

AMENDMENT TO
THE AMENDED AND RESTATED
CONFERENCE/EVENTS CENTER
DEVELOPMENT AGREEMENT

THIS AMENDMENT (this “**Amendment**”) is dated as of the ___ day of _____, 2015, by and between the City of Bettendorf, Iowa (the “**City**”) and Isle of Capri Bettendorf, L.C. (“**IOC**”).

WHEREAS, the City, IOC and Green Bridge Company previously entered into the Amended and Restated Conference/Events Center Development Agreement, dated July 18, 2006, as amended by the Reaffirmation of and Amendment to the Amended and Restated Conference/Events Center Development Agreement, dated November 6, 2007 (from which Green Bridge Company was removed as a party) and the Amendment to Development Agreement, dated August 1, 2008 (collectively, as amended, restated, and reaffirmed, the “Development Agreement”); and

WHEREAS, the City and IOC desire to amend the Development Agreement as provided for in this Amendment.

NOW THEREFORE, the parties agree as follows:

1. Capitalized terms not otherwise defined herein shall have the meanings provided for in the Development Agreement.

2. Minimum Assessments and Guaranty Terminated. All minimum assessment agreements and obligations relating in whole or in part to the Isle Property or Green Bridge Property are terminated and shall have no binding effect with regard to the 2015 tax year (taxes accruing from July 1, 2015 – June 30, 2016) or any subsequent tax year. The City and IOC agree that they will promptly record terminations of all Minimum Assessment Agreements relating to the Isle Property that are of record. IOC and its successor and assigns shall have no contractual restrictions under the Development Agreement or any related agreement against challenging any tax assessment on the Isle Property for the 2015 tax year or any subsequent tax year. The City shall also not be restricted from resisting such challenge. The parties further agree that the Isle of Capri, Inc.’s Guaranty provided for under the Development Agreement is terminated, null and void.

3. 2015 Tax Year Assessment and Allocation of Assessments on the Isle Property.

(a) For the purpose of the 2015 tax year assessment, IOC and the City agree that the total fair market value of the Isle Property as of January 1, 2015 was \$50,000,000. The parties agree that they will use commercially reasonable efforts to cause the Scott County Assessor to set the 2015 assessment at the \$50,000,000 amount. The parties further agree that they will settle the outstanding protest and appeal of the taxes upon the Assessor agreeing to the assessed value. This Agreement in no way binds the parties as to assessments for tax years 2016 and thereafter and the parties are free to challenge and appeal any assessment amount, including but not limited to amounts less than \$50,000,000.

(b) Effective for the 2015 tax year and continuing until the North Tower TIF and Land-Based Casino TIF have been satisfied (the “TIF Term”), IOC and the City agree, and will take commercially

reasonable action to effectuate, the assessment on the Isle Property being allocated as provided in this Section 3. The assessment will be allocated among the following categories of improvements:

North Tower. The improvements, now existing or hereafter added or removed, and underlying land related to the North Tower on the Isle Property.

Land-Based Casino. The improvements, now existing or hereafter added or removed, and the underlying land related to the Land-Based Casino.

South Tower. The improvements, now existing or hereafter added or removed, and the land not included in the North Tower or the Land-Based Casino categories.

Each assessment on the Isle Property during the TIF Term will be allocated between the above improvements categories as follows:

(i) For the 2015 tax year (Prior to any assessment of the Land-Based Casino improvements). The assessment of the Isle Property will be allocated forty-two percent (42%) to the North Tower and fifty-eight (58%) to the South Tower. So, assuming a \$50,000,000 overall assessment, \$21,000,000 to the North Tower and \$29,000,000 to the South Tower.

(ii) For the 2016 tax year and each subsequent tax year until the tax year following the calendar year in which the Land-Based Casino is substantially complete. Barring any material improvements, casualty or destruction to the Isle Property during the year other than those related to the Land-Based Casino, any increase in the overall assessment on the Isle Property from one tax year to the next tax year will be presumptively determined to relate to the Land-Based Casino and will be allocated to the Land-Based Casino. All remaining assessment not allocated to the Land-Based Casino will be allocated forty-two percent (42%) to the North Tower and fifty-eight (58%) to the South Tower.

(iii) For Tax Years following the Substantial Completion of the Land-Based Casino. For the tax year following the calendar year in which the Land-Based Casino is substantially complete (the "Reallocation Tax Year"), barring material improvements, destruction or casualty to the Isle Property other than those related to the Land-Based Casino, the assessment on the Isle Property shall be allocated among the North Tower, South Tower and Land-Based Casino as provide as provided in (b) above, and the allocation percentages shall be recalculated and assigned based upon such allocation, such that the percentage assigned to each of the three improvements categories will be equal to the assessment allocated to the specific improvements category in the Reallocation Year divided by the total assessment on the Isle Property, multiplied by 100. That reallocation will be used for all subsequent tax years, barring material improvements, destruction or casualty.

By way of example: If the 2015 tax year assessment on the Isle Property was \$50 million and the 2017 tax year (assumed to be the Reallocation Year) assessment on the Isle Property is \$80 Million (assuming no other improvements, destruction or casualties) the assessment would be allocated and percentages assigned as follows:

- Land-Based Casino - \$30 million and 37.5%
- North Tower - \$21 Million and 26.25%
- South Tower - \$29 Million and 36.25%

(iv) Improvements, Destruction, Casualty or other changes to the Isle Property not related to the Land-Based Casino. In the event there are material improvements, destruction, casualties or changes to the Isle Property during the TIF Term (a “Material Change”) that could reasonably affect the assessment on the Isle Property, the parties agree that they will work together in good faith to determine the effect, if any, of the Material Change on the assessment and to amend or supplement the Development Agreement and this Amendment to account for such Material Change in the allocation of the assessment between the three improvements categories.

4. North Tower TIF. IOC prepaid the Notes on or about May 4, 2015, and therefore, pursuant to the Development Agreement (Section 5 of the August 1, 2008 Amendment), IOC is entitled to receive the Development Tax Increment (“North Tower TIF”) and Other Pledged Revenues through June 30, 2026, including but not limited to the TIF rebate on the real estate taxes attributable to the North Tower assessment as established in Section 3 above. Nothing in this Amendment is intended to modify that provision. The parties agree that the allocation of the assessment under Section 3 above will be used in determining the amount of refund due IOC.

5. North Tower Payment. IOC agrees to pay to the City and the other taxing bodies, on a semi-annual basis on or before March 31st and September 30th of each year commencing September 30, 2016 (the due date for the first half of the 2015 taxes) and continuing until March 31, 2020 (the due date for the second half of the 2018 taxes), an amount equal to what the “TIF Ineligible Taxes” (as defined below) would be on the difference between the amount of the assessment allocated to the North Tower (as determined under Section 3 above) for applicable tax year and the Established Amount (as defined below) (the “North Tower Payment”). “TIF Ineligible Taxes” means those taxes that are ineligible under Iowa law for rebate as tax increment financing (e.g., debt service and PPEL levies). The Established Amount means, on an annual basis, forty-million dollars (\$40,000,000) for the tax years 2015 and 2016 and thirty-million dollars (\$30,000,000) for tax years 2017 and 2018.

By way of example: If the North Tower is allocated \$25 million of the assessment under Section 3 above for tax year 2016, IOC would pay to the City and other taxing bodies on or before September 30, 2017 and March 31, 2018, one half of the TIF Ineligible Taxes on \$15 million (\$40 million minus \$25 million).

6. Land-Based Casino TIF. Nothing in this Agreement is intended to modify IOC’s right to receive the tax increment financing rebate on the Land-Based Casino pursuant to Section 3(G) of the Development Agreement. The parties agree that the taxes on the assessment allocated to the Land-Based Casino under Section 3 above will be the taxes eligible for rebate, subject to those portions of the tax levy that cannot be rebated under Iowa law. This rebate shall continue through June 30, 2028. The City agrees to promptly take all actions necessary to establish the TIF rebate for the Land-Based Casino and to effectuate the terms of this Agreement.

7. Event Center Capital Reserve and Payments. The parties agree that upon the execution of this Amendment the City shall be paid \$652,000 from the Capital Expenditure Fund, established under Article 11 of the Event Center Management Agreement (“Management Agreement”), which is an exhibit to the Development Agreement and was entered into in conjunction therewith. Furthermore, the parties agree that Sections 11.2(b) and (c) of the Management Agreement are amended and replaced in their entirety with the following:

“(b) second, from a fund (the “Capital Expenditure Fund”) created from the following contributions:

(i) The \$4.00 per room tax assessed under Paragraph 2(H) of the Conference/Events Center Development Agreement; and

(ii) In any year in which the Capital Expenditure Fund drops below \$500,000 (the “Floor”) (A) first, the amount necessary, up to a maximum of \$250,000 per year, to bring the Capital Expenditure Fund balance to the Floor shall be paid from the Land-Based Casino TIF rebate the Manager is entitled to receive under the Development Agreement; provided that such amount shall not exceed the amount of the Land-Based Casino rebate in the given year; and (B) second, if the Capital Expenditure Fund remains below the Floor following the contribution under (A), each of the Owner and the Manager shall pay to the fund one half (1/2) of the amount necessary to bring the fund balance to the Floor. Any Land-Based Casino TIF not used under (A) above shall expire at the end of each year and may not be allocated or captured in subsequent years.

(c) third, in the event all available funds under (a) have been exhausted and the Capital Expenditure Fund is exhausted, the Owner and Manager shall each pay 50% of the remaining costs of the Capital Expenditures.”

At the termination of the Management Agreement, any funds remaining in the Capital Expenditure Fund shall become the property of the City. The Parties agree that the above obligations of IOC replace in its entirety the obligation under Section 3(G) of the Agreement to reimburse the City for its payments to the Capital Expenditures Fund from the Land-Based Casino TIF.

8. Annual Appropriations The parties agree that the land-based casino TIF described in paragraph six (6) above as well as the ongoing North Tower TIF as described in paragraph four (4) above shall be subject to the right of non-appropriation by the Bettendorf City Council as follows:

Notwithstanding anything in this Agreement to the contrary, the obligation of the City to pay any installment of the rebate from the tax increment revenues shall be an obligation limited to currently budgeted funds, and not a general obligation or other indebtedness of the City or a pledge of its full faith and credit within the meaning of any constitutional or statutory debt limitation, and shall be subject in all respects to the right of non-appropriation by the City Council of City as provided in this section. City may exercise its right of non-appropriation as to the amount of the installments to be paid during any fiscal year during the term of this Agreement without causing a termination of this Agreement. The right of non-appropriation shall be exercised only by an ordinance approved by two thirds (2/3) of the City Council affirmatively declaring the City's election to non-appropriate funds otherwise required to be paid in the next fiscal year under the Development Agreement. The vote for non-appropriation shall require three prior separate readings at regularly-scheduled City Council meetings, with no suspension of the rules or shortening the timing of the readings or approvals.

In the event the City Council of City elects to not appropriate sufficient funds in the budget for any future fiscal year from the tax increment revenues for the payment in full of the installments any rebate due and payable in that fiscal year, then the City shall have no further obligation to IOC for the payment of all installments due in the next fiscal year which cannot be paid with the funds then appropriated for that purpose.

The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to pay future installments on the

rebate shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Development Agreement are determined by a court of competent jurisdiction to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Development Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no event of default shall be deemed to have occurred as a result thereof. If any provision of this Development Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Development Agreement which can be given effect without the suspended provision, and to this end the provisions of this Development Agreement are severable.

The parties further agree that should a TIF rebate or other benefit due IOC under the Development Agreement not be appropriated by the City (either via specific action or inaction on the part of the City) IOC shall have the unilateral right to offset the amount of such non-appropriated TIF rebate or benefit from its obligation to pay the casino development fee (city gaming tax) until the TIF rebate or benefit has been completely offset.

9. Counterpart Execution. This Amendment may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Amendment and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Amendment and of signature pages by electronic transmission of pdf. files shall constitute effective execution and delivery of this Amendment.

10. Except as expressly amended or modified herein, the Development Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

Dated this _____ day of _____, 2015.

CITY OF BETTENDORF, IOWA

By _____
Mayor

By _____
City Administrator

ISLE OF CAPRI BETTENDORF, L.C.

By _____
President