

**RESOLUTION**  
**R2008-01**

Whereas, on April 18, 2007, the DeKalb County Board did adopt Resolution 2007-27. That Resolution deemed that it was in the best interests of the citizens of DeKalb County to negotiate an Intergovernmental Agreement with the Prairie Band of the Potawatomi Nation, and

Whereas, representatives of the County of DeKalb, pursuant to the direction provided in Resolution 2007-27, have met in good faith with representatives of the Prairie Band of the Potawatomi Nation and negotiated an Intergovernmental Agreement that is attached to this Resolution and hereby incorporated by reference, and

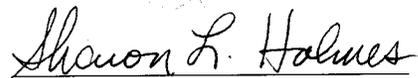
Whereas, the DeKalb County Executive Committee having studied the attached agreement, made its contents available publicly and received comments and suggestions from Board Members and citizens did refer the Agreement to the County Board for final action.

NOW, THEREFORE, BE IT RESOLVED THAT THE DeKalb County Board does hereby find the attached Intergovernmental Agreement between the County and the Prairie Band of the Potawatomi Nation to be in the best interests of the citizens of DeKalb County and does approve it and BE IT FURTHER RESOLVED that the County Board does direct the Chairman to execute copies of Agreement and the County Clerk to provide executed copies to the Tribal Council of the Prairie Band of the Potawatomi Nation.

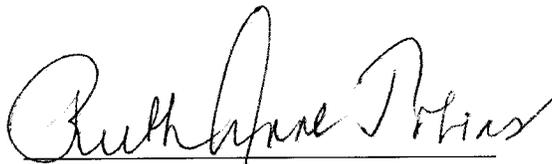
PASSED AT SYCAMORE, ILLINOIS THIS 20<sup>TH</sup> DAY OF FEBRUARY, 2008

ATTEST:

SIGNED:



Sharon L. Holmes  
County Clerk



Ruth Anne Tobias  
County Board Chairman

# INTERGOVERNMENTAL AGREEMENT

By and Between DeKalb County, Illinois

and

The Prairie Band Potawatomi Nation

This Intergovernmental Agreement ("Agreement") is made this 20th day of February 2008, by and between DeKalb County, Illinois, and the Prairie Band Potawatomi Nation (collectively referred to as the "Parties"), and is founded on the recitations and contents hereof.

**WHEREAS**, DeKalb County ("County") is a political subdivision of the State of Illinois organized as a county with all the rights and powers attendant thereto; and

**WHEREAS**, the Prairie Band Potawatomi Nation ("Nation") is a federally recognized Indian tribe with all the rights and powers attendant thereto; and

**WHEREAS**, Article III of the Treaty of Prairie du Chien of 1829 (7 Stat. 320, July 29, 1829) reserved for Chief Shab-eh-nay and his band "two sections at his village near Paw-paw Grove," which consisted of Twelve Hundred Eighty (1280) acres of land located near the present-day Village of Shabbona, Illinois and located within the County ("Shab-eh-nay Reserve"); and

**WHEREAS**, the Nation, which is the political successor-in-interest to Chief Shab-eh-nay's band, purchased land within the Shab-eh-nay Reserve: (1) One Hundred Twenty-Eight (128) acres of land within the Shab-eh-nay Reserve ("Tribal Project Lands") and (2) a residence on one (1) acre of land which is located outside the Tribal Project Lands within the Shab-eh-nay Reserve at 8930 Tomahawk Trail, Shabbona, Illinois ("Tribal Residential Lands") which together with any other lands located within

the Shab-eh-nay Reserve acquired by the Nation under Section 5 of this Agreement are collectively referred to as "Tribal Lands"; and

**WHEREAS**, the presence of the Nation within the County has been enhanced through its purchase of the Tribal Lands; and

**WHEREAS**, the County and the Nation have a mutual interest in promoting cooperation between the County and the Nation that will provide for the general welfare of all people in the County and within the Shab-eh-nay Reserve with respect to issues including public finance, natural resources, education, health and safety, and land use and development; and

**WHEREAS**, the County and the Nation respect each other's governmental responsibilities and priorities for serving the people living within the County and the Shab-eh-nay Reserve; and

**WHEREAS**, the County acknowledges that the Nation intends to develop the Tribal Project Lands according to the terms and conditions set forth in this Agreement; and

**WHEREAS**, the Nation and the County wish to enter into this Agreement, which respects the jurisdiction of both Parties, to ensure orderly and efficient delivery of services and to provide similar governing standards between the two jurisdictions; and

**WHEREAS**, the Nation and the County have entered into this Agreement in reliance on the commitments made herein.

**NOW THEREFORE**, in consideration of the foregoing, the covenants and agreements contained herein and for good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the County and the Nation enter into this Agreement upon the following terms.

**Section 1. Tribal Lands Subject to This Agreement.**

This Agreement concerns the Nation's development and use of the Tribal Lands. A map and legal description of the Tribal Lands are attached hereto as Exhibit A.

**Section 2. Nation's Use of Tribal Project Lands.**

The Nation's initial development of the Tribal Project Lands is limited to the following: (1) a Class II gaming facility under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, *et seq.* ("IGRA"), including limited amenities such as food service and complementary retail; (2) a 2,500 square foot government center consisting of limited office space and a welcome center; and (3) parking to service both. Later development of the Tribal Project Lands is limited to the following: (a) Indian gaming under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, *et seq.*; (b) aesthetically appropriate lodging; (c) additional food service; and (d) amenities normally associated with gaming operations.

The Parties agree to consult and cooperate in good faith with regard to the development of the Tribal Project Lands.

**Section 3. Payments in Lieu of Taxes.**

**A. Payments in lieu of taxes from the Nation to the County.**

Upon execution of this Agreement, the Nation agrees to make annual payments in lieu of real property taxes for the Tribal Lands to the County ("PILOT Payments"). The amount of each PILOT Payment shall be equal to the real property tax assessments, which assessments shall be arrived at through the same methodology as if the Tribal Lands were otherwise subject to real property taxes. The Parties agree that each PILOT Payment shall be calculated by the County Tax Extension Clerk in the same manner as such calculations for all real property located within the County, and

shall be comprised of an annual assessment multiplied by a proportionate rate of the assessment. The County agrees to receive each PILOT Payment and agrees that PILOT Payments are in full satisfaction of the tax liability that would otherwise apply were the Tribal Lands otherwise subject to taxation.

**1. Annual Assessment.**

For the purpose of calculating the annual assessment, the Nation agrees to permit the County Supervisor of Assessments, or her designee, and the Shabbona Township Assessor access to the Tribal Lands as required to assess the value of the Tribal Lands. However, access to the Tribal Lands shall not exceed the minimal level of access required to complete the assessment of all other real property within the County. The County agrees that the real property assessments of the Tribal Lands shall be made in a manner consistent with the County's real property assessment procedures applicable to other landowners located in the County.

**2. Rate.**

The County agrees that the method for calculating the rate for the PILOT Payments shall be the same as the method used to calculate the tax rate for all other parcels in the County.

**B. Remittance of PILOT Payments from the County to the County Treasurer.**

Within three (3) business days of receiving a PILOT Payment from the Nation, the County agrees to remit the PILOT Payment to the County Treasurer in full satisfaction of the real property assessments for the Tribal Lands, as further described in sub-section A. Within seven (7) business days of remittance of each PILOT Payment to the County Treasurer the Office of the County Administrator shall obtain a receipt from the County Treasurer that the PILOT Payment has been applied in full satisfaction

of the tax liability that would apply to the Tribal Lands if they were otherwise subject to taxation, and shall promptly transmit such receipt to the Nation. If necessary, the County agrees to take all necessary and proper legal action to cause such payment to be properly credited, consistent with applicable laws and regulations of the State of Illinois, including 35 ILCS 200/20-40.

**C. Disputes.**

Any dispute arising under this Section is subject to the dispute resolution procedures set forth in Section 14 of this Agreement, *provided* however that for any disputes over the Annual Assessment or related calculation of the amount of annual PILOT Payments under Section 3(A) of this Agreement that allege that the amount of any PILOT Payment should be other than the amount that has been calculated and stated by the County Tax Extension Clerk or the County Supervisor of Assessments, the Parties agree to the following:

1. The Parties may jointly contest the annual assessment before the Board of Review at the local level and if unresolved to the mutual satisfaction of the Parties, the Parties may jointly appeal the Board of Review's determination to the State Property Tax Appeal Board; and may seek judicial review of the determination of the State Property Tax Appeal Board in the Circuit Court for DeKalb County.

2. In addition, if review by the Board of Review is not available for any reason, or if the dispute alleges that the County has applied an incorrect rate for the PILOT Payments:

(a) The Nation shall timely remit the PILOT Payment together with a letter to the County Treasurer indicating its disagreement with the annual assessment or related calculation of the amount of the annual payment;

(b) The Parties shall invoke the provisions of Section 14 of this Agreement; and

(c) The Nation shall receive a credit applied to the Nation's Annual Contributions to the County set forth in Section 8 in the amount of the difference between the calculated and stated amount of the PILOT Payment and the amount of the PILOT Payment, as determined by the arbitrator.

**Section 4. Applicable Standards and Permits.**

The Parties agree that the Nation's development and use of the Tribal Lands shall be consistent with the following:

**A. Nation's Enactment of Laws Consistent with County Laws.**

The Nation shall enact laws applicable to the Tribal Lands which shall require that all development projects occurring on the Tribal Lands be consistent with the substantive requirements of County laws in the subject areas set forth in Exhibit B in effect at the time of any particular development on the Tribal Lands, *provided* that the Nation shall not be required to acquire any permits from the County.

**B. Permits Required.**

The Parties acknowledge that the County does not have authority to issue permits for water and sewer on the project as proposed by the Nation. The Nation shall obtain applicable permits for water wells, sewage treatment facilities and any other permits required by the federal Clean Water Act.

**C. Certificate of Occupancy or Equivalent.**

Prior to the use of any structure on the Tribal Project Lands, the Nation shall, at its own expense, obtain written certification to the Nation by an architect of record or by a building inspector selected by the Nation and certified by the County or State that said structure has been constructed in accordance with the standards identified in this Section and provide a duplicate of said certification to the County prior to occupancy.

**D. Nation's Development Plans.**

Prior to the commencement of any construction or development within the Tribal Lands, the Nation agrees to allow the County to examine, review and comment on the Nation's construction plans for the development of the Tribal Lands for the purpose of ensuring consistency with the laws identified in this Section.

**E. County Site Visits.**

1. The Nation agrees that the County may conduct site visits as are reasonable and customary to verify that the Nation's activities are being conducted consistent with this Section. The County shall provide reasonable and customary notice to the Nation such that the Nation can accommodate the site visit in a timeframe consistent with the purpose of the visit. Any alleged violations of the standards contained in Subsection A shall be identified in writing to the Nation and the Nation agrees to promptly cure any material violations.

2. The Parties shall each identify a representative to serve as its respective point of contact for coordinating the County's site visits. The Parties

agree to cooperate with each other in good faith to ensure said visits are coordinated as necessary to achieve the objectives of this Section.

**F. Public Health and Safety.**

The Parties also agree, as appropriate, to consult and cooperate regarding public health and safety issues of mutual concern.

The Parties shall each identify a representative to serve as its respective point of contact for coordinating the handling of events that pose an imminent threat to public health or safety. The Parties agree that this coordination function is an integral step in mitigating threats to public health and safety which may obviate the need for arbitration. The Parties also agree that such coordination (which, at a minimum, consists of notification to the point of contact of an imminent threat) is a condition precedent to the expedited arbitration procedure for threats to public health and safety set forth in Section 14.D of this Agreement in the instance arbitration is necessary.

Should there be an immediate and imminent threat to public health or safety, the County may, upon notifying the Nation's representative, conduct an emergency site visit. Immediately following the site visit, the County shall provide written explanation to the Nation of the basis for the emergency site visit.

**Section 5. Acquisition and Preservation of Other Lands.**

**A. Future Land Acquisitions by the Nation within the Lands That Constitute the Shab-eh-nay Reserve.**

The Nation acknowledges that it is important to landowners within the boundaries of the Shab-eh-nay Reserve to have security in the use and occupation of the lands upon which they reside or work. Except through fair market value transactions, gift-deed or equal trade with willing landowners, the Nation agrees that it

will not take any action to remove landowners, make a claim of ownership or jurisdiction over any land belonging to private individuals or other entities or acquire other lands in addition to the Tribal Lands within the boundaries of the Shab-eh-nay Reserve.

**B. Fair Market Value Purchase Guarantee by Nation.**

The Nation desires to alleviate concerns within the local community regarding the preservation of the full value of real property located in proximity to the Tribal Project Lands, and to preserve equity in those properties. The Nation agrees to guarantee that any owner of real property set forth in Exhibit C can obtain fair market value for their respective premises as set forth in this Section 5.B.

The Parties agree that, in the event that any owner of real property set forth in Exhibit C seeks to sell his or her respective real property, the owner may make a written request that the Nation purchase the real property for full fair market value. Written requests to the Nation shall contain a statement of any and all attempts to list the property for sale since April 25, 2006, and shall state the amount of any and all written offers of purchase, in whatever form, that have been received by the owner of the subject real property since April 25, 2006.

The Nation agrees to pay full fair market value for each parcel of real property, the full fair market value of which shall be established by a full narrative appraisal prepared in accordance with applicable state standards and regulations by a fully qualified professional appraiser to be agreed upon by the Nation and the owner of the real property, the cost of which shall be prepaid and borne exclusively by the property owner.

The appraiser shall be licensed by the State of Illinois, not related to the owner of any of the subject properties contained in Exhibit C, and must be a member in good standing of at least one national professional appraisal association.

The appraiser shall determine the fair market value of the subject property as follows:

(1) assume that no development on the Tribal Project Lands were being undertaken;

(2) any comparables selected by the appraiser shall be located a sufficient distance away from the Tribal Project Lands so that the selling price was not, in the opinion of the appraiser, influenced by the presence of the Tribal Project Lands; and,

(3) through a full narrative appraisal prepared by the appraiser which shall note and document the condition of the premises, both interior and exterior at the time of the appraisal.

In the event the Nation purchases the property, the property owner shall receive a credit at the time of closing in the amount of fifty percent of the cost of the appraisal. If the owner desires to sell to the Nation for the value as established in the appraisal, the Nation will accept an offer of sale in the form of a standard Multi-Board Residential Real Estate Contract, or its equivalent, containing standard apportionment of costs, evidence of title and pre-closing requirements.

**C. Preservation of the Character of the Area.**

The Nation appreciates and understands the importance of the character of DeKalb County and acknowledges that the preservation of this character is a priority

for the County and its residents. In consideration of this priority, the Nation and the County agree to consult and cooperate with each other regarding efforts to preserve the character of the area.

**D. Chief Shabbona Forest Preserve.**

The Nation appreciates and understands the importance of the Chief Shabbona Forest Preserve to its tribal membership, the County and its residents. The Nation waives any claim to ownership or jurisdiction over the Chief Shabbona Forest Preserve. In the event that ownership of the Chief Shabbona Forest Preserve is transferred to the Nation, the Nation agrees that it will take no action to alter its character and shall only assert jurisdiction in accordance with the provisions of this Agreement and applicable law.

**E. Shabbona State Park.**

The Nation appreciates and understands the importance of Shabbona State Park to its tribal membership, the County and its residents. The Nation waives any claim to ownership or jurisdiction over the Shabbona State Park. In the event that ownership of the Shabbona State Park is transferred to the Nation, the Nation agrees that it will take no action to alter its character and shall only assert jurisdiction in accordance with the provisions of this Agreement and applicable law.

**Section 6. Traffic, Transportation and Highways.**

**A. Transportation Impact Analysis.**

The Nation, at its sole expense, will analyze all impacts to the transportation systems directly attributable to the Nation's development of the Tribal Project Lands. The analysis and any identified mitigation measures must be approved by the Nation, and such approval is not to be unreasonably withheld.

**B. Mitigation of Transportation Impacts.**

The Nation shall mitigate traffic and circulation impacts on the County roads identified in the transportation impact analysis of Subsection A consistent with County standards as established by the County Code and identified in Section 4. The Nation agrees to pay for all improvements of County roads and bridges that are reasonable and necessary and are uniquely attributable to the Nation's development of the Tribal Project Lands.

The Nation further agrees that, if an increase in traffic is found pursuant to Subsection A to be directly attributable to the Nation's undertaking of other development projects on the Tribal Project Lands and additional road improvements or expansions are required, the Nation shall grant suitable rights-of-way to the County for the necessary improvements or expansions, and shall cooperatively seek additional approvals as may be required under applicable law.

**C. Separate Agreement for Shabbona Township.**

The Nation acknowledges the importance of road safety and mitigating increased traffic in the area. For this reason, the Nation will seek to enter into an agreement with the Shabbona Township to address these concerns in an effort to ensure that the main road to the Tribal Project Lands is adequately maintained and that increased traffic flow to the Tribal Project Lands does not unduly strain the Township's road system. The Nation hereby agrees to diligently uphold and carry out its duties relating to road maintenance and traffic mitigation pursuant to any agreement between the Nation and the Shabbona Township. The County agrees to honor any agreement between the Shabbona Township Road Commissioner and the Nation.

**Section 7. Fire Protection and Emergency Medical Services.**

The Nation acknowledges the importance of having adequate fire protection and emergency medical services for any persons or properties on the Tribal Lands. The Parties acknowledge that the County does not provide fire protection or emergency

medical services to anyone in the County. Accordingly, the Nation has contracted for fire protection and emergency medical services with the Shabbona Fire Protection District to ensure adequate and efficient fire protection and emergency medical coverage for the Tribal Project Lands, attached hereto as Exhibit D.

**Section 8. Annual Contributions to the County to Mitigate the Nation's Impacts on County Services.**

The Nation recognizes the broad range of services the County provides to its residents, landowners and businesses. The Nation is a landowner in DeKalb County, but agrees not to burden the County's resources which are used to provide said services to other individuals and entities in the County. In light of the aforementioned, and consistent with IGRA, the Parties agree to the following:

**A. Pre-development Mitigation.**

The County agrees to bear its own costs for staff and time associated with reviewing and analyzing the Tribe's development plans for the Tribal Project Lands as described in Section 4. However, the Parties agree that the Nation will advance the County's costs for hiring outside consultants such as engineers, architects, planners, surveyors and lawyers, provided that in no event shall the Nation be liable for payments to the County in excess of \$125,000. The County agrees that the Nation shall be credited such actual costs from the Nation's first Annual Contribution as described in subsection B.

**B. Post-development Mitigation.**

Upon commencement of gaming activities within the gaming facility located upon the Tribal Project Lands, the Nation agrees to make an annual contribution

to the County in the amount of (a) \$800,000 or (b) 2.5% of the net revenues from the gaming operations on the Tribal Lands, whichever is greater ("Annual Contributions").

The County agrees to accept the Annual Contributions. However, notwithstanding the above, no annual contribution shall accrue or be paid during the periods that the gaming facility is closed and not in operation, due to pending litigation. If for this reason the gaming facility is closed for a portion of any year, the Annual Contribution shall be calculated and paid on a pro rata basis. The Annual Contribution will be for the benefit of the DeKalb County government agency operations to mitigate impacts resulting from this Agreement, *provided* that such impacts do not include capital investments or improvements to infrastructure. For purposes of this Agreement, "Net Revenue" is defined as the total amount of money wagered at the Gaming Facility, minus the amounts paid out as, or paid for, prizes.

The annual contribution shall be made by the Nation to the County in monthly installments of 2.5% of the Net Revenue, payable to the County following the Nation's receipt of audit figures for the preceding month. The Nation agrees to have an independent audit of its operation conducted on an annual basis no later than May 15<sup>th</sup> of the following year, with an annual adjustment of payments to the County in accordance with the annual audit. The entity conducting the audit shall verify in writing that annual contributions made to the County pursuant to this Section are in accordance with the terms of this Section. The Nation agrees to provide a copy of such verification and adjustment payment to the County within 30 days of the completion of the audit.

**Section 9. Local Charitable Organizations.**

The Nation supports the important work of local charitable organizations and recognizes the benefits they provide to their local community. In light of this, the Nation pledges to provide donations pursuant to the policies and decisions of its Tribal Charitable Contribution Committee to a variety of local charitable organizations located in DeKalb County in the minimum aggregate amount of \$25,000 per year, beginning one year after the date on which the gaming facility commences gaming operations and continuing each year as long as the gaming facility is in operation.

**Section 10. Compulsive Behavior.**

Within 90 days of commencement of gaming operations, the Nation shall make a one-time payment to the DeKalb County Community Mental Health Board in the amount of \$15,000 for the treatment of compulsive behavior, including problem gambling. Thereafter, the Nation will make annual contributions in the amount of \$5,000 for this purpose.

**Section 11. Prohibited Activities.**

In addition to the limitation on uses set forth in Section 2, the Nation agrees that the following activities shall not be permitted at any time on the Tribal Lands and agrees to adopt an ordinance prohibiting them and providing for the enforcement of these prohibitions.

**A.** Persons under the age of 21 shall not be allowed to gamble or remain in any room or area in which gaming activities are being conducted. Individuals under the age of 21 may pass through gaming rooms or areas only if they are en route to a non-gaming room or area of the gaming facility.

**B.** Persons under the age of 21 shall not be allowed to purchase, consume, or otherwise possess alcoholic beverages. All alcoholic beverage service shall be subject to the Tribe's Liquor Ordinance and in conformity with applicable State Liquor Laws. The sale and consumption of alcoholic beverages shall be only during the hours

permitted by the applicable ordinances of the County or the Village of Shabbona, as the Nation elects.

C. Nude entertainment, nude dancing, or venues containing nudity or sexually oriented business activities shall not be permitted on the Tribal Lands.

D. Retail fuel dispensing facilities for motor vehicles shall not be operated on the Tribal Lands.

E. Retail establishments that are not normally associated with gaming operations shall not be permitted on the Tribal Lands.

**Section 12. Civil Jurisdiction.**

Civil jurisdiction shall be exercised in a manner consistent with federal law.

**Section 13. Law Enforcement and Criminal Prosecution.**

Consistent with federal law, the Nation, in the exercise of its sovereign authority, agrees to not exercise its criminal jurisdiction over persons who are not members of any federally recognized Indian tribe. Accordingly, the Nation will seek to enter into an agreement for law enforcement services with the DeKalb County Sheriff to ensure adequate and efficient law enforcement services are provided on the Tribal Project Lands.

**Section 14. Dispute Resolution.**

The County and the Nation agree to the following dispute resolution procedures.

**A. Meet and Confer.**

In the event that the County or the Nation believes that the other has committed a possible violation of this Agreement, it may request in writing that the Parties meet and confer in good faith for the purpose of attempting to reach a mutually satisfactory resolution of the problem within fifteen (15) days of the date of service of said request; provided that if the complaining party believes that the problem identified creates a threat to public health or safety, the complaining party may proceed directly to arbitration as provided in Section 14.E.

**B. Notice of Disagreement.**

Within 30 days of holding the meet and confer in Subsection A, if the complaining party is not satisfied with the result of the meet and confer process, the complaining party shall provide written notice to the other identifying and describing any alleged violation of this Agreement ("Notice of Disagreement"), with particularity, if available, and setting forth the action required to remedy the alleged violation.

**C. Response to Notice of Disagreement.**

Within 15 days of service of a Notice of Disagreement, the recipient party shall provide a written response denying or admitting the allegations set forth in the Notice of Disagreement, and, if the truth of the allegations is admitted, setting forth in detail the steps it has taken and/or will take to cure the violations. Failure to serve a timely response shall entitle the complaining party to proceed directly to arbitration, as provided in Section 14.E.

**D. Expedited Procedure for Threats to Public Health or Safety.**

Within 90 days of executing this Agreement, the Parties shall select an arbitrator to handle the resolution of disputes occurring under this Subsection.

If the County or the Nation reasonably believes that in violation of this Agreement the other's conduct has caused or will cause a significant threat to public health or safety, resolution of which cannot be delayed for the time periods otherwise specified in this Section, the complaining party may proceed directly to arbitration as set forth in Section 14.E, without regard to the Meet and Confer or Notice of Disagreement procedures set forth in Sections 14.A, 14B, and 14.C, and seek immediate equitable relief.

**E. Binding Arbitration Procedure.**

Subject to prior compliance with the Meet and Confer process set forth in Section 14.A, and the Notice and Response process in Sections 14.B and 14.C, and except as provided in Section 14.D, either party has the right to initiate binding

arbitration to enforce the terms of this Agreement. The arbitration shall be conducted in accordance with the following procedures:

The arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitrator shall be selected pursuant to such rules; provided that he/she must be a licensed attorney, and knowledgeable in federal Indian law and federal Indian gaming law if the issue involves federal Indian law or federal Indian gaming law. The parties and the arbitrator shall maintain strict confidentiality with respect to the arbitration.

The arbitration shall be held in DeKalb County, Illinois, unless otherwise agreed to by the Parties in writing. The arbitrator shall be empowered to grant equitable and injunctive relief and specific performance. The arbitrator shall not have the power to award punitive damages or non-contract damages. The provisions of the Illinois Code of Civil Procedure Section 2-1003 are incorporated herein, and made part of this Agreement; provided that no discovery authorized by said section may be conducted without leave of the arbitrator, who shall decide to grant leave based on the need of the requesting party and the burden of such discovery in light of the nature and complexity of the dispute.

If either party requests a hearing, the arbitrator shall set the matter for hearing. Otherwise, the arbitrator shall decide whether to set the matter for hearing.

The resulting award shall be in writing and give the reasons for the decision. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The costs and expenses of the American Arbitration Association and the arbitrator shall be shared equally by and between the Parties unless the arbitrator rules otherwise.

An action to compel arbitration or to enforce any award in an arbitration held pursuant to Section 14 may be brought in either a United States District Court or the Circuit Court for DeKalb County.

**Section 15. Limited Waiver of Sovereign Immunity.**

Notwithstanding any rule of the Commercial Arbitration Rules of the American Arbitration Association, the Nation expressly and irrevocably waives its immunity from suit only as provided for and limited by this Section. This Nation's waiver of sovereign immunity is limited for the purposes of compelling arbitration as agreed to under Section 14.E. of this Agreement or enforcing an arbitration award made under Section 14.E of this Agreement. The waiver granted herein shall commence as of the effective date of this Agreement and shall continue for one year following the expiration, termination, or cancellation hereof, or for the duration of any litigation or dispute resolution proceeding then pending, all appeals therefrom, and the satisfaction of any awards or judgment that may issue from such proceedings, whichever is later. This waiver is granted only to the County and not to any other individual or entity. The Tribe hereby waives its sovereign immunity from suit concerning the specific matters covered by this Section of this Agreement (compelling arbitration or enforcing an arbitration award) in accordance with the Resolution of the Prairie Band Potawatomi Tribal Council, which is attached to this Agreement as Exhibit E. Any monetary award to the County by the Nation as determined by the arbitrator's decision shall not exceed the amounts due and owing under Sections 8, 9, and 10, and the share of the costs and expenses of arbitration. Recovery of such award shall be limited solely to the Nation's net revenue as defined in Section 8 from the Nation's gaming operations on the Tribal Project Lands.

**Section 16. Tribal Reimbursements to County.**

The Nation agrees to reimburse the County for all fees and expenses incurred by the County for the law firm of Dickinson Wright PLLC, which has been retained by the County for the purposes of negotiating this Agreement. As of November 20, 2007 the total of such fees and expenses is approximately \$152,460.27 (\$129,394.02 of which has been paid by the Nation), and that any outstanding amounts together with sums required for representation of the County through and including the date of this Agreement, shall be reimbursed to the County within 30 days of execution of this Agreement.

**Section 17. Indemnification.**

The Nation agrees to and shall indemnify, defend, protect, and hold harmless the County, its elected officials, officers and employees acting in their official capacities from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs, and expenses (including reasonable attorneys' fees), arising from or in connection with, or caused by any act, omission, or negligence of the Nation or its contractors, licensees, invitees, agents, lessees, servants or employees, related to or in connection with any obligations on the Nation's part to be performed under the terms of this Agreement or any such claim or any action or proceeding brought thereon or any action or proceeding filed against the County which challenges the County's approval, execution, or delivery of this Agreement; and in any case, any action or proceeding brought against the County by reason of any such claim, the Nation upon notice from the County shall have the option to defend the same at the Nation's expense by counsel reasonably satisfactory to the County. However, in the event that the Nation does not elect to defend the action or proceeding, the County shall defend the same at the Nation's expense, and shall consult with the Nation during the pendency of the action or proceeding. In any case, offers of settlement must be approved by the County and Nation, which approval shall not be unreasonably withheld.

**Section 18. Notices.**

Any notice required under this Agreement shall be sent to the following:

For the County:  
DeKalb County Board  
Attn: Ray Bockman, County Administrator  
200 North Main Street  
Sycamore, Illinois 60178

For the Tribe:  
Prairie Band Potawatomi Tribal Council  
Attn: The Hon. Steve Ortiz, Chairperson  
16281 Q Road  
Mayetta, Kansas 66509

Copy to:  
Office of the State's Attorney  
Attn: Ronald G. Matekaitis, Esquire  
North Main Street  
Sycamore, Illinois 60178

Copy to:  
Office of the Tribal Attorney  
Attn: Vivian Olsen, Esquire and 200  
David Prager, Esquire  
16281 Q Road  
Mayetta, Kansas 66509

**Section 19. Miscellaneous Provisions.**

**A. Effective Date and Term.**

This Agreement shall become effective upon approval of the governing bodies of the County and the Nation and execution of this Agreement by the appropriate officers of the Parties, and shall remain in effect unless otherwise terminated by the mutual written consent of the Nation and the County or for cause as provided in and subject to Section 19.B.

**B. Termination.**

This Agreement shall immediately terminate upon issuance of a written Indian land determination by the National Indian Gaming Commission ("NIGC") or the U.S. Department of the Interior concluding that the Shab-eh-nay Reserve legally does not qualify for gaming under the Indian Gaming Regulatory Act.

Otherwise, during the life of this Agreement, no breach or violation of any of the terms of this Agreement by either party shall operate to void or terminate or provide grounds for termination hereof, it being the intent of the Parties that the

provisions of this Agreement shall be subject to specific performance and injunctive relief shall be provided to cure any breaches prospectively, and that damages shall be awarded to redress any harm occasioned by a breach; provided, however, that if a party cannot or will not conform to the requirements of this Agreement as evidenced by a pattern of violations, and if such violations pose a serious threat to the public health, safety or welfare, this restriction on termination of this Agreement shall not apply.

**C. Authorization.**

The Nation and the County each represent and warrant that each has performed all acts required by its own laws for the validity of adoption of this Agreement, including, but not limited to, matters of procedure and notice, and each has the full power and authority to execute this Agreement and to perform its obligations in accordance with the terms and conditions thereof, and that the representative executing this Agreement on behalf of such party is duly and fully authorized to so execute and deliver this Agreement.

The Nation has duly authorized its officers to execute this Agreement by the adoption of a resolution on February 20, 2008, a copy of which is attached hereto as Exhibit E.

The County has approved this Agreement at a duly noticed meeting of the County Board held on February 20, 2008, and a resolution of the Board is attached hereto as Exhibit F.

**D. Interpretation.**

This Agreement shall be interpreted as though jointly drafted by the Parties.

**E. Severability.**

Any term of this Agreement ruled by the arbitrator to be invalid or unenforceable will be severed, and the remainder of this Agreement will be enforced.

**F. Good Faith and Fair Dealing.**

The Parties agree that this Agreement imposes on them a duty of good faith and fair dealing.

**G. Captions.**

The captions contained in this Agreement are inserted only as matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provisions hereof.

**H. Amendment or Modifications.**

This Agreement may not be modified or amended except by a writing of equal formality signed by both Parties.

**I. Complete Agreement.**

This Agreement represents the entire integrated agreement between the Parties and supersedes all past agreements and all negotiations, representations, promises or agreements, either written or oral made during the course of negotiations leading to this Agreement.

**Section 20. Section 81 Review by the Department of the Interior.**

One hundred twenty (120) days following the execution of this Agreement, or within three (3) days of receipt of a written Indian Lands determination by the National Indian Gaming Commission, whichever is sooner, the Nation will submit this Agreement to the United States Department of the Interior for either (a) approval pursuant to 25

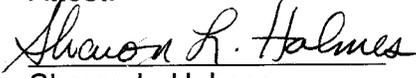
U.S.C. § 81, or (b) a written response that this Agreement does not require approval under 25 U.S.C. § 81 to be enforceable.

**Section 21. Insurance.**

The Parties understand that it is the Nation's practice to maintain appropriate insurance coverage for itself and Nation-entities. Consistent with that practice, the Nation agrees to obtain and maintain with responsible insurance carriers licensed to do business in the State of Illinois insurance (including coverage of public liability and property loss or damage) satisfactory to the County covering the Tribal Project Lands and all structures constructed thereon naming the Nation and all Nation-entities as insured parties. The tort liability insurance coverage shall be at least \$1 million per occurrence and \$20 million annual aggregate. In addition, the Nation will maintain liquor liability coverage of at least \$1 million per occurrence. The Nation will also provide coverage benefits comparable to those benefits under the Illinois Workers' Compensation Act as well as provide unemployment insurance at least as favorable as provided by comparable state programs.

**IN WITNESS HEREOF**, the County and the Nation have signed this Agreement and caused their seals to be affixed and attested as of February 20, 2008.

Attest:

  
Sharon L. Holmes  
County Clerk

DEKALB COUNTY, ILLINOIS

By:

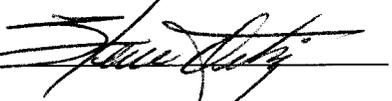
  
Ruth Anne Tobias, Chairperson  
DeKalb County Board

Attest:

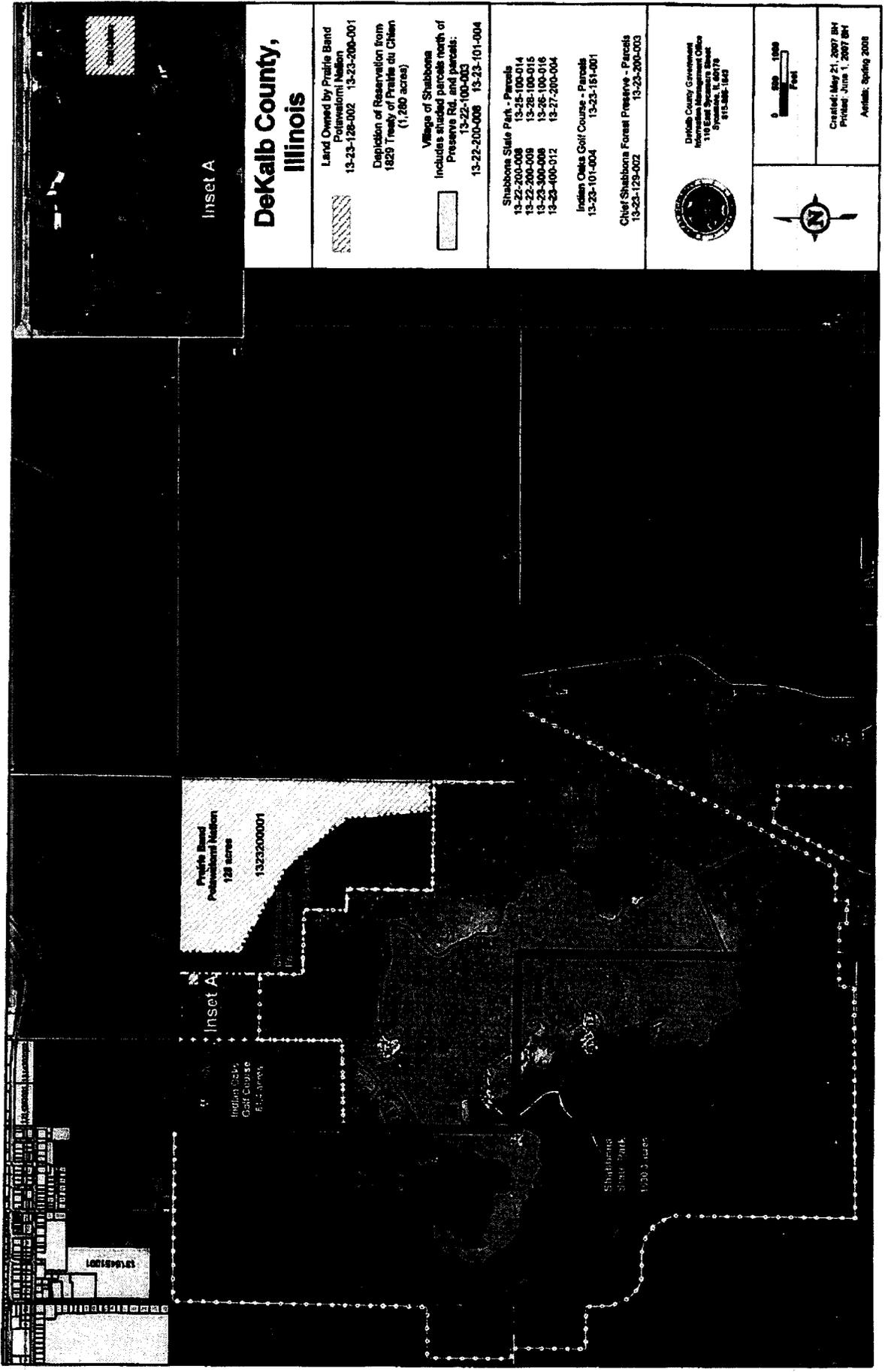
  
Rey Kitchkumme, Vice-Chairperson  
Prairie Band Potawatomi Nation

PRAIRIE BAND POTAWATOMI NATION

By:

  
Steve Ortiz, Chairperson  
Prairie Band Potawatomi Nation

**EXHIBIT A**



Inset A

# DeKalb County, Illinois

Land Owned by Prairie Band Potawatomi Nation  
13-23-128-002 13-23-200-001

Depiction of Reservation from 1829 Treaty of Prairie du Chien (1,280 acres)

Village of Shabebone  
Includes stated parcels north of Preserve Rd. and parcels:  
13-22-100-003  
13-22-200-008 13-23-101-004

Shabebone State Park - Parcels  
13-22-200-008 13-25-100-014  
13-22-200-008 13-28-100-015  
13-23-300-008 13-26-100-016  
13-23-400-012 13-27-200-004

Indian Oaks Golf Course - Parcels  
13-23-101-004 13-23-151-001

Chief Shabebone Forest Preserve - Parcels  
13-23-129-002 13-23-200-003



DeKalb County Government  
Information Management Office  
110 East Spencerville Street  
Shabebone, IL 60178  
618-896-1547



Created: May 21, 2007 BY  
Printed: June 1, 2007 BY  
Artist: Spring 2008

**Shab-e-h-nay Reservation (1829)**  
**Boundary line added by PBPB**

**EXHIBIT A: Tribal Lands as Defined in this Agreement**

**Legal Description of Tribal Project Lands as Defined in this Agreement**

PART OF THE NORTHEAST ¼ AND THE SOUTHEAST ¼ OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 3, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 38 MINUTES 20 SECONDS WEST, ALONG THE EAST LINE OF THE NORTHEAST ¼, A DISTANCE OF 2638.85 FEET TO THE EAST QUARTER CORNER; THENCE SOUTH 00 DEGREES 45 MINUTES 45 SECONDS WEST, ALONG THE EAST LINE OF THE SOUTHEAST ¼, A DISTANCE OF 1253.59 FEET; THENCE NORTH 89 DEGREES 39 MINUTES 12 SECONDS WEST, A DISTANCE OF 457.1 FEET; THENCE NORTH 04 DEGREES 40 MINUTES 23 SECONDS WEST, A DISTANCE OF 1315.42 FEET; THENCE NORTH 40 DEGREES 26 MINUTES 12 SECONDS WEST, A DISTANCE OF 1142.60 FEET; THENCE NORTH 60 DEGREES 58 MINUTES 38 SECONDS WEST, A DISTANCE OF 1508.90 FEET; THENCE NORTH 00 DEGREES 32 MINUTES 28 SECONDS EAST, A DISTANCE OF 975.35 FEET TO THE SOUTH QUARTER CORNER; THENCE NORTH 89 DEGREES 58 MINUTES 17 SECONDS EAST, ALONG THE NORTH LINE OF THE NORTHEAST ¼ A DISTANCE OF 2661.67 FEET TO THE POINT OF BEGINNING, SITUATED IN DEKALB COUNTY, ILLINOIS.

**Legal Description of Tribal Residential Lands as Defined in this Agreement**

LOT 7 IN FIRST ADDITION TO INDIAN OAKS ESTATES, A SUBDIVISION OF A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 3, EAST OF THE PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 29, 1968 AS DOCUMENT NO. 344877, IN PLAT BOOK "O", PAGE 51 IN DEKALB COUNTY, ILLINOIS.

Tribal Lands will also include any other lands located within the Shab-eh-nay Reserve acquired by the Nation under Section 5 of this Agreement.

**EXHIBIT B**

## **EXHIBIT B**

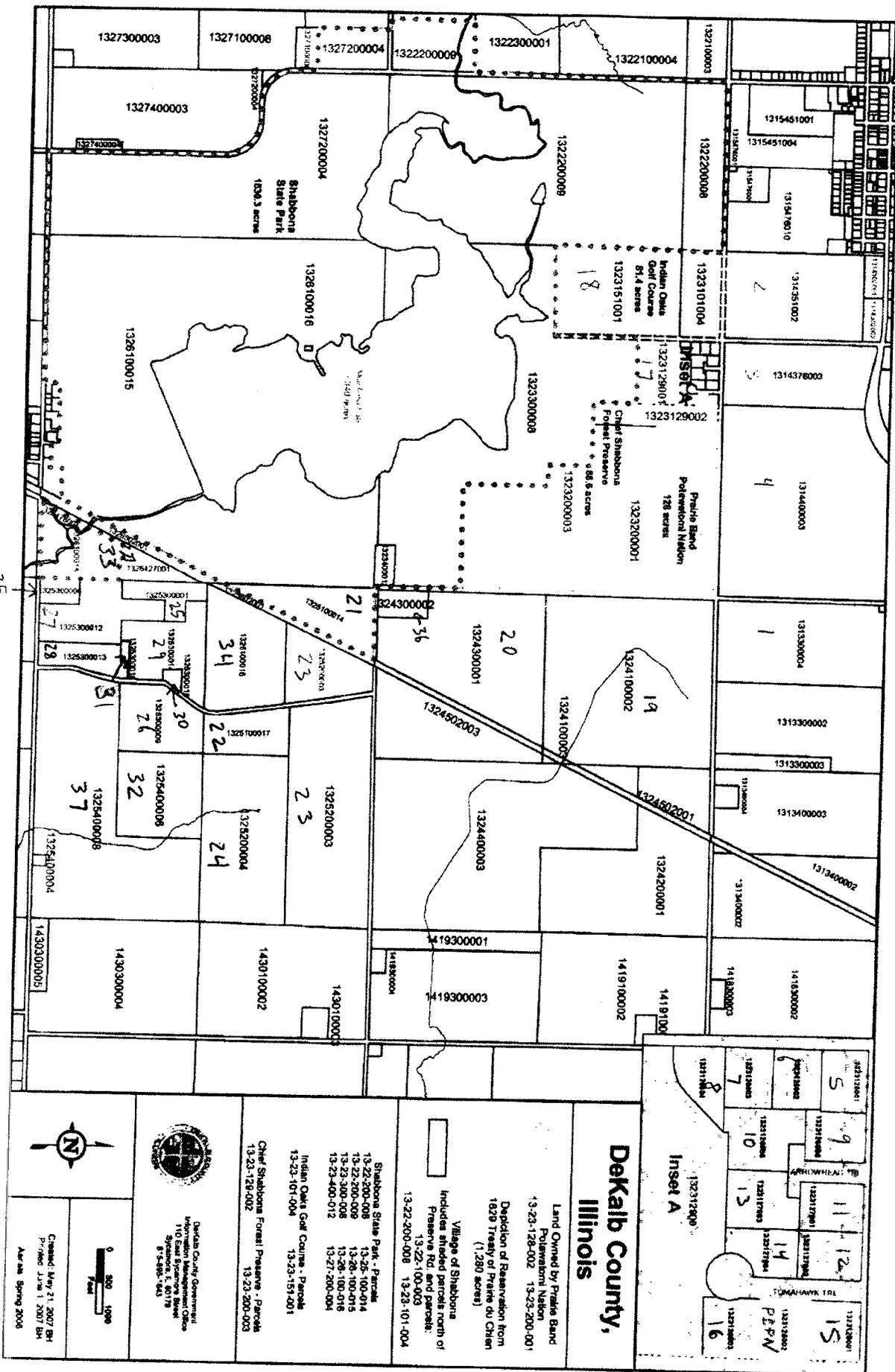
- 10    Animals**
- 14    Buildings**
- 30    Environmental**
- 38    Health and Sanitation**
- 54    Roads and Bridges**
- 58    Solid Waste**
- 62    Subdivisions**
- 70    Traffic and Violations**
- 74    Utilities**

**Appendix A   Zoning**

**EXHIBIT C**

EXHIBIT C

	<b>Parcel No.</b>	<b>Site Address or Legal Description</b>
1.	1313300004	W 1/2 SW 1/4 SEC 13 T38N R3E EX W 100 FT N 100 FT THEREOF
2.	1314351002	PT W 1/2 SW 1/4 SEC 14
3.	1314376003	PT W 61 ACRES E 1/2, SW 1/4 LYINGS S OF ROW SEC 14 T38N R3E
4.	1314400003	4551 PRESERVE RD SHABBONA
5.	1323126001	8966 Indian Rd, Shabbona, IL
6.	1323126002	8946 Indian Rd, Shabbona, IL
7.	1323126003	8908 Indian Rd, Shabbona, IL
8.	1323126004	8890 Indian Rd, Shabbona, IL
9.	1323126005	8965 Arrowhead Trl, Shabbona, IL
10.	1323126006	8931 Arrowhead Trl, Shabbona, IL
11.	1323127001	8970 Arrowhead Trl, Shabbona, IL
12.	1323127002	8965 Tomahawk Trl, Shabbona IL
13.	1323127003	8930 Arrowhead Trl, Shabbona, IL
14.	1323127004	8933 Tomahawk Trl, Shabbona, IL
15.	1323128001	Tomahawk Trl Shabbona, INDIAN OAKS ESTATES 1ST ADD-LOT 6
16.	1323128003	8910 Tomahawk Trl Shabbona IL
17.	1323129001	8842 Indian Rd Shabbona
18.	1323151001	SUBDIVISION OF SEC 23 - LOTS 53, 54, 55, 55, 58, 59, & 60 ON W1/2 NW 1/4 - SEC 23 - TWP 38N - R3E
19.	1324100002	NW 1/4 LYG NW RR SEC 24
20.	1324300001	PT SW 1/4 SEC 24
21.	1325100014	PT NW 1/4 Lying NW-LY OF RR (EX PT IN LOT 13) - SEC 25-TWP 38N- R3E
22.	1325100017	PT SE 1/4 NW 1/4 SEC 25)
23.	1325200003	7917 JOHNSON RD SHABBONA
24.	1325200004	S 1/2 NE 1/4 SEC 25
25.	1325300001	SUB OF SW 1/4 SEC 25-LOTS 16, 17, & 18
26.	1325300009	7430 JOHNSON RD SHABBONA IL
27.	1325300012	5171 SHABBONA GROVE RD SHABBONA IL
28.	1325300013	SUB OF SW 1/4 SEC 25-PT LOT 25 LYG W ROW
29.	1325300014	7487 Johnson Rd, Shabbona, IL
30.	1325300015	7375 Johnson Rd, Shabbona, IL
31.	1325300016	PT S 1/2 LOT 7 JOHN KELLY ESTATE PLAT
32.	1325400006	NW 1/4 SE 1/4 SEC 25
33.	1326427001	PT E 1/2 SE 1/4 SEC 26
34.	1325100016	7617 JOHNSON RD SHABBONA
35.	1325300006	5037 SHABBONA GROVE RD SHABBONA
36.	1324300002	8036 UNIVERSITY RD SHABBONA
37.	1325400008	SHABBONA GROVE RD, SW 1/4 SE 1/4 AND E 1/2 SE 1/4 (EX S 246 W177 E 996.50FT) AND SE 1/4 SW 1/4 LYG EAST ROW SEC 25 T38N R3E



35

# Dekalb County, Illinois

Land Owned by Public Land Potawatomi Nation  
 13-23-128-002 13-23-200-001  
 Deposition of Reservation from 1829 Treaty of Prairie du Chien (1,280 acres)

Village of Shabbona  
 Includes shaded parcels north of Preserve Rd. and Parcel:  
 13-22-100-003  
 13-22-200-008 13-23-101-004

Shabbona State Park - Parcels  
 13-22-200-008 13-25-100-014  
 13-22-200-009 13-26-100-015  
 13-23-300-008 13-26-100-016  
 13-23-400-012 13-27-200-004  
 Indian Oaks Golf Course - Parcels  
 13-23-101-004 13-23-151-001

Chief Shabbona Forest Preserve - Parcels  
 13-23-128-002 13-23-200-003



Dekalb County Government  
 Information Management Office  
 110 East Spruce Street  
 Springfield, IL 62761  
 618-465-1600



Created: May 21, 2007 BH  
 Printed: June 1, 2007 BH  
 Aerial: Spring 2006

**EXHIBIT D**

## **Exhibit D**

### **Fire and EMS/Rescue Agreement Between the Prairie Band Potawatomi Nation and the Shabbona Community Fire Protection District**

THIS AGREEMENT is made and entered into this 8<sup>th</sup> day of May, 2007, by and between THE PRAIRIE BAND POTAWATOMI NATION ("Nation"), a federally recognized Indian tribe, and the SHABBONA COMMUNITY FIRE PROTECTION DISTRICT ("FIRE DISTRICT"), a municipal entity.

#### **RECITALS**

1. The Prairie Band Potawatomi Nation ("Nation") is a federally recognized Indian tribe exercising sovereign powers of self-government over its land and its people. The Nation provides fire response and emergency medical services ("EMS") to its members, some of which are provided by the Shabbona Community Fire Protection District ("Fire District").
2. The Shab-eh-nay Reservation land is owned by the United States in trust for the Nation within the Town of Shabbona, Illinois.
3. The Fire District acknowledges the need for adequate and efficient fire response and EMS/rescue services, which includes ambulance service, for the residents, employees, and visitors of the Shab-eh-nay Reservation.
4. The Fire District is currently staffed by volunteer fire fighters and EMS/rescue staff.
5. The Parties agree that the safety and well-being of all who reside on, work on or visit the Shab-eh-nay Reservation is of utmost importance and that fire and EMS coverage is a crucial element in maintaining their safety and well-being, and for this reason the Parties enter in this Agreement.

#### **AGREEMENT**

- A. **Term.** The term of this Agreement shall be for five (5) years from the effective date of the Agreement. At the end of the term, the Parties shall meet and confer about whether to continue the Agreement, modify the Agreement, or terminate the Agreement.
- B. **Authorization.** The Nation and the Fire District each represent and warrant that each has performed all acts precedent to adoption of this Agreement, including, but not limited to, matters of procedure and notice, and each has the full power and authority to execute this Agreement and to perform its obligations in accordance with the terms and conditions thereof, and that the representatives executing this Agreement on behalf of such party is duly and fully authorized to so execute and deliver this Agreement.

1. The Nation has authorized its officers to execute this Agreement by the adoption of Resolution No.2007-086, adopted May 8, 2007, a copy of which is attached hereto as Exhibit A.
  2. The Fire District has approved this Agreement according to its procedures and a certified copy of that proceeding is attached as Exhibit B.
- C. Services. The Fire District agrees to provide fire response and EMS/rescue services on a timely as possible basis to the Shab-eh-nay Reservation, established in Article III of the 1829 Treaty of Prairie du Chien, specifically to the land the Nation owns within the Reservation boundaries. This Agreement does not prohibit the Fire District's use of mutual aid, auto aid or Mutual Aid Box Alarm System (MABAS) resources to provide services to fulfill their obligations under this Agreement.
- D. Payment for Services. The Nation acknowledges the need for adequate and efficient fire response and EMS/rescue services, which includes ambulance service, for residents, employees, and visitors of the Shab-eh-nay Reservation. For this reason, the Nation, in the exercise of its sovereign authority, agrees to the following:
1. Upon execution of this Agreement, the Nation agrees to provide funding to the Fire District for the Fire District to contract the services of one Emergency Medical Technician – Intermediate Level (EMT-I) and one Emergency Medical Technician – Basic Level (EMT), the costs of which shall not exceed \$190,000 per year, including salary and benefits and reasonable costs associated with training, to assist with the provision of Advanced Life Services (ALS) and the provision of other regular fire response and EMS/rescue services within the service area of the Fire District and the Shab-eh-nay Reservation. Such aforementioned amounts may be revisited annually to determine whether an adjustment of said amount needs to be made; any adjustment shall be based on the current salary costs associated with those positions and the use of the services.
  2. The Nation's obligations in this agreement are contingent upon its placement of a government center and bingo hall on the subject lands and the continued operations of these facilities.
- E. Voluntary Termination. Notwithstanding any provision to the contrary, the Nation reserves the right to assume the responsibilities for this service or voluntarily terminate this Agreement upon six (6) months written notice to the Fire District.
- F. Termination for Cause. This Agreement may be terminated by either party for cause as provided for herein. Cause, within the meaning of this Agreement, shall

include breach of the Agreement, including the breach of any covenant contained in the Agreement, anticipatory breach or repudiation of the Agreement, negligent performance of any terms or covenants in the Agreement required to be performed by either party, or failure of consideration.

- G. Notice of Intent to Terminate. Any act, failure to act, or event described in this Agreement as grounds for termination for cause shall constitute an event of default. Whenever a party to this Agreement determines that an act or failure to act of the other party or other event constitutes a default of this Agreement, it shall provide written notice thereof to the defaulting party within thirty (30) days of the act, failure to act, or event which constitutes the default. The notice shall describe the default and the action or actions which must be taken or accomplished by the defaulting party to cure the default. Failure of the defaulting party to cure the default or to demand dispute resolution as provided for herein within said thirty (30) day period shall entitle the non-defaulting party to the remedies provided for under this Agreement.
- H. Remedies of Nation in Event of Default by Fire District. In the event of default by the Fire District, the Nation shall be entitled to reimbursement for damages proximately arising out of the default. The damages may offset against any fees or payments required to be made by the Nation to the Fire District in accordance with the terms of this Agreement.
- I. Remedies of Fire District on Default by Nation. Recognizing the sovereign status of the Nation, the Fire District's sole remedy for default by the Nation is to terminate this Agreement and suspend all services to the Nation. Notice of intent to terminate the Agreement shall be given in writing and shall include the date of termination or curtailment of services which shall not be less than thirty (30) days from the date of the written notice. Fire District may elect to waive a default and not terminate the Agreement. Such a waiver by Fire District of any default shall not prevent Fire District from exercising its right to terminate this Agreement upon determination that a subsequent default has occurred.
- J. Dispute Resolution. Except as otherwise provided herein, the Parties agree to arbitration as the sole means to enforce the terms of this Agreement. The party seeking arbitration shall serve notice upon the other. The notice shall describe in detail the relief sought. The parties will attempt to informally resolve the issue within 20 days. If informal resolution cannot be reached, the parties shall proceed to arbitration in accordance with the rules of the American Arbitration Association except to the extent those rules are modified by this Agreement. The arbitration decision shall be final and binding on the parties, and judgment upon the arbitration decision may be entered in any court having jurisdiction thereof. The Nation and the Fire District agree to waive their sovereign immunity from suit in a court of competent jurisdiction for the limited purposes of compelling arbitration as agreed to under this Agreement or enforcing the terms of the arbitration decisions made under this Agreement. The cost of arbitration shall be borne equally by both parties but the parties will pay for their own costs and attorneys fees. Any monetary award to the Fire District from the Nation determined by the arbitration decision shall be recovered from the Nation's net revenue accounts in Illinois.

- K. Notice. Whenever notice, payment or other communication is required or permitted under this Agreement, it shall be deemed to have been given and received when personally delivered or when deposited in the United States mail with property first class postage affixed thereto and addressed as follows:

Tracy Stanhoff, Chairperson  
Prairie Band Potawatomi Nation  
16281 Q Road  
Mayetta, KS 66509

Shabbona Community Fire  
Protection District  
Chief Frank Ottengheime  
108 E. Navaho  
Shabbona, IL 60550

Either party may change the address to which notice shall be given by providing notice of the address change as provided in this section.

- L. Modification. Either party may, from time to time, request changes in the terms of this Agreement. Such changes must be incorporated in written amendments to this Agreement which have been approved in the same manner as the original agreement. No other purported change in the terms of this Agreement shall be effective or binding on the parties.
- M. No Severability. This Agreement is to be construed in its entirety, and no provision can be severed from the Agreement without the consent of both parties. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, either party may declare a default and obtain an appropriate remedy as provided for under this Agreement.
- N. Integration. This Agreement contains the entire agreement between the parties and supersedes all prior and contemporaneous oral and written agreements, understandings, and representations among the parties.
- O. Waiver. No waiver of any provisions of this Agreement shall be deemed, or shall constitute a waiver of any other provisions, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
- P. Compliance with Federal Laws. Notwithstanding this Agreement, the Fire District and the Nation are governed by the treaties, laws, and regulations of the Federal Government. Thus, if a law or regulation is passed that prohibits a party from performing under this Agreement; the affected party shall notify the other party as soon as possible following knowledge thereof. If a material provision of this Agreement is affected by any subsequent action of the Federal Government, the parties, upon mutual consent, shall have the right to continue to give or receive services to prevent public health or safety problems.
- Q. Effective Date. The effect date of this Agreement shall be the date on which the Agreement is executed by the authorized representatives of the Nation and Fire District.

Attest: SHABBONA COMMUNITY FIRE PROTECTION DISTRICT

Wayne Resin By: Frank Ottengheim  
Chief Frank Ottengheim

Attest: PRAIRIE BAND POTAWATOMI NATION

\_\_\_\_\_ By: Tracy Stanhoff  
Tracy Stanhoff, Chairperson

Attest: PRAIRIE BAND POTAWATOMI NATION

\_\_\_\_\_ By: James M. Potter  
James M. Potter, Secretary

State of: Kansas  
County of: Jackson

Subscribed and sworn to before me by Tracy Stanhoff and James M. Potter on this  
10<sup>th</sup> day of May, 2008

My Commission Expires: 08-10-10

Pamela K. Bowman  
Notary Public

Fire and EMS Service Agreement 5107.clean

**PRAIRIE BAND POTAWATOMI NATION  
TRIBAL COUNCIL RESOLUTION 2007- 086**

**Approval of the Fire and EMS/Rescue Agreement between the Prairie Band Potawatomi  
Nation and the Shabbona Community Fire District**

WHEREAS, The Prairie Band Potawatomi Nation (the Nation) is a duly organized and federally recognized Tribal government, with a Constitution and By-Laws approved by the United States Secretary of the Interior and last amended on May 13, 2003;

WHEREAS, Pursuant to Article V of the Prairie Band Potawatomi Nation Constitution, the Tribal Council is the governing body with enumerated powers of, inter alia, enacting laws and ordinances; negotiating, consulting, and contracting with Federal, State local and Tribal governments, private enterprises, individuals, or organizations; and taking other actions to promote and protect the health, peace, morals, education, and welfare of the Nation or its members, or to serve any other appropriate governmental or tribal purpose; and

WHEREAS, Article III of the 1829 Prairie du Chien reserved 1280 acres of land in what is now Dekalb County, Illinois, for Chief Shab-eh-nay and his Band, of which the Nation is the successor-in-interest; and

WHEREAS, in April 2006, the Nation purchased 128 acres reserved by that Treaty and since that time, the Nation has sought to negotiate with the Shabbona Community Fire District (Fire District) in a spirit of cooperation to promote the general welfare of its members and others in the community by ensuring proper fire response and emergency medical services (EMS) coverage to the Shab-eh-nay Reservation; and

WHEREAS, the Fire District agreed to negotiate with the Nation which resulted in the Fire and EMS/Rescue Agreement between the Nation and the Fire District; and

WHEREAS, the Fire and EMS/ Rescue Agreement memorializes the parties' agreement to have the Fire District provide fire response and EMS/Rescue services to the Shab-eh-nay Reservation in exchange for the Nation's contribution of funding to the Fire District to contract the services of two (2) Emergency Medical Technicians; and

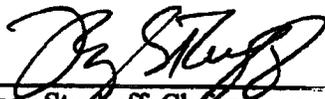
WHEREAS, the Tribal Council, having considered this matter in accordance with law, custom and priorities of the Nation, agrees that the approval of the Fire and EMS/ Rescue Agreement would be in the best interests of the Nation as an exercise of its sovereign rights to promote the welfare of the Nation and its members while addressing issues of mutual concern for both the Nation and the Fire District; and

WHEREAS, the Tribal Council recognizes the need of the Shabbona Community Fire District for proper tribal authorization of the approval, execution and delivery of the Agreement.

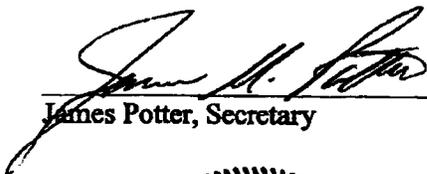
NOW, THEREFORE BE IT RESOLVED that the Tribal Council hereby authorizes and approves the attached Fire and EMS/Rescue Agreement between the Nation and the Fire District, and authorizes the Chairperson's execution and delivery of that Agreement to the appropriate Fire District official(s).

CERTIFICATION

This foregoing resolution was duly adopted at a meeting of the Prairie Band Potawatomi Nation Tribal Council on the 8<sup>th</sup> day of May 2007, during which ( 5 ) members were present, constituting a quorum, by a vote of ( 4 ), for, ( 0 ) opposed, ( 0 ) abstaining, ( 2 ) absent from voting and the Chair not voting.

  
\_\_\_\_\_  
Tracy Stashoff, Chairperson

ATTEST:

  
\_\_\_\_\_  
James Potter, Secretary

Subscribed and sworn to before me this 10<sup>th</sup> day of May, 2007



  
\_\_\_\_\_  
Notary Public

My commission expires: 08-10-10

RESOLUTION AUTHORIZING THE CHIEF TO SIGN AN AGREEMENT WITH THE  
PRAIRIE BAND POTAWATOMI NATION  
SHABBONA COMMUNITY FIRE PROTECTION DISTRICT  
DEKALB COUNTY, ILLINOIS

RESOLUTION NO. 07-01

WHEREAS, the Board of Trustees have determined that it is in the best interest of the residents of the District that the Board enter into an agreement with the Prairie Band Potawatomi Nation, for the Nation to provide financial assistance to the District for staffing an ambulance and upgrading the level of care of the that ambulance;

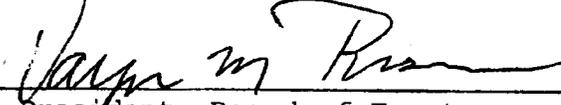
WHEREAS, the Trustees and their legal counsel have reviewed the agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE SHABBONA COMMUNITY FIRE PROTECTION DISTRICT follows:

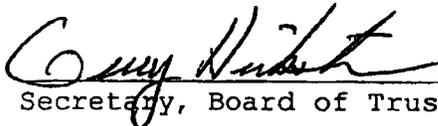
That Chief Ottengheime is authorized to sign the agreement between the District and the Nation dated May 8, 2007.

PASSED by the Board of Trustees of the Shabbona Fire Protection District, this      th. day of      , 2007.

SHABBONA FIRE PROTECTION DISTRICT

By:   
President, Board of Trustees

ATTEST:

  
Secretary, Board of Trustees

**EXHIBIT E**

**Exhibit E**

**PRAIRIE BAND POTAWATOMI NATION  
TRIBAL COUNCIL RESOLUTION 2008 - 053**

**Approval of Intergovernmental Agreement By and Between DeKalb County, Illinois and the  
Prairie Band Potawatomi Nation**

WHEREAS, The Prairie Band Potawatomi Nation (the Nation) is a duly organized and federally recognized Tribal government, with a Constitution and By-Laws approved by the United States Secretary of the Interior and last amended on December 6, 2007; and

WHEREAS, Pursuant to Article V of the Prairie Band Potawatomi Nation Constitution, the Tribal Council is the governing body with enumerated powers of, inter alia, enacting laws; taking other actions to promote and protect the health, peace, morals, education, or welfare of the Nation or its members, or to serve any other appropriate governmental or tribal purpose; and entering into intergovernmental agreements on behalf of the nation; and

WHEREAS, Article III of the 1829 Prairie du Chien reserved 1280 acres of land in what is now Dekalb County, Illinois, for Chief Shab-eh-nay and his Band, of which the Nation is the successor-in-interest; and

WHEREAS, in April 2006, the Nation purchased 128 acres reserved by that Treaty and since that time, the Nation has sought to negotiate with Dekalb County (the County) in a spirit of cooperation to promote mutual interests arising out of the Nation's use of its lands and the general welfare of its members and others in the County; and

WHEREAS, the County agreed to negotiate with the Nation pursuant to an Agreement of Purpose, which was approved by the full County Board of Commissioners on April 18, 2007; and

WHEREAS, the Nation negotiated an Intergovernmental Agreement with the County memorializing agreements that address the operation of a gaming facility on the Nation's lands in Dekalb County; and

WHEREAS, the Intergovernmental Agreement sets forth a dispute resolution procedure for resolving disputes arising under the Intergovernmental Agreement and contains a requirement for a limited waiver of sovereign immunity to the County from the Nation for the specific and limited purposes of the arbitration proceedings brought under Section 14 of the Intergovernmental Agreement; and

WHEREAS, the limited waiver of sovereign immunity as set forth in Section 15 of the Intergovernmental Agreement is limited to the subject matter of the Intergovernmental Agreement with the County, and can only be invoked by the County to compel arbitration and enforce an arbitration award under Section 14 of the Intergovernmental Agreement; and

WHEREAS, the Tribal Council, having considered this matter in accordance with custom and priorities of the Nation, agrees that the approval of the Intergovernmental Agreement would be in the best interests of the Nation and its members; and

WHEREAS, the Tribal Council recognizes the need under the Intergovernmental Agreement to exercise its sovereign rights to provide a limited waiver of sovereign immunity to the County with regard to disputes arising under or in connection with the Intergovernmental Agreement; and

WHEREAS, at its January 19, 2008 meeting, the General Council reviewed the proposed Intergovernmental Agreement, and pursuant to Article IV of the Constitution, passed a motion supporting the Agreement and authorizing the Tribal Council to make reasonable changes to the language consistent with the substance and spirit of the Agreement, and to sign it on behalf of the Nation.

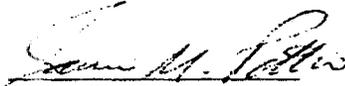
NOW, THEREFORE BE IT RESOLVED that the Tribal Council hereby authorizes and approves the attached Intergovernmental Agreement, and authorizes the Chairperson's execution and delivery of the Intergovernmental Agreement to the appropriate County officials; and

BE IT FURTHER RESOLVED, that the Tribal Council, in accordance with Section 15 of the Intergovernmental Agreement, does hereby grant a limited waiver of sovereign immunity of the Nation only to DeKalb County and to no other individual or entity for the limited, sole and specific purposes of the arbitration proceedings brought under Section 14 of the Intergovernmental Agreement and as set out in Section 15 of the Intergovernmental Agreement, and for no other purpose.

#### CERTIFICATION

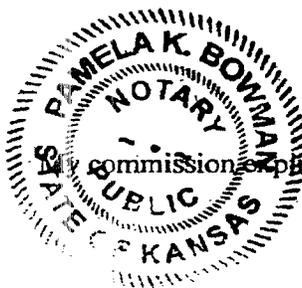
This foregoing resolution was duly adopted at a meeting of the Prairie Band Potawatomi Nation Tribal Council on the 20th day of February 2008 during which ( 6 ) members were present, constituting a quorum, by a vote of ( 5 ), for, ( 0 ) opposed, ( 0 ) abstaining, ( 1 ) absent from voting and the Chair not voting.

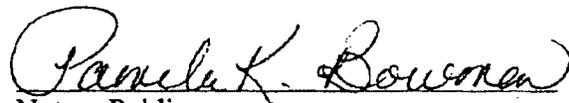
ATTEST:

  
James Potter, Secretary

  
Steve Ortiz, Chairperson

Subscribed and sworn to before me this 20<sup>th</sup> day of February, 2008



  
Notary Public

PBPN Resolution No. 2008-053

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**EXHIBIT F**



Prairie Band Potawatomi Nation  
Government Center

February 19, 2008

Hon. Ruth Anne Tobias, Chairwoman  
and Members of the County Board  
DeKalb County Board  
200 North Main Street  
Sycamore, IL 60178

Dear Chairwoman and Members of the County Board:

As party to the Intergovernmental Agreement ("Agreement") with DeKalb County, Illinois ("County"), the Prairie Band Potawatomi Nation ("Nation") will agree to the following two technical amendments to the Agreement at the appropriate time:

1. In the second sentence of Section 3(A), delete the word "assessments" where it first appears and replace the second appearance of the word "assessments" with the word "amount".

2. In the third sentence of Section 3(A), replace the phrase "a proportionate rate of the assessment" with the phrase "the applicable tax rate for the parcel".

Once the technical amendments are made, Section 3(A) of the Agreement would read as follows:

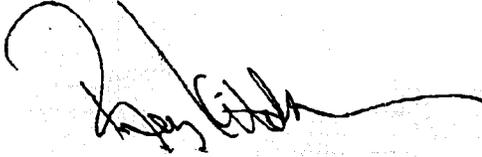
**Section 3. Payments in Lieu of Taxes.**

**A. Payments in lieu of taxes from the Nation to the County.**

Upon execution of this Agreement, the Nation agrees to make annual payments in lieu of real property taxes for the Tribal Lands to the County ("PILOT Payments"). The amount of each PILOT Payment shall be equal to the real property tax, which amount shall be arrived at through the same methodology as if the Tribal Lands were otherwise subject to real property taxes. The Parties agree that each PILOT Payment shall be calculated by the County Tax Extension Clerk in the same manner as such calculations for all real property located within the County, and shall be comprised of an annual assessment multiplied by the applicable tax rate for the parcel. The County agrees to receive each PILOT Payment and agrees that PILOT Payments are in full satisfaction of the tax liability that would otherwise apply were the Tribal Lands otherwise subject to taxation.

Additionally, the Nation agrees to remit its biannual PILOT Payments to the County Administrator no later than May 27<sup>th</sup> and August 27<sup>th</sup> of each year.

Sincerely,

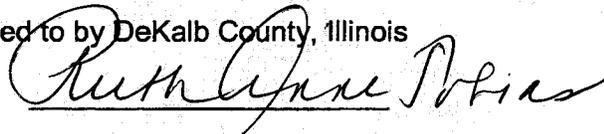


Rey Kitchkumrie, Vice-Chairperson

Prairie Band Potawatomi Nation

Agreed to by DeKalb County, Illinois

By:



Ruth Anne Tobias, Chairperson

DeKalb County Board

Attest:

Sharon L. Halmes  
DEKALB COUNTY CLERK