities. (“**Phase III**”)

It is estimated that Phase I of the Project will create approximately 2,000 new jobs, and by the end of Phase III, a total of 3,000 new jobs.

IV. UNDERSTANDINGS AND AGREEMENTS

1. Mitigation of Gaming Related Costs.

A. Mitigation Payments. The Tribe recognizes that as a direct result of the Project, the City of Monroe will, and surrounding governmental entities may, experience increased demands on resources and infrastructure. In order to mitigate potential negative impacts upon the resources and infrastructure of the City of Monroe, and other surrounding governmental entities, the Tribe agrees that it shall compensate the City of Monroe in an amount equal to 2.0% of the Tribe’s Net Revenues as defined in this agreement from the gaming facility, subject to the conditions set forth in sub-paragraph B of this Paragraph 1, commencing at such time as all Legal Requirements are met and the operation is open for business. At such time the Advisory Committee completes the funding of all necessary services, projects, and activities impacted by the Project as set forth in Paragraph 2 of this Agreement and subject to the adjustment to the Mitigation Payment as provided for in sub-paragraph B of this Paragraph 1, Monroe shall, in turn, distribute any remaining portion of the net proceeds that Monroe acquires from the Tribe pursuant to this Agreement as follows:

- i. The City of Middletown. Ten percent (10%) for a duration of ten (10) years commencing in the first year that Mitigation Payments are distributed by the Tribe and terminating upon the tenth annual distribution of the Mitigation Payment by the Tribe to Monroe. These Mitigation Payments to Middletown shall be utilized exclusively for infrastructure improvement projects directly related to the Project as expressly determined by the Advisory Committee. If Middletown does not utilize mitigation payments made for infrastructure improvements related directly to the project in any

year, the Advisory Committee shall redistribute the revenue to Monroe or another impacted governmental entity as provided for in this Agreement. Upon termination of this Middletown payment, the ten percent (10%) portion shall revert to the City of Monroe.

- ii. In such other amounts and to such other governmental entities as the advisory committee may recommend. These Mitigation Payments to other governmental entities shall be reserved exclusively for capital improvement projects related to the Project as expressly determined by the Advisory Committee.

- B. Adjustment to Mitigation Payment. It shall be the sole responsibility of the Tribe, or its authorized agents, to secure the financing to acquire all lands for the Project. The City of Monroe, however, agrees that until the loan to the Tribe for the infrastructure, and site development costs, purchase price of the 150-acre Project site and project inducement fee of the real property is fully satisfied, the two percent (2%) revenue share to Monroe shall be reduced by one-half of one percent (0.5%) for a period of seven (7) years or until the Tribe has recaptured such costs of the real property, whichever is less.

2. Mitigation Advisory Committee

- A. Creation of Committee. The City Council of Monroe will establish a Mitigation Advisory Committee to make recommendations to the City Council regarding disbursements of the Mitigation Payments paid by the Tribe to Monroe. The voting composition of the Committee shall include one (1) representative from the City of Monroe administrative staff, one (1) representative from the Council of the City of Monroe and one (1) representative from the Tribe. The Advisory Committee may invite non-voting representatives to participate on the Committee from the City of Middletown, the County of Warren, the County of Butler and/or any other impacted governmental entity to participate on the Committee from time to time to provide input on the specific nature of any requested Project-related improvements. The Committee's recommendations and other procedural policies governing the functionality of the Committee shall be based on criteria agreed upon by Monroe and the Tribe in an addendum to this Agreement provided that the City Council shall extend first priority to funding services, projects, and activities directly impacted by the Project, including, but not limited to roads and utilities, public safety services, emergency services, county social services, and other similar services and further provided that Monroe will only use such tribal payments in accordance with the restrictions upon use of tribal gaming revenues set forth in the Indian Gaming Regulatory Act. Pursuant to the Indian Gaming Regulatory Act § 2710 (B)(v), both Monroe and the Tribe expressly agree that any remaining portion of the Mitigation Payment monies existing after satisfaction of the provisions contained in sub-paragraphs 1(B) and 2(A) of Section IV of this Agreement may be used to fund any capital improvement or operational expense of the City of Monroe as would normally be

permitted under the laws of the State of Ohio. Such addendum shall be negotiated and signed by the parties prior to the time of the first Mitigation Payment to Monroe. Thereafter, the addendum shall be reviewed by Monroe and the Tribe annually to determine whether the allocation criteria should be revised to meet project-related impacts to impacted local and county governments.

- B. Special Needs. The Tribe and Monroe recognize and acknowledge that once the Project is established and commences operation, unanticipated impacts or special needs directly related to the facility may be identified. In the event that the amount of the Mitigation Payment is not sufficient to cover the costs of such unanticipated impacts and/or special needs, Monroe may seek additional financial assistance from the Tribe, provided that Monroe shall submit such request in writing along with documentation sufficient to establish that the need for such funding is directly related to the presence of the Facility, and further provided that such additional financial contributions shall be used for purposes consistent with the limitations on the use of tribal revenues derived from gaming as set forth in the IGRA. Accordingly, such additional contributions may only be used for charitable purposes or to help fund the governmental operations of Monroe, such as, for example, the City's emergency medical services, fire and police protection, and physical infrastructure, and in no event shall exceed one quarter of one percent (0.25%) of the annual net revenue for the year immediately preceding Monroe's request. Special needs payments received by Monroe pursuant to this paragraph are not subject to the sharing requirements with the governmental entities identified in Section IV, paragraphs 1(A) and 1(B) above.

3. Accountability.

- A. Both Parties agree that each is responsible to ensure that its obligations under this Agreement are met and that the acceptance of such obligations by each constitutes a material inducement by the other to enter into this Agreement. As a gesture of good faith as well as a means of establishing a proper framework for demonstrating accountability on the part of each, the Parties agree as follows:

- i. Tribe. The Tribe agrees that it will provide Monroe, through its designee, an annual certification verifying that the Tribe's calculation of Monroe's Revenue Share is true and correct and that the amount is equivalent to that to which Monroe is entitled under the terms of this Agreement. Upon request by the Monroe's designee, the Tribe will permit Monroe's designee to review books and records sufficient to verify the accuracy of the Tribe's calculation of Monroe's Revenue Share, provided that such viewing shall not be deemed a waiver of the confidential and proprietary nature of such financial information. If, after reviewing the relevant books and records, Monroe's designee is not satisfied with the Tribe's calculation, the Tribe and Monroe shall by mutual agreement designate an independent accounting firm of national repute to review the Tribe's audit statement and

such other books and records as such accounting firm may require to make an independent calculation of the amount of the Revenue Share, which shall be binding on the Parties. If the difference between the Tribe's calculation and the recalculation favors Monroe by five thousand dollars (\$5,000.00) or more, the cost of the recalculation shall be borne equally between the parties. If the difference between the Tribe's calculation and the recalculation favors Monroe by less than five thousand dollars (\$5,000.00), the cost of the recalculation shall be borne by Monroe. It is the intent of the Parties that this provision is specifically designed to and shall be construed so as to protect the confidentiality of the Tribe's proprietary financial information.

- ii. Monroe. Monroe shall be responsible for properly managing and accounting for all funds received from the Tribe under this Agreement. With regard to the Mitigation Payment, a special account or fund shall be created into which the funds shall be deposited. Commingling of Monroe funds from other sources shall be prohibited. All disbursements of money from this account or fund shall be specifically authorized by the City Council Board, which shall record such authorizations in minutes or other official written records of decision in sufficient detail to facilitate an audit and determine the entity to which the funds were disbursed and the purposes for which the funds were authorized. Within sixty (60) days after the close of Monroe's fiscal year, Monroe shall provide the Tribe an annual accounting and narrative report setting forth of the obligations or disbursements made from the Revenue Share Fund and/or special needs funding. Such accounting shall have sufficient detail to establish that the funds were obligated and/or disbursed in accordance with the priorities set forth in Paragraph 2 above and consistent with the purposes for which tribal gaming revenues may lawfully be expended under the IGRA. If Monroe fails to submit the annual report to the Tribe, the Tribe shall be relieved of its obligations under Paragraph 4 until such time as the Report is submitted. If the City Council Board fails to abide by the limitations on the use of gaming revenues contained in IGRA, the Tribe shall reduce the amount of Monroe's next revenue share payment by such amount.

4. Taxes.

- A. Exemption. Except as otherwise provided herein, Monroe agrees that it will not initiate action intended to result in the imposition or assessment of any taxes, duties, assessments, or fees upon the Tribe or its property; the Project or its stages; and the management and/or operations located on the Tribe's Indian trust lands.

- B. Collection of Monroe Income Tax. The Tribe agrees to withhold from the wages of all on-site (non-Tribe member) employees subject to taxation and remit to Monroe on a quarterly basis the current and effective municipal income tax that may be lawfully collected by Monroe under Ohio laws. The Tribe's obligation to withhold from the wages of all on-site (non-Tribe member) employees subject to taxation and remit to Monroe on a quarterly basis the current and effective Monroe municipal income tax shall remain in full force and effect until such time the Project ceases to exist or operate. If this Agreement is terminated for any reason or fails to be renewed, the Tribe agrees to withhold from the wages of all on-site (non-Tribe member) employees subject to taxation and remit to Monroe on a quarterly basis the current and effective Monroe municipal income tax. Any change of use after the expiration of this Agreement shall not relieve the Tribe's obligation to withhold Monroe's current and effective municipal income tax from all the wages of all eligible employees subject to taxation within the Project area as defined herein.

5. Restricted Land Uses.

The Tribe agrees that so long as it is in possession or control of the 150 acre site, it will not permit the use or establishment of any adult entertainment facility or sexually-oriented business as those terms are defined by tribal ordinances, upon any portion of the 150 acre site.

6. Law Enforcement.

Monroe and the Tribe agree to negotiate a joint powers agreement as an addendum to this agreement, which shall set forth the agreement between Monroe and the Tribe with regard to law enforcement within the Project area including upon the premises of the gaming facility, provided that the Tribe shall at all times maintain exclusive jurisdiction over employee and patron disputes, contract disputes between the Tribe or the Project, and other civil matters pertaining to or arising from the operation of the Project. Nothing in this Agreement shall alter or diminish the respective jurisdictional authority of either Party except as otherwise provided herein.

7. Dispute Resolution.

The Parties at all times shall strive to resolve any differences amicably. In the event that amicable resolution is not possible under the circumstances present at the time, the Parties agree as follows.

- A. Governing Law. All questions concerning the validity, intention, or meaning of this Agreement or relating to the rights and obligations of the parties with respect to performance hereunder shall be construed and resolved under the laws of the United States and to the extent not inconsistent therewith, the laws of the State of Ohio.
- B. Negotiation. In an effort to foster good government-to-government relationships, Monroe and the Tribe shall make their best efforts to resolve claims of breach of this Agreement by good faith negotiations whenever possible. Any such disputes

between the Tribe and Monroe shall first be subjected to a process of meeting and conferring in good faith in order to foster a spirit of cooperation in the efficiency in the administration of the terms, provisions, and conditions of this Agreement.

- C. Mediation. Any controversy or claim arising out of or relating to this Agreement, including without limitation issues related to the making, formation and validity of this Agreement and issues related to the existence, interpretation and enforceability of the mediation and arbitration provisions of this Agreement, shall be subject to mandatory mediation. A competent mediator shall be chosen by agreement of the Parties. If the Parties are unable to agree on a mediator, either Party may request that a judge, pursuant to section D, appoint a mediator. The Tribe reserves the right to revoke its limited waiver of sovereign immunity if Monroe fails to comply with this clause.
- D. Arbitration. If not resolved within fifteen (15) days after selection or appointment of a mediator, any controversy or claim arising out of or relating to this Agreement, including without limitation issues related to the making, formation and validity of this Agreement and issues related to the existence, interpretation and enforceability of the mediation and arbitration provisions of this Agreement, but excluding issues regarding or related to the sovereign immunity of the Tribe, shall be adjudicated exclusively by binding arbitration. The costs of arbitration shall be borne equally by the parties, and each party shall pay their own attorneys' fees.
- E. Venue. The arbitration shall take place at a mutually agreed location within Butler County or such other place as the parties may agree.
- F. Arbitrator. One arbitrator and the expedited procedures of such rules shall be used in cases involving claims and counterclaims of \$50,000 or less. A competent arbitrator shall be chosen by agreement of the Parties. If the Parties are unable to agree on an arbitrator, either Party may request that a judge, pursuant to Section D, appoint an arbitrator. In all other cases, three arbitrators and the general rules shall be used. Where three arbitrators are used, each Party shall appoint an arbitrator within ten (10) days of the commencement of the arbitration and the two arbitrators shall appoint a third arbitrator within ten (10) days of their appointment. If the two arbitrators are unable to agree on the appointment of the third arbitrator within this ten-day period, the third arbitrator shall be appointed by the Butler County Bar Association. In all cases, each arbitrator shall be neutral. The arbitrator or arbitration panel shall have the power and authority to grant legal and equitable remedies in accordance with the provisions of this Agreement. Under no circumstances shall the arbitrator or arbitration panel make any determinations regarding the Tribe's sovereign immunity from unconsented suit. The arbitrator or arbitration panel shall have the authority to authorize or require discovery of the kinds provided for by the Federal Rules of Civil Procedure. The decision of the arbitrator or the majority of the members of the arbitration panel shall be final and binding.

- G. Compelling and Enforcing Arbitration. Mediation and arbitration may be compelled, and a decision of the arbitrator or arbitration panel may be enforced, through appropriate judicial proceedings in courts of competent jurisdiction. In the event that such judicial proceedings are initiated, each Party shall be responsible for their own attorney's fees and costs.
- H. Disputes Regarding or Related To Sovereign Immunity. Any dispute regarding or related in any way to the sovereign immunity of the Tribe, shall be resolved in the United States District Court for the Southern District of Ohio ("Federal Court"). In the event that this Federal Court determines that it lacks jurisdiction over that proceeding, the dispute regarding the sovereign immunity of the Tribe may be resolved in the courts of the State of Ohio. In the event that such judicial proceedings are initiated, each Party shall be responsible for its own attorney's fees and costs.
- I. Limited Waiver of Sovereign Immunity. Except as expressly provided in this Section, nothing in this Agreement shall constitute or be construed as a waiver of the Tribe's sovereign immunity from suit. The Tribe hereby consents to submission of disputes, arising under this Agreement and alleging a breach of one or more of the specific obligations or duties expressly assumed by the Tribe herein, to mediation, arbitration, and lawsuits solely seeking to compel such mediation or arbitration or seeking enforcement of an arbitration decision, and lawsuits brought solely seeking to resolve claims arising under this Agreement and regarding or related to the sovereign immunity of the Tribe. This limited waiver is applicable solely to claims by Monroe, and not by any other person, corporation, partnership or entity whatsoever. This limited waiver authorizes relief compelling the Tribe to take action expressly required by this Agreement, compelling the Tribe to discontinue action expressly prohibited by this Agreement, and/or awarding money damages against the Tribe for breach of this Agreement following the award and decision of the arbitrator(s). The Tribe does not waive, limit or modify its sovereign immunity from unconsented suit except as expressly provided in this Section.
- J. Limitation on the Award of Damages. Monroe understands and agrees that neither an arbitrator, arbitration panel, nor any court shall have authority or jurisdiction to order execution against any assets or revenues of the Tribe except undistributed or future Gross Revenues of the facility and in no instance shall any enforcement of any kind whatsoever be allowed against any other assets of the Tribe unless otherwise agreed in writing, but in no event shall any such award be recoverable against the Tribe's existing or hereafter acquired real property or any trust asset.
- K. Limitation on Liability. No present or future member, manager, partner, director, officer, shareholder, employee, Affiliate, representative, advisor or agent of either Party shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter, and the Parties,

without limitation, shall look solely to assets of the other for the payment of any claim or for any performance, and each hereby waives and releases the other from any and all such claims for personal liability.

8. Successors and Assigns.

The benefits and obligations of this Agreement shall inure to and be binding upon the parties hereto and their respective successors and assigns. Either Party may assign its responsibilities or duties under this Agreement to another governmental entity, a subordinate governmental agency, department, economic development board, or other similar instrumentality created by and authorized by such Party provided that such assignment does not relieve either Party of its ultimate responsibilities and obligations hereunder. All assignments except those described above are prohibited. Any purported assignment or rights or delegation of performance in violation of this paragraph is void.

9. Binding Effect of Agreement.

This Agreement shall be binding on and inure to the benefit of the Tribe and Monroe and their representatives and permitted transferees, successors and assigns.

10. Severability.

If any provision of this Agreement is determined by the final decision of an administrative agency, arbitrator, arbitration panel or court to be invalid or in violation of any law or regulation, such provision shall be severed from this Agreement and the remainder of this Agreement shall be given effect by the Parties as if such provision never had been part of this Agreement, so long as the material purposes of this Agreement can be determined and effectuated. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions of this Agreement.

11. Notices.

All notices required or provided for under this Agreement shall be in writing and shall be deemed to be properly given when personally delivered to the Party entitled to receive the notice, or when sent by facsimile to the facsimile number of the Party entitled to receive such notice as set forth below, or when sent by certified or registered mail, return receipt requested; United States Express Mail or Federal Express, or equivalent courier service, and shall be effective only if and when received by the Party to be notified. Notice required to be given shall be addressed as follows:

If to the City of Monroe City of Monroe
Attention: City Manager
233 South Main Street
Monroe, Ohio 45050
Fax Number: (513) 539-6460

and to: City of Monroe
Attention: Law Director
233 South Main Street
Monroe, Ohio 45050

If to the Tribe Chief
Eastern Shawnee Tribe of Oklahoma
P.O. Box 350
127 W. Oneida
Seneca, Missouri 64865
Facsimile Number: (918) 666 2186

With a copy to: Second Chief
Eastern Shawnee Tribe of Oklahoma
P.O. Box 350
127 W. Oneida
Seneca, Missouri 64865
Facsimile Number: (918) 666-2136

With a copy to: Karl D. Jones
Jones & Gardner
P.O. Box 866
244 S. Scraper
Vinita, Oklahoma 74301-0866
Facsimile Number: 918-256-8794

A Party may change the address by giving timely notice, in writing, to the other Party and thereafter notices shall be addressed and transmitted to the new address.

12. Force Majeure.

Non-performance by Tribe shall be excused when it is prevented or delayed by reason of any act, event or condition reasonably beyond the control of the Tribe for any of the following reasons:

- A. War, insurrection, civil commotion, riot, flood, severe weather, earthquake, fire, casualty, disease, acts of public and government enemies, acts of God,

governmental restriction, court injunction, acts or failures to act of any governmental agency or entity, or act of terrorism; or

- B. Inability to secure necessary labor, materials or tools, strikes, lockouts, other labor disputes, or delays of any contractor, subcontractor, or supplier.

13. Term and Termination of Agreement.

Subject to earlier termination as provided in this Section, the term of this Agreement (“Term”) shall be fifteen (15) years with the Tribe to have the option to renew for an additional fifteen (15) year option term (“Option Term”). Provided further this Agreement is subject to early termination by the Tribe upon ninety (90) days notice at any time after the initial five (5) year term that the Project is completed and open for business. In the event the Tribe elects to early termination of this Agreement, as hereinbefore identified, the Tribe will give five (5) years advance notice of its election to terminate.

14. Contingency.

The validity and enforceability of this Agreement is contingent upon (1) the satisfactory closing of the Real Estate Purchase Agreement between Corridor 75 Park, Ltd. and the Tribe, dated October 6, 2004 and (2) the establishment and continued existence of the gaming facility at the Project. If either of the foregoing conditions fails to occur as envisioned herein or if the facility is permanently closed after commencement of operation for any reason, this Agreement shall be rendered null and void and shall cease to be of any legal force or effect and the Tribe shall be free to use and/or dispose of the Real Property unencumbered by this Agreement in accordance with federal and tribal law.

**EASTERN SHAWNEE TRIBE OF
OKLAHOMA**

**CITY OF MONROE, AN OHIO
MUNICIPAL CORPORATION**

By: _____
Charles D. Enyart
Chief

By: _____
City Manager

By: _____
Danny Captain
Second Chief

Reviewed and approved by:

K. Phillip Callahan, City Law Director