

**RESOLUTION NO. 81406**

**WHEREAS**, Crossroads Gaming Resort & Spa, L.P. (hereinafter the "Grantor") is the developer of a proposed gaming facility in Straban Township, Adams County, Pennsylvania, conditioned upon the Grantor being awarded a Category 2 Gaming License by the Pennsylvania Gaming Control Board; and

**WHEREAS**, if the proposed gaming facility is developed and operated in Straban Township, Adams County, Pennsylvania, the Grantor and the Borough of Gettysburg (hereinafter the "Borough") agree that there will be significant impacts on the Borough in connection with its provision of municipal services (police, fire, emergency and other public services) and in connection with its maintenance, repair, and servicing of the Borough's infrastructure (roads, bridges, utilities, and other municipal improvements) directly and indirectly related to the operation of the Grantor's proposed gaming facility; and

**WHEREAS**, the Pennsylvania Horse Race Development and Gaming Act and the regulations promulgated thereunder do not make provision for the Borough to receive a portion of the local share assessment of gaming tax revenues in order to assist in the Borough's payment of increased costs for the provision of public services due to the impacts directly and indirectly related to the operation of the Grantor's proposed gaming facility; and

**WHEREAS**, in light of the fact that the Borough may not receive any portion of the local share assessment of the gaming tax revenues paid by Grantor from revenues generated by its proposed gaming operation, Grantor has offered to the Borough in the form of a Community Benefits Agreement an annual grant in the amount of not less than one million (\$1,000,000.00) dollars payable out of Grantor's net income with its initial payment of grant funds to occur one (1) full year after Grantor's proposed gaming facility has commenced operation; and

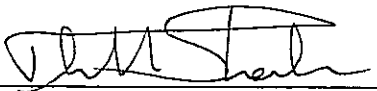
**WHEREAS**, the Grantor and the Borough agree that the proposed Community Benefits Agreement shall be subject to the review and approval of the Pennsylvania Gaming Control Board prior to its execution and delivery by the Grantor and by the Borough; and

**WHEREAS**, the Borough, by its Borough Council and its Mayor, desires to enter into the Community Benefits Agreement with the Grantor for the receipt of an annual grant of not less than one million (\$1,000,000.00) dollars payable as aforesaid.

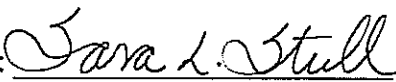
**RESOLVED**, that Theodore H. Streeter, President, William E. Troxell, Mayor and Sara L. Stull, Secretary be authorized to execute and deliver on behalf of the Borough of Gettysburg the Community Benefits Agreement (in the form attached hereto as Exhibit "A") for the receipt of an annual grant of not less than one million (\$1,000,000.00) dollars as set forth in the above recitals which are incorporated herein by reference. The execution and delivery of the Community Benefits Agreement by the Borough shall occur subsequent to the review and approval of the same by the Pennsylvania Gaming Control Board.

**THIS RESOLUTION** is duly adopted according to law on this 14<sup>th</sup> day of August, 2006 at a duly advertised public meeting of the Borough Council of the Borough of Gettysburg.

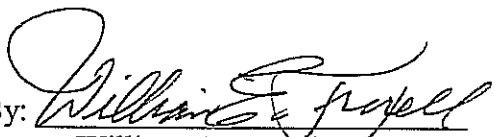
BOROUGH OF GETTYSBURG

By:   
Theodore H. Streeter  
President of Borough Council

Attest:

By:   
Sara L. Stull, Secretary

APPROVED this 14<sup>th</sup> day of August, 2006.

By:   
William E. Troxell, Mayor

**Exhibit "A"**

# CROSSROADS

GAMING RESORT & SPA

## COMMUNITY BENEFITS AGREEMENT

### SECTION I. PURPOSE

The purpose of the Community Benefits Agreement for the Crossroads Gaming Resort & Spa, L.P. is to provide for a concerted and coordinated effort between the Borough of Gettysburg and the Grantor to maximize the benefits of the Crossroads Gaming & Resort Spa Project to the surrounding community. For these reasons, and in consideration of mutual promises, undertakings, and covenants, the adequacy of which the Borough of Gettysburg and the Grantor hereby acknowledge, the Borough of Gettysburg and the Grantor, on behalf of themselves and their respective successors, partners, and assigns, agree to the terms set forth in this Community Benefits Program. This Community Benefits Agreement is agreed upon this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the Borough of Gettysburg and the Grantor.

### SECTION II. DEFINITIONS

As used in this Community Benefits Agreement, the following capitalized terms shall have the following meanings. All definitions include both the singular and plural form.

“Agreement” shall mean the entirety of this Community Benefits Agreement, including all attachments.

“Gaming Law” shall mean the Pennsylvania Horse Race Development and Gaming Act (4 Pa. C.S.A. §1101, et seq).

“Grant Authorization Date” shall mean the first day of January of the Requested Grant Payment Date.

“Grantee” shall mean the Borough of Gettysburg, Pennsylvania.

"Grantor" shall mean Crossroads Gaming Resort & Spa, L.P., a Pennsylvania limited partnership.

"Local Share" shall mean the local share assessment of gaming tax revenues as defined in §1403(b) of the Gaming Law (4 Pa. C.S.A. §1403(b))

"Requested Grant Payment Date" shall mean one full year after Grantor's gaming facility has opened for business in Adams County, Pennsylvania, and annually each year thereafter.

### **SECTION III. GRANT CONDITIONS**

- A. **AMOUNT OF GRANT.** The amount of the Grant shall not be less than one million dollars, subject to the further terms and provisions of this Agreement.
- B. **GRANTEE'S STATUS.** Grantee hereby certifies and confirms that Grantee is an organization that is exempt from tax under the provisions of the Internal Revenue Code (the "IRC") as a duly incorporated Borough of the Commonwealth of Pennsylvania.
- C. **LICENSE CONTINGENCY.** The granting of any funds is contingent on the Grantor being awarded a Category 2 Gaming License by the Pennsylvania Gaming Control Board, and shall be payable out of Grantor's net income.
- D. **NEEDS ASSESSMENT.** The Grantee agrees to develop and maintain a list or schedule of municipal needs ("Needs") which it believes are either directly or indirectly related to the Grantor's gaming facility. Grantor and Grantee agree to use their best efforts to enable Grantee to secure funding to pay for said Needs from "Local Share" revenues available from the Commonwealth of Pennsylvania, Adams County, and/or Straban Township. Grantee further agrees that Grantor shall not be obligated to pay to Grantee the Grant Funds to the extent that Grantee has received distributions of "Local Share" revenues from either the Commonwealth, Adams County or Straban Township. However, Grantor does acknowledge and agree to consider requests for grants from Grantee in excess of the sum of \$1,000,000.00 which may be awarded by Grantor as part of Grantor's annual community grants process.
- E. **PUBLICITY.** Printed materials or publicity about activities supported by this Grant should further project goals and identify the Grantor among sources of support. The

Grantor is pleased to receive good quality photos of the Grant at work for possible use in Grantor publications (with Grantee's written authorization).

F. GRANT PAYMENT. Payment of this Grant will be made on or before the Requested Grant Payment Date subject to the Grantor's receipt of a signed copy of this Agreement, and further subject to the terms and conditions of this Agreement.

G. PROJECT. By entering into this Agreement, and in reliance upon the information presented to the Grantee by the Grantor, the Grantee concurs with the Grantor's opinion that the Grantor's proposed gaming facility, if developed and operated as represented by the Grantor to the Grantee, offers the Adams County region and public and private interests an excellent economic benefit.

#### SECTION IV. SCOPE OF THE GRANT

A. Grantee shall utilize the Grant funds provided by Grantor only for governmental, charitable or educational activities consistent with its tax-exempt status described above (*i.e.*, the Grant funds shall not be utilized or expended by the Grantee in any manner that may jeopardize the tax-exempt status of the Grantee or subject it to a fine or other penalty). Examples of such governmental, charitable or educational activities include, but are not limited to:

1. Public Health and Safety projects, including the development, maintenance, and general promotion of police, fire, emergency and other public services provided by the Borough;
2. Infrastructure projects under the jurisdiction of the Borough, including but not limited to the maintenance, repair, and servicing of roads, bridges, utilities, and other projects as deemed necessary;
3. Other related projects lawfully authorized by the Borough, including projects of more than one year in duration.

B. Subject to the terms contained within this Agreement, Grantee may be permitted to accumulate the proceeds of one or more Grants for the express purpose of accomplishing a project which is authorized under the terms of this Agreement.

C. Expenses charged against this Grant may not be incurred prior to the Grant Authorization Date, and may be incurred only as necessary to carry out project purposes and activities.

D. The Grantee is responsible for the expenditure of funds and for maintaining adequate supporting financial records which shall be maintained by Grantee in its normal course of business as a municipal corporation of the Commonwealth of Pennsylvania.

E. Grantor agrees to use its best efforts to actively assist Grantee to seek to receive at least \$2,000,000.00 annually of Local Share funds from the Commonwealth, Adams County and/or Straban Township.

#### **SECTION V. REPORTING REQUIREMENTS**

The Grantee shall provide the Grantor with a report on Grant progress, which is due not later than one (1) year from the date of each funding of this Grant, which report shall contain the following:

A. A summary of the use Grantee made of the granted funds.

B. Status of Grantee's efforts to secure Local Share revenues from the Commonwealth, Adams County and Straban Township.

C. Future funding may be jeopardized if Grantee fails to comply with the reporting requirements set forth in the present Agreement.

D. The Grantee agrees to provide such additional information, reports and documents as the Grantor may reasonably request.

E. The Grantee's reports, etc., shall be forwarded to Grantor at its address provided to Grantee in writing.

#### **SECTION VI. REVOCATION/QUALITY REVIEW**

Grantor shall have the right and option to terminate, revoke, rescind, or cancel the Grant or this Agreement or otherwise require the Grantee to return the Grant funds if the Grantee has violated

any specific term or condition of this Agreement. Before Grantor may terminate the Grant or this Agreement, Grantor shall provide Grantee with its written notice of its intention to terminate the Grant or this Agreement and afford Grantee a cure period of 60 days to cure or correct any breach, defect or violation in Grantee's performance of this Agreement. If Grantee successfully cures or corrects any breach, defect or violation of this Agreement within the cure period, Grantor shall not terminate the Grant or this Agreement based upon the identified breach, defect or violation of the Agreement.

## **SECTION VII. MISCELLANEOUS LEGAL PROVISIONS**

- A. **COMPLIANCE WITH STATE AND FEDERAL LAW.** This Agreement shall be enforced in accordance with the laws of the Commonwealth of Pennsylvania and the United States.
- B. **SEVERABILITY CLAUSE.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall continue in full force and effect.
- C. **BINDING ON SUCCESSORS.** This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, and successors in interest of each of the parties hereto. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor in interest, heir, administrator, executor of such party.
- D. **TERM.** This Agreement shall become effective on the date of mutual execution of this Agreement and shall remain in effect indefinitely thereafter from the date that Grantor is awarded a Category 2 Gaming License by the Pennsylvania Gaming Control Board.
- E. **CORRESPONDENCE.** All correspondence shall be in writing and shall be addressed to the affected parties at the addresses set forth below or at such other address as may be modified with written notice to all parties hereafter:

1. If to Grantor:

Attn: David M. LeVan, CEO  
Crossroads Gaming Resort and Spa, L.P.  
c/o Mette, Evans & Woodside



3401 North Front Street  
Harrisburg, PA 17110-0950

with a copy to:

Jeffrey A. Ernico, Esq.  
Mette, Evans & Woodside  
3401 North Front Street  
Harrisburg, PA 17110-0950

2. If to Grantee:

Attn: Manager  
Borough of Gettysburg  
59 E. High Street  
Gettysburg, PA 17325

with copies to:

President, Borough Council  
Borough of Gettysburg  
59 E. High Street  
Gettysburg, PA 17325

Harold A. Eastman, Jr., Esq.  
Puhl, Eastman & Thrasher  
220 Baltimore Street  
Gettysburg, Pennsylvania 17325

F. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties and supersedes any prior agreements, whether written or oral.

G. AMENDMENTS. This Agreement may not be altered, amended or modified, except by an instrument in writing signed by the parties.

H. AUTHORITY OF SIGNATORIES. The individuals executing this Agreement represent and warrant that they have the authority to sign on behalf of the respective parties.

I. COOPERATION. From and after the date of mutual execution of this Agreement, the parties hereto shall cooperate with one another in accordance with the terms and provisions of this Agreement.

IN WITNESS WHEREOF, AND INTENDING TO BE LEGALLY BOUND, this Agreement has been duly executed and delivered by the Grantor and the Grantee, by their respective authorized officer(s)/representative(s), this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**CROSSROADS GAMING RESORT & SPA, L.P.**

By: \_\_\_\_\_

**David M. LeVan, CEO**

**BOROUGH OF GETTYSBURG, GRANTEE**

By: \_\_\_\_\_

**Printed Name: Theodore H. Streeter**

**Title: President, Borough Council**

By: \_\_\_\_\_

**Printed Name: William E. Troxell**

**Title: Mayor**

Attest: \_\_\_\_\_

**Printed Name: Sara L. Stull**

**Title: Borough Secretary**