

DEVELOPMENT AGREEMENT

This Agreement is entered into by and between the City of Davenport (“City”) and Scott County Casino, LLC (“Kehl”) as of this ____ day of _____, 2013.

WHEREAS, City wishes to enter into an agreement with a new gaming operation that will provide the best value to the citizens of and visitors to City of Davenport; and

WHEREAS, Kehl wishes to enter the Quad City market and establish a gaming operation and related amenities that will be the most popular and most successful in the area; and

WHEREAS, City has agreed to partner with Kehl as the developer of a casino complex on the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual obligations expressed herein which both parties acknowledge are adequate, the parties agree as follows:

1. The Development. Kehl will construct a casino complex (the “Casino Complex”), at a location to be determined by Kehl, subject to City zoning and development approvals. The Casino Complex shall be constructed on land and will be constructed within the Casino Overlay District. The Casino Complex may be constructed in phases, but all elements must be completed and open to the public for business within 5 years of the date that the Iowa Racing & Gaming Commission approves Kehl’s operator’s license for a Davenport location.

2. Casino Complex Minimum Elements. The Casino Complex area shall consist of the following elements 2.a. - 2.d. at a minimum, with a documented total investment of at least \$100 million, to include all investments made by or on behalf of Kehl and comprised of hard costs (including furniture, fixtures and equipment), soft costs, debt, equity, development fees, taxes, fees and expenses associated with the Casino Complex and all other parking, hotel, dining, entertainment and similar facilities and amenities described in this Agreement:

- a) a Casino with a minimum of 30,000 square feet, 900 slot machines, 25 table games, poker room high stakes/VIP, players club and guest services;
- b) a hotel containing at least 95 hotel rooms (five suites), spa/fitness center, retail/gift shop, private meeting rooms and business center;
- c) a performance theatre with 1,500 tiered seats and private balcony suites; and
- d) dining venues including a 50 seat sports bar/grille, 250-seat action buffet, 80-seat fine dining steak house, 24-hour grab-n-go deli, two level center feature show lounge/bar and centralized kitchen.

3. Casino Complex Minimum Assessed Value. Kehl agrees that the total minimum assessed value for real estate tax purposes (State, County and City) for the Development elements as of January 1st following substantial completion shall be as follows:

a) Casino	\$	TBD
b) Hotel		TBD
c) Other		<u>TBD</u>
Total		<u>\$55,000,000</u>

City agrees to rebate the city portion of real estate taxes paid attributable to that portion of the assessed value that exceed \$55 million for a term of 15 years following substantial completion of the casino complex. Kehl agrees not to appeal its assessed values below the numbers agreed at any time unless an event, natural or otherwise, causes physical damage to the element and reduces its fair market value to less than 75% of the assigned value above or the casino is not operating due to legislative or regulatory action beyond the control of Kehl. Kehl agrees to execute a memorandum for recording purposes setting forth the requirements of this Section to be filed with the Scott County Recorder.

4. Casino Complex Development Fee to City. Commencing on the date the Casino Complex opens to the public Kehl shall pay 2.165% of its adjusted net gaming win, defined as adjusted gross receipts (gross receipts less winnings paid to wagers) less taxes paid under 99F, to the City calculated on a weekly basis and paid monthly (by the 20th day following the end of each month) as a Development Fee. On the fourth anniversary of the date the Casino Complex opens, the percentage shall be increased to 2.75% of adjusted net gaming win. This Development Fee shall include and be in lieu of any admission fee which the City might otherwise be authorized to adopt pursuant to 99F.10(3) of the Code of Iowa. Additionally, Kehl agrees that if it is no longer required to pay the additional 0.5% (of AGR) Gaming Tax (including any substitute tax) to City for whatever reason, the Development Fee shall be increased by any commensurate savings.

Regardless of the foregoing, in no event shall the weekly calculation of the Development Fee be less than \$15,000.

5. Casino District Development.

City shall commit any hotel tax received from the Casino Complex hotel together with one-half of the Development Fee collected to casino district improvements as determined by a six person board/committee consisting of six members, two of whom shall be appointed by the City, two by SCC and one each by the RDA and Quad Cities Chamber of Commerce. These improvements are intended to be in addition to the City's usual and customary development expenditures and supplemental to any designated improvements pursuant to any tax increment financing.

6. Casino Complex Design Approval. Final exterior design and materials to be employed in the construction of the Casino Complex are subject to approval of the City.

7. Temporary Facilities. Kehl may occupy and conduct gaming operations in the former IOC Davenport, Inc. gaming facilities – should Kehl acquire the same – on a temporary basis not to exceed three months after the Casino Complex opens to the public.

8. Further Cooperation. Kehl and City both agree to cooperate in good faith in connection with the performance of all the activities contemplated herein and to use all reasonable efforts to promptly respond to any reasonable requests or notices received by it from the other party. The parties further agree to diligently work toward executing all documents necessary to effectuating the purposes of this Agreement.

The City shall expedite all permitting, shall assist with IDOT permitting, if necessary, and will expedite City right-of-way vacations as may be mutually determined for development purposes.

The City will assist with all necessary requests to the Riverboat Development Authority (RDA), Iowa Racing and Gaming Commission (IRGC) and all administrative, legislative or judicial processes necessary to effectuate the purposes of this Agreement and exclusively to endorse issuance of an operator's license to Kehl. This Agreement is expressly subject to its approval by the IRGC and the RDA.

Notwithstanding any provision of this Agreement to the contrary, if Kehl receives an operator's license for a Davenport location but intentionally does not take action to fulfill its obligations under this Agreement, then Kehl shall reimburse City up to \$100,000 for out of pocket costs incurred which were necessary to effectuate this Agreement.

9. Termination of IOC Davenport, Inc's Agreements. Should Kehl become the successor or assignee of any lease agreements between City and IOC Davenport, Inc., such agreements shall be terminated as soon as Kehl ceases temporary use of the former IOC Davenport's gaming facilities. Any conflicts between the IOC Davenport lease agreements and agreements between City and Kehl shall be governed by the latter.

10. Term and Termination. This Agreement shall be co-terminus with Kehl's or its successors' or assigns' right to conduct gaming operations within the Davenport city limits, including any periods of renewal or extension. So long as Kehl or its successors or assigns can legally conduct a gaming operation in Davenport, this Agreement shall be in effect.

However, a party may elect to terminate this Agreement due to an uncured default. A Notice to Terminate due to an uncured default shall be given 30-days in advance and only after a reasonable period to cure (not to exceed 90 days) has been given and expired without cure. When determining a reasonable period to cure, consideration should not be given to the subjective financial circumstances of the party in default.

11. Contingent. The performance of the obligations under this Agreement are conditioned upon the IRGC approving Kehl's operator's license for a Davenport location. If no such approval occurs, this Agreement shall terminate.

12. Default. The occurrence of any one or more of the following events shall constitute a material default under and breach of this Agreement (subject to cure under Section 9):

- a) Failure to pay any amount due and payable hereunder upon the date when such payment is due;
- b) Failure to observe or perform any material obligation or covenant under this Agreement, other than the payment of Rent or other monies due, after the party in default receives notice of such failure specifying the alleged default and the applicable provision(s);
- c) Kehl violates or allows a violation of any applicable law, rule, statute, order, or regulation applicable to its gaming operations; or
- d) The appointment of a receiver to take possession of all or substantially all of Kehl's assets, an assignment by Kehl for the benefit of its creditors, or the filing of a voluntary or involuntary petition in bankruptcy by Kehl or its creditors, if such appointment, assignment, or petition remains undischarged for a period of thirty (30) days.

13. Third-party beneficiary. This Agreement shall not create nor shall it be construed to create any rights for or obligations to any third-party beneficiary.

14. Modification. This Agreement may be modified or supplemented by the parties. Any such amendment shall be in writing and signed by a duly authorized representative of the parties.

15. State of Iowa. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to City.

16. Integration. This Agreement represents the entire Agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in this Agreement.

17. Not a Joint Venture. Nothing in this Agreement shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent entity acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Agreement.

18. Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of a party, failure or delay by either party at any time to require performance by the other party or to claim a breach of any provision of the contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

19. Notice. Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows:

If to Kehl:

Scott County Casino, LLC
Attn: Dan Kehl
3184 Highway 22
Riverside, IA 52327

If to the City:

City Administrator
226 W 4th Street
Davenport, IA 52801

Each such notice shall be deemed to have been provided at the time it is actually received; or, within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or, within Three (3) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

20. Cumulative Rights. The various rights, powers, options, elections and remedies of any party provided in this Agreement, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

21. Authorization. Each party to this Agreement represents and warrants to the other party that: it has the right, power and authority to enter into and perform its obligations under this Agreement, it has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Agreement, and this Agreement constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

22. Successors in Interest. All the terms, provisions, and conditions of the Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

23. Counterparts. The parties agree that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

24. Delay or Impossibility of Construction Activity. Neither party shall be in default under this Agreement if construction activity required hereunder is delayed or made impossible by an act of God, flood, fire or similar events or civil insurrection or war. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the party. If delay results from a party's conduct, negligence or failure to perform, the party shall not be excused from compliance with their terms and obligations of this Agreement.

Kehl and City have caused this Agreement to be signed by their authorized representatives as of the date set forth above.

Scott County Casino, LLC

City of Davenport

By _____
Dan Kehl
Manager

By _____
William E. Gluba
Its Mayor

STATE OF)
) ss:
COUNTY OF)

On this ____ day of _____, 2013, before me a notary in and for said county and state, personally appeared _____, to me known, who being by me duly sworn (or affirmed) did say that is a Manager of Scott County Casino, LLC that said instrument was signed on behalf of the said organization by the authority of its board of managers and that _____ acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it and by him voluntarily executed.

Notary Public

STATE OF IOWA)
) ss:
COUNTY OF SCOTT)

On this ____ day of _____, 2013 before me, a Notary Public in and for the State of Iowa, personally appeared _____, to me personally known, and, who, being duly sworn, did say that s/he is the _____ of the City of Davenport, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Motion adopted by the City Council, under No. _____ on the ____ day of _____, 2013 and that _____ acknowledged the execution of the instrument to be her/his voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Notary Public