APPENDIX S

INTERGOVERNMENTAL COOPERATION AND REVENUE SHARING AGREEMENT

INTERGOVERNMENTAL COOPERATION
AND
REVENUE SHARING AGREEMENT

By And Between

THE CITY OF KENOSHA, WISCONSIN,
A Wisconsin Municipal Corporation,

And

THE COUNTY OF KENOSHA, WISCONSIN
A Wisconsin Quasi-Municipal Corporation

THIS INTERGOVERNMENTAL COOPERATION AND REVENUE SHARING AGREEMENT is made and entered into by and between the **CITY OF KENOSHA, WISCONSIN**, a Wisconsin municipal corporation, with offices located at 625 – 52nd Street, Kenosha, Wisconsin 53140 (hereinafter **"CITY"**) and the **COUNTY OF KENOSHA, WISCONSIN**, a Wisconsin quasi-municipal corporation, with offices at 912 – 56th Street, Kenosha, Wisconsin 53140 (hereinafter **"COUNTY"**) for purposes of the **CITY** and **COUNTY** sharing revenue, if received from the Menominee Tribe of Indians of Wisconsin, (hereinafter the **"TRIBE"**), a federally recognized tribe of Indians, whose reservation is located in the State of Wisconsin and the Menominee Kenosha Gaming Authority (hereinafter **"AUTHORITY"**), arising out of **TRIBE** and **AUTHORITY** conducting gaming on lands held in trust by the United States Government in the city limits pursuant to the Indian Gaming Regulatory Act, 25 U.S.C., Sections 2701 et. seq.

WHEREAS, CITY, COUNTY, TRIBE and **AUTHORITY** have entered into an Intergovernmental Agreement ("IGA") under which **CITY** and **COUNTY** made certain commitments to **TRIBE** and **AUTHORITY** to assist **TRIBE** in placing certain lands in the city limits in a trust held by the United States Government for the purpose of conducting gaming

pursuant to the Indian Gaming Regulatory Act, 25 U.S.C., Sections 2701 et. seq., in return for **TRIBE** and **AUTHORITY** providing support payments to local governments; and,

WHEREAS, the purpose of this Agreement is to provide for **CITY** to disburse a portion of said support payments received by **CITY** to **COUNTY.**

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **CITY** and **COUNTY** agree as follows:

1. Upon the IGA becoming effective and continuing for such period of time as such IGA is in effect, **CITY**, within ten (10) business days of receipt of support payments from **TRIBE** or **AUTHORITY** under Sections 2(A)(1) (Net Win Payment) or 2(A)(2) (Minimum Payment) and 2(A)(9) (Interest on Late Payments) and any liquidated damages under Section 6(A) of such IGA, will pay to **COUNTY** an amount equal to thirty-three percent (33%) of such payments or liquidated damages received. Payments required to be made by **CITY** or **COUNTY** under Section 2(A)(6) of such IGA shall be made by the respective parties after the distribution of such payments or liquidated damages made under this Section 1 has been distributed by **CITY** to **COUNTY**.

2. The **CITY**, within ten (10) business days of receipt of the payment for public purposes referenced in Section 2(B)(1) of such IGA, will pay to **COUNTY** thirty-three percent (33%) of such payment received. The **COUNTY** shall ensure that the amount it receives under this Section 2 of this Agreement shall be spent for the purposes enumerated in Section 2(B)(1)(c) of such IGA. The **COUNTY** shall be solely responsible for administering Section 2(B)(1)(c) of such IGA.

3. The **CITY** is not responsible to **COUNTY** for any financial loss arising out of any default in payments or liquidated damages required to be made by **TRIBE** or **AUTHORITY** under such IGA. Should **CITY** take any administrative or legal action to collect such payments due to any default by **TRIBE** or **AUTHORITY**, **CITY** may deduct, from any revenue sharing payment to be made by **CITY** to **COUNTY** under this Agreement, thirty-three percent (33%) of its administrative and legal costs and expenses in securing timely payments.

4. In the event that **CITY** or **COUNTY** is subjected to liquidated damages under Section 6(B) of such IGA or a credit under Section 6(B) of such IGA against any payments made to **CITY** or **COUNTY** under Section 2(A) of such IGA or any other award of damages resulting from a breach of any duty or obligation of **CITY** or **COUNTY** under such IGA, any such damages or credits shall be the sole responsibility of the breaching party and shall not operate to reduce or offset any portion of payments received from **TRIBE** or **AUTHORITY** under Section 1 of this Agreement due the non-breaching party. To the extent that such damages or credits reduce the amount of payments received from **TRIBE** or **AUTHORITY** under Section 1 of this Agreement, the breaching party shall be obligated to pay the non-breaching party an amount that is the difference between what the non-breaching party would have expected to receive from **TRIBE** or **AUTHORITY** under Section 1 of this Agreement but for such reduction and the amount the non-breaching party received. Such payment by the breaching party to the non-breaching party shall be made within sixty (60) days of a demand for such payment by the non-breaching party on the breaching party.

5. Payment to **COUNTY** shall be sent by **CITY** to **COUNTY**, marked Attn: County Treasurer, at such place as **COUNTY** may direct from time to time.

6. Any late payment from **CITY** to **COUNTY** made from payments received from **TRIBE** or **AUTHORITY** under Sections 1 and 2 of this Agreement shall accrue interest at the rate of one and one-half (1.5%) percent per month on the unpaid balance due until paid in full. Any partial payments of the unpaid balance due **COUNTY** from **CITY** under this Section 6 shall first be applied to accrued interest, with the remainder, if any, next applied to the unpaid balance.

7. During the year constituting the thirteenth anniversary of the establishment of the Federal Trust Land (as defined under such IGA), representatives of **CITY** and **COUNTY** will meet not later than March 1 in the year of such anniversary to renegotiate the terms of this Agreement. In the event that **CITY** and **COUNTY** cannot come to Agreement within ninety (90) days of the date of such meeting, **CITY** and **COUNTY** agree that such terms shall be decided in an arbitration conducted in accordance with the rules of the American Arbitration Association then in effect, unless the parties agree otherwise. This Agreement shall also be subject to renegotiation in the year constituting the twentieth anniversary of the establishment of the Federal Trust Land (as defined under such IGA), and every tenth anniversary thereafter, subject to the same conditions regarding a meeting date and arbitration as applies to the renegotiation on the thirteenth anniversary year referenced herein. In no event shall **COUNTY'S** share of payments referenced in Section 1 of this Agreement be less than thirty percent (30%) nor greater than thirty-seven percent (37%) of payments received under any agreement reached or under any arbitration decision made following such renegotiation.

8. The **CITY** enters into this Agreement by authority of action taken by its Common Council at a meeting held on _____.

9. The **COUNTY** enters into this Agreement by authority of action taken by its County Board of Supervisors at a meeting held on _____.

IN WITNESS WHEREOF, this Agreement has been executed on the dates below given.

CITY OF KENOSHA, WISCONSIN,
a Wisconsin municipal corporation

By:_____
John M. Antaramian, Mayor
Date:_____

By:_____
Jean A. Morgan, City Clerk/Treasurer
Date:_____

By:_____

COUNTY OF KENOSHA, WISCONSIN,
a Wisconsin quasi-municipal corporation

By:_____
Allan K. Kehl, County Executive
Date:_____

By:_____
Edna R. Highland, County Clerk
Date:_____

Q:\client\053166\0001\B0488614.1