

**AGREEMENT ADDENDUM 01 TO
MEMORANDUM OF AGREEMENT
BETWEEN
EASTERN BAND OF CHEROKEE INDIANS
AND
NORTH CAROLINA DIVISION OF PUBLIC HEALTH AND JACKSON
COUNTY DEPARTMENT OF PUBLIC HEALTH**

Pursuant to ARTICLE 4, Section D. of the MEMORANDUM OF AGREEMENT BETWEEN THE EASTERN BAND OF CHEROKEE INDIANS AND THE NORTH CAROLINA DIVISION OF PUBLIC HEALTH, THE CHEROKEE COUNTY HEALTH DEPARTMENT, THE GRAHAM COUNTY DEPARTMENT OF PUBLIC HEALTH DEPARTMENT, HAYWOOD COUNTY HEALTH & HUMAN SERVICES AGENCY, THE JACKSON COUNTY DEPARTMENT OF PUBLIC HEALTH, AND THE SWAIN COUNTY HEALTH DEPARTMENT (hereinafter referred to as “**Agreement**”), an AGREEMENT ADDENDUM or AGREEMENT ADDENDA (herein referred to as “**Agreement Addendum**”) are permissible and shall enter into force among the pertinent parties (herein referred to as “**Parties**”);

RECOGNIZING that the Tribe is a federally-recognized Indian tribe enjoying a government-to-government relationship with the United States of America and the State of North Carolina and retaining certain inherent sovereign powers and authority; and

RECOGNIZING that the Division and the Counties are agencies and instrumentalities of the State of North Carolina under the laws of the State of North Carolina; and

RECOGNIZING that the State of North Carolina, through the Division and the Counties, has lawful authority to apply and enforce the health and sanitation laws of the State of North Carolina on Tribal Lands with consent of the Tribe’s governing body, under authority of 25 U.S.C. §231; and

RECOGNIZING that the Tribe has consented for the State of North Carolina to apply and enforce state health and sanitation laws on Tribal Lands under authority of Cherokee Code § 130-1; and

WHEREAS, under ARTICLE 2, Section A, Item 1 of the **Agreement**, the **Parties** recognized that “in accordance with Chapter 130A Public Health and Chapter 150B of the North Carolina General Statutes (NCGS), the **Division** and **Counties** shall provide the following Environmental Health services for the **Tribe**: Perform all sanitation inspections of adult day service facilities, bed and breakfast homes, bed and breakfast inns, child care facilities, food establishments, institutions, local confinement facilities, lodging facilities, primitive experience camps, public swimming pools, residential care facilities, schools, summer camps, and tattoo artists on **Tribal Lands** in the same manner and to the same extent as they perform or conduct such inspections on other lands within the State of North Carolina and in their respective counties;” and

WHEREAS, under ARTICLE 2, Section C, Item 2 of the **Agreement**, the **Parties** recognized that “the **Tribe** shall provide the following Environmental Health and Communicable Disease

services for **People on Tribal Lands**: All businesses that provide prepared food services and public swimming pools shall be subject to required state- or county-imposed fees and shall comply with all requirements therefrom;” and

WHEREAS, in order to further collaboration between the **Tribe**, the **Division**, and the **Counties** in order to protect the health and safety of all **People on Tribal Lands**, the **Parties** HAVE AGREED AS FOLLOWS:

ARTICLE 1

- A. Notwithstanding the foregoing or any other provision of the **Agreement** or the **Agreement Addendum** to the contrary, the outdoor vanishing edge rooftop pool at Harrah’s Cherokee Casino at 777 Casino Drive, Cherokee, NC (“Rooftop Casino Pool”), will be operated, maintained, and regulated solely by the **Tribe**. The Rooftop Casino Pool shall not be inspected or regulated by the **Division** and **Counties**. The **Tribe** accepts sole responsibility for the Rooftop Casino Pool, meaning that the **Tribe** does not authorize, invite, or allow **Jackson County Department of Public Health**, the **Division**, or any other North Carolina county or state agency to inspect the Rooftop Casino Pool for the purposes of operation, maintenance, or regulation.
- B. To that end, the Division acknowledges it does not have the authority to direct the County--as an agent of the Division--to inspect the Rooftop Casino Pool under 15A-NCAC-18A.2522. Further, the Tribe, as a sovereign nation, explicitly exempts the Division and County from inspecting the Rooftop Casino Pool.
- C. The **Tribe** agrees to indemnify, defend, and hold harmless **County**, its elected officials, agents, employees, officers, officials, directors, attorneys, successors, and permitted assigns against any and all losses, liabilities, damages, deficiencies, judgments, settlements, interest, awards, fines, causes of action, penalties, taxes, assessments, charges, punitive damages, expenses, and other costs (including, without limitation, County’s own attorneys’ and paralegals’ fees; expert fees; and other litigation expenses) suffered or incurred by **County** arising out of or in connection with any claim related to the sanitation, inspection, environmental health, or use of the Rooftop Casino Pool. **County** shall give prompt notice to the **Tribe** of any claim made against County arising out of or in connection with the sanitation, inspection, environmental health, or use of the Rooftop Casino Pool that is the subject of this addendum, and the **Tribe** shall assert mutually agreed upon defenses on behalf of the **County**, and **County** shall assist the **Tribe** in any such claims and shall not withhold approval of reasonable defense litigation strategies and settlement of such claims.

ARTICLE 2

- A. Cooperation under this **Agreement Addendum** shall be in accordance with the laws and regulations under which each **Party** operates.

- B. All questions arising during the term of this **Agreement Addendum** shall be settled by the **Parties** by mutual agreement.

ARTICLE 3

- A. This **Agreement Addendum** shall enter into force upon the later date of Signature and shall continue until the expiration of the **Agreement**.
- B. This **Agreement Addendum** may be amended at any time by written agreement of the **Parties**.
- C. This **Agreement Addendum** may be terminated at any time at the discretion of any of the **Parties** upon ninety (90) days' notice in writing to the other **Parties**.

FOR EASTERN BAND OF CHEROKEE INDIANS

Signature: _____

Name: Richard G. Sneed

Title: Principal Chief

Date: _____

**FOR NORTH CAROLINA DIVISION OF PUBLIC HEALTH,
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Signature: _____

Name: Susan Kansagra

Title: Director

Date: _____

FOR JACKSON COUNTY DEPARTMENT OF PUBLIC HEALTH

Signature: _____

Name: Mark Letson

Title: Chair, Board of Commissioners

Date: _____