**UNITED STATES**
**SECURITIES AND EXCHANGE COMMISSION**
**Washington, D.C. 20549**

**FORM 10-K**

☑ **Annual Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**For the fiscal year ended: December 31, 2022**

☐ **Transition Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**For the transition period from ____ to ____**
**Commission File No. 001-32583**

# FULL HOUSE RESORTS, INC.

**(Exact name of registrant as specified in its charter)**

| **Delaware** | **13-3391527** |
|---|---|
| **(State or Other Jurisdiction of Incorporation or Organization)** | **(I.R.S. Employer Identification No.)** |

**One Summerlin, 1980 Festival Plaza Drive, Suite 680 , Las Vegas, Nevada 89135**
**(Address and zip code of principal executive offices)**

**(702) 221-7800**
**(Registrant's Telephone Number, Including Area Code)**

**Securities registered pursuant to Section 12(b) of the Act:**

| **Title of Each Class** | **Trading Symbol** | **Name of Each Exchange on Which Registered** |
|---|---|---|
| **Common Stock, $0.0001 per Share** | **FLL** | **The Nasdaq Stock Market LLC** |

**Securities registered pursuant to Section 12(g) of the Act:**
**None**
**(Title of class)**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☑

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes ☐ No ☑

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☑ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☑ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

| | | | | | |
|---|---|---|---|---|---|
| Large accelerated filer | ☐ | Accelerated filer | ☑ | Emerging growth company | ☐ |
| Non-accelerated filer | ☐ | Smaller reporting company | ☑ | | |

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☑

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☑

The aggregate market value of Registrant's voting and non-voting common stock held by non-affiliates of the Registrant, as of June 30, 2022 (the last business day of the Registrant's most recently completed second fiscal quarter), was: $198.1 million. As of March 13, 2023, there were 34,411,616 shares of common stock, $0.0001 par value per share, outstanding.

**Documents Incorporated by Reference**

The information required by Part III of this Form 10-K is incorporated by reference from the Registrant's definitive proxy statement relating to the annual meeting of stockholders to be held in 2023, which definitive proxy statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after the end of the Registrant's fiscal year ended December 31, 2022.

**FULL HOUSE RESORTS, INC.**
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## PART I

### Item 1. Business.

#### Introduction

Formed as a Delaware corporation in 1987, Full House Resorts, Inc. owns, leases, operates, develops, manages, and/or invests in casinos and related hospitality and entertainment facilities. References in this document to "Full House," the "Company," "we," "our," or "us" refer to Full House Resorts, Inc. and its subsidiaries, except where stated or the context otherwise indicates.

The Company currently operates six casinos: five on real estate that we own or lease and one located within a hotel owned by a third party. Construction continues for a seventh property, Chamonix Casino Hotel ("Chamonix"), adjacent to our existing Bronco Billy's Casino and Hotel in Cripple Creek, Colorado. We are also designing our permanent American Place casino destination, which will be built adjacent to a temporary facility that we opened in February 2023 named The Temporary by American Place ("The Temporary"). We intend to operate The Temporary until the opening of American Place. Additionally, we benefit from seven permitted sports wagering "skins" – three in Colorado, three in Indiana, and one in Illinois. Other companies currently operate or will operate these online sports wagering sites under their brands, paying us a percentage of revenues, as defined, subject to annual minimum amounts. Alternatively, we may also choose to operate any available skins ourselves in the future.

The following table presents selected information concerning our casino resort properties as of December 31, 2022:

| Segments and Properties | Locations |
|---|---|
| **Colorado** | |
| Bronco Billy's Casino and Hotel | Cripple Creek, CO (near Colorado Springs) |
| Chamonix Casino Hotel (under construction) | Cripple Creek, CO (near Colorado Springs) |
| **Illinois** | |
| The Temporary by American Place (opened on February 17, 2023) and American Place (under development) | Waukegan, IL (northern suburb of Chicago) |
| **Indiana** | |
| Rising Star Casino Resort | Rising Sun, IN (near Cincinnati) |
| **Mississippi** | |
| Silver Slipper Casino and Hotel | Hancock County, MS (near New Orleans) |
| **Nevada** | |
| Grand Lodge Casino (leased and part of the Hyatt Regency Lake Tahoe Resort, Spa and Casino) | Incline Village, NV (North Shore of Lake Tahoe) |
| Stockman's Casino | Fallon, NV (one hour east of Reno) |
| **Contracted Sports Wagering** | |
| Three sports wagering websites ("skins") | Colorado |
| Three sports wagering websites ("skins") | Indiana |
| One sports wagering website ("skin"), expected to commence Spring 2023 | Illinois |

We manage our casinos based primarily on geographic regions within the United States and type of income. Our corporate headquarters is in Las Vegas, Nevada.

Our mission is to maximize stockholder value, while also being good employers and community participants. We seek to increase revenues by providing our customers with their favorite games and amenities, high-quality customer service, and appropriate customer loyalty programs. Our customers include nearby residents who represent a high potential for repeat visits, along with drive-in tourist patrons. We continuously focus on improving the operating results of our existing properties through a combination of revenue growth and expense management efforts. The casino resort industry is capital-intensive, and we rely on the ability of our properties to generate operating cash flow to pay interest, repay debt, and fund maintenance and certain growth-related capital expenditures. We also continually assess the potential impact of growth and development opportunities, including capital investments at our existing properties, the development of new properties, and the acquisition of existing properties.

Our casino properties generally operate 24 hours each day, 365 days per year. We also operate the hotel, food and beverage, and other on-site operations at Silver Slipper Casino and Hotel ("Silver Slipper"), Bronco Billy's Casino and Hotel ("Bronco Billy's"), Rising Star Casino Resort ("Rising Star") and Stockman's Casino ("Stockman's"), as well as a golf course, recreational vehicle park ("RV park") and ferry service at Rising Star and an RV park at Silver Slipper. At Grand Lodge Casino ("Grand Lodge"), the adjoining hotel and the food and beverage outlets are managed by Hyatt Regency Lake Tahoe Resort, Spa and Casino ("Hyatt Lake Tahoe"). In February 2023, we opened The Temporary. The Temporary currently operates for 20 hours per day, which may be expanded as operations continue to ramp up and we hire more employees.

**Operating Properties**

***Silver Slipper Casino and Hotel*** *(Hancock County, Mississippi)*

The Silver Slipper is the western-most casino on the Mississippi Gulf Coast, midway between Biloxi, Mississippi and New Orleans, Louisiana. The property sits at the western end of an approximately eight-mile-long white sand beach, the closest such beach to the New Orleans and Baton Rouge metropolitan areas. Its customers are primarily from communities in southwestern Mississippi and southern Louisiana, including the North Shore of Lake Pontchartrain and the New Orleans and Baton Rouge metropolitan areas. In addition to its large, modern casino, the Silver Slipper offers 129 hotel rooms or suites, an on-site sportsbook, a fine-dining restaurant, a buffet, a quick-service restaurant, an oyster bar, a casino bar and a beachfront pool and bar. The Silver Slipper currently generates the most revenue and operating income of any of our properties.

The primary lease for the Silver Slipper includes approximately 38 acres, consisting of the seven-acre parcel on which the casino and hotel is situated and approximately 31 acres of protected marshlands. The lease term ends in April 2058. Through October 1, 2027, we have the option to buy out the lease.

We also manage a nearby 37-space, beachfront RV park under a management contract, which expires on March 31, 2025, unless canceled by either party with prior notice of 180 days.

***Bronco Billy's Casino and Hotel*** *(Cripple Creek, Colorado)*

Bronco Billy's is located in Cripple Creek, Colorado, a historical gold mining town located approximately one hour from Colorado Springs and two hours from Denver. Its customers are primarily from the Colorado Springs/Pueblo/Cañon City metropolitan area, the second-largest metropolitan area in Colorado, with a population of approximately 982,000 residents. Its secondary market, the Denver metropolitan area, has a population of approximately four million people. Bronco Billy's occupies a significant portion of the key city block of Cripple Creek's "casino strip." In addition to gaming space, it currently offers 14 hotel rooms, two casual dining outlets, and a steakhouse that was temporarily closed in May 2022 for renovation work. Bronco Billy's owns much of its real estate, but also leases certain parking lots and buildings, including a portion of the hotel and casino, under a long-term lease. The lease has six renewal options in three-year increments through January 2035, and we have the right to buy out the lease at any time during its term. We also commenced a three-year lease in August 2018 for a key corner on our block that was subsequently extended through August 2023, which also includes an option to buy out the lease.

We are allowed to offer online sports wagering through three sports "skins" in Colorado. Rather than operate these sports skins ourselves, we contracted with three companies to operate such skins under their own brands in exchange for a percentage of revenues, as defined in each contract, subject to annual minimum amounts paid to us. For Colorado, the sum of the minimum annual amounts is expected to be $3 million, including a contract that we signed in December 2022. We could receive more than $3 million on an annualized basis if our percentage-share of sports revenue exceeds our contractual minimums. We incur minimal expenses related to these revenues. As of December 31, 2022, two of our skins were live, and our third skin began its contractual term in March 2023 (see Note 9 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data").

***Chamonix Casino Hotel*** *(Cripple Creek, Colorado)*

In 2018, we began planning and design work on Chamonix, a new and distinct, luxury hotel and casino, to be located adjacent to Bronco Billy's in Cripple Creek. Following changes made to the state's gaming laws in November 2020, including the elimination of betting limits and the approval of new table games, we increased the size of Chamonix by 67% to approximately 300 luxury guest rooms and suites, from our previously-planned 180 guest rooms. Our construction budget for Chamonix is approximately $250 million. To fund such construction, on February 12, 2021 we issued $310 million aggregate principal amount of 8.25% Senior Secured Notes due 2028 (the "2028 Notes") and placed a portion of such proceeds into a restricted cash account dedicated to Chamonix's construction (see Note 6 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data"). We expect to open Chamonix in phases, beginning in the third quarter of 2023.

***Rising Star Casino Resort*** *(Rising Sun, Indiana)*

Rising Star is located on the banks of the Ohio River in Rising Sun, Indiana, approximately one hour from Cincinnati, Ohio, and within two hours of Indianapolis, Indiana, and Louisville and Lexington, Kentucky. In addition to its casino, Rising Star offers a land-based pavilion with approximately 31,500 square feet of meeting and convention space; a contiguous 190-guest-room hotel; an adjacent, leased 104-guest-room hotel set on three acres; a 56-space RV park; four dining outlets; surface parking; and an 18-hole golf course on over 230 acres. The 104-guest-room hotel is leased pursuant to an agreement that expires in October 2027 and contains a bargain purchase option, whereby we have the right to purchase the hotel and the landlord has the right to put the hotel to us, in both cases for $1 upon maturity of the lease. We also own 1.3 acres located in Burlington, Kentucky that is used as part of our ferry boat operations, which connects the more populous Boone County, Kentucky to our Rising Star property in Indiana.

We are allowed to offer online sports wagering through three sports "skins" in Indiana. As in Colorado, we contracted with three companies to operate such skins under their own brands in exchange for a percentage of revenues, as defined in each contract, subject to annual minimum amounts. The sum of the minimum annual amounts in Indiana is currently $2 million with minimal expected expenses. If our percentage-share of sports revenue exceeds our contractual minimums in one or more contracts, then we should receive in excess of $2 million from our Indiana sports agreements on an annualized basis. As of December 31, 2022, two of our skins were live; the third skin operator ceased operations on May 15, 2022. We are currently evaluating whether to operate the idle skin ourselves or find a replacement operator. There is no certainty that we will be able to enter into an agreement with a replacement operator or successfully operate it ourselves.

***Stockman's Casino*** *(Fallon, Nevada)*

Stockman's is located in Churchill County, Nevada, approximately one hour from Reno, Nevada. Stockman's primarily serves the local market of Fallon and surrounding areas, including the nearby Fallon Naval Air Station, which is the Navy's premier air training facility, informally referred to as the "Top Gun" school. In addition to its casino, Stockman's offers a bar, fine-dining restaurant and coffee shop.

***Grand Lodge Casino*** *(Incline Village, Nevada)*

We operate Grand Lodge at the Hyatt Lake Tahoe under a lease with Incline Hotel, LLC. Grand Lodge is located within the Hyatt Lake Tahoe in Incline Village, Nevada on the north shore of Lake Tahoe and includes approximately 20,990 square feet of leased space. The Hyatt Lake Tahoe is one of three AAA Four Diamond hotels in the Lake Tahoe area. Our casino's customers consist of both locals and tourists visiting the Lake Tahoe area.

Subsequent to year-end, we and our landlord extended our lease through December 31, 2024. The lease is secured by our interests under such lease, consisting of certain collateral (as defined and described in a security agreement), and is subordinate to both our 8.25% Senior Secured Notes due 2028 and Revolving Credit Facility due 2026. We own the personal property, including slot machines. The landlord currently has an option to purchase our leasehold interest and operating assets of the Grand Lodge Casino at a defined price based partially on earnings.

***American Place / The Temporary*** *(Waukegan, Illinois)*

In December 2021, we were chosen by the Illinois Gaming Board ("IGB") to develop American Place, a new gaming and entertainment destination located in Waukegan, Illinois, a northern suburb of Chicago, subject to final regulatory approvals. Waukegan is the county seat of Lake County, which has a population of approximately 714,000. According to the U.S. Census Bureau, Lake County is the third most populous county in the state, and one of the wealthier counties in both Illinois and the United States.

In February 2023, we began opening The Temporary by American Place, a temporary casino facility that we will operate while the larger, more lavish American Place facility is under construction. In Spring 2023, we expect to augment the number of available games on our casino floor and increase the hours of operation for our casino and its amenities. We also expect to open The Temporary's second restaurant in the coming weeks, followed by our fine-dining restaurant in the second quarter of 2023. When fully open, The Temporary will feature approximately 1,000 slot machines, 50 table games, a fine-dining restaurant, two additional restaurants, and a center bar.

The permanent American Place facility is slated to include a world-class casino with a state-of-the-art sports book; a premium boutique hotel comprised of 20 luxurious villas; a 1,500-seat live entertainment venue; a gourmet restaurant designed to rival the finest restaurants in Chicago; additional eateries and bars; and other amenities that will attract gaming and non-gaming patrons from throughout Chicagoland and beyond.

The Temporary and American Place are located on approximately 42 acres of land, consisting of approximately 10 acres of owned land and an adjoining approximately 32 acres that are under a 99-year lease with the City of Waukegan.

**Government Regulation**

The gaming industry is highly regulated, and we must maintain our licenses and pay gaming taxes to continue our operations. Each of our casinos is subject to extensive regulation under the laws, rules, and regulations of the jurisdiction in which it is located. These laws, rules, and regulations generally concern the responsibility, financial stability, and character of the owners, managers, and persons with financial interests in the gaming operations and include, without limitation, the following conditions and restrictions:

- Periodic license fees and taxes must be paid to state and local gaming authorities;
- Certain officers, directors, key employees, and gaming employees are required to be licensed or otherwise approved by the gaming authorities;
- Individuals who must be approved by the gaming authorities must submit comprehensive personal disclosure forms and undergo an extensive background investigation;
- Changes in any licensed or approved individuals must be reported to and/or approved by the relevant gaming authority;
- Failure to timely file the required application forms by any individual required to be approved by the relevant gaming authority may result in that individual's denial and the gaming licensee may be required by the gaming authority to disassociate with that individual; and
- If any individual is found unsuitable by a gaming authority, the gaming licensee is required to disassociate with that individual.

Violations of gaming laws in one jurisdiction could result in disciplinary action in other jurisdictions. A summary of the governmental gaming regulations to which we are subject is filed as Exhibit 99.1 and is herein incorporated by reference.

Our businesses are also subject to other various federal, state, and local laws and regulations. These laws and regulations include, but are not limited to, restrictions and conditions concerning alcoholic beverages, smoking, environmental matters, employees, currency transactions, taxation, zoning and building codes, construction, land use, and marketing and advertising. We also deal with significant amounts of cash in our operations and are subject to various reporting and anti-money laundering regulations. Such laws and regulations could change or could be interpreted differently in the future, or new laws and regulations could be enacted. Material changes, new laws or regulations, or material differences in interpretations by courts or governmental authorities could adversely affect our operating results. See Part I, Item 1A. "Risk Factors" for additional discussion.

***Costs and Effects of Compliance with Environmental Laws***

We are subject to various federal, state and local environmental laws and regulations that govern our operations, including emissions and discharges into the environment, and the handling and disposal of hazardous and non-hazardous substances and wastes. For example, our Indiana property is subject to environmental regulations for its riverboat, ferry boat and golf club operations. Our Mississippi property is located near environmental wetlands. In Colorado and Illinois, we are building major new casino hotels and such construction must also adhere to certain environmental regulations. Our Colorado facilities, for example, are in historical mining areas. Failure to comply with applicable laws and regulations could result in costs for corrective action, penalties or the imposition of other liabilities or restrictions. We also are subject to laws and regulations that impose liability and clean-up responsibility for releases of hazardous substances into the environment. Under certain of these laws and regulations, a current or previous owner or operator of the property may be liable for the costs of remediating contaminated soil or groundwater on or from its property, without regard to whether the owner or operator knew of, or caused, the contamination, and may also incur liability to third parties impacted by such contamination. The presence of contamination, or failure to remediate it properly, may adversely affect our ability to use, sell or rent the property. To date, none of these matters or other matters arising under environmental laws has had a material adverse effect on our business, financial condition, or results of operations; however, we cannot assure you that such matters will not have such an effect in the future.

**Competition**

The gaming industry is highly competitive. Gaming activities with which we compete include traditional commercial casinos and casino resorts in various states, including on tribal lands and at racetracks; state-sponsored lotteries; video poker in restaurants, bars and hotels; pari-mutuel betting on horse and dog racing and jai alai; sports betting; and card rooms. We also face competition from Internet lotteries, sweepstakes, and other Internet gaming services, beyond those in which we participate. Internet gaming services, which are legal in some states, allow customers to wager on a wide variety of sporting events and play Las Vegas-style casino games from home or in non-casino settings. Although there is no meaningful evidence to date that this has been the case, this could divert customers from our properties, and thus, adversely affect our business. All of our casinos, as well as other casinos that we may develop or acquire, compete with all these forms of gaming. We also compete with any new forms or jurisdictions of gaming that may be legalized, as well as with other types of entertainment. Some of our competitors have more personnel and greater financial or other resources than we do. The principal methods of competition are: location, with casinos located closer to their feeder markets at an advantage; casino, lodging, entertainment and other hospitality product quality in terms of facilities, customer service and ease of access; breadth of offerings, including the types of casino games and other non-gaming amenities; and marketing, including the amount, quality, and frequency of promotions offered to guests.

***Silver Slipper Casino and Hotel***

Silver Slipper is in Mississippi, but is close to the North Shore of Lake Pontchartrain, one of the most affluent and fastest-growing regions in Louisiana. Louisiana law permits 15 riverboat casinos, one land-based casino, four casinos at racetracks, and in certain areas, a limited number of slot machines at qualifying truck stops and off-track betting parlors. The legislation permitting riverboat and truck stop casinos requires a local referendum. At this time, all licenses for riverboat casinos in Louisiana have been granted and only one of such casinos is not currently in operation. In 2021, the owners of the closed casino attempted to move their gaming license from Bossier City to Slidell, Louisiana, where it would have competed with the Silver Slipper. Such efforts were not successful, as voters rejected the casino referendum by a vote of 63% to 37%. Mississippi does not have a limitation on the number of casino licenses, but requires casinos to be within approximately 800 feet of the Mississippi River shoreline or the Gulf of Mexico, as defined by state law. There are occasionally proposals to relocate casinos within Louisiana or to develop new casinos in Mississippi, but there are considerable political and economic constraints on such potential competition. Management does not believe such efforts will be successful in the foreseeable future.

***Bronco Billy's Casino and Hotel and Chamonix Casino Hotel***

Bronco Billy's and Chamonix are located in Cripple Creek, Colorado, which is a historical gold mining town located approximately one hour from Colorado Springs, on the west side of Pikes Peak. Cripple Creek is one of only three locations in Colorado where commercial gaming is permitted. The other two cities adjoin each other and are approximately one hour west of Denver and two hours from Colorado Springs. Downtown Denver and Colorado Springs are approximately 70 miles apart and certain suburbs of each metropolitan area largely merge into the other. Two Native American gaming operations also exist in southwestern Colorado and there are tribal casinos in Oklahoma, but these are much further from Colorado Springs and Denver than Cripple Creek. There are no federally-recognized Native American tribes in the Colorado Front Range, which includes Denver and Colorado Springs. As of December 31, 2022, Bronco Billy's was one of nine gaming facilities operating in Cripple Creek. One of those competitors added a 100-guest-room hotel in 2021. Chamonix, which is currently under construction, will be significantly larger and is planned to be higher in quality than any of the existing casinos in Cripple Creek.

***Rising Star Casino Resort***

Rising Star Casino Resort is located on the banks of the Ohio River in Rising Sun, Indiana, approximately one hour from Cincinnati, Ohio, and within two hours of Indianapolis, Indiana, and Louisville and Lexington, Kentucky. One of three riverboat casinos in southeastern Indiana, its closest competitors are each approximately 15 miles away, near bridges crossing the Ohio River. There is no bridge at Rising Star, but in September 2018, we commenced a ferry boat service connecting Rising Sun, Indiana, to the populous Northern Kentucky region. Rising Star also competes with a large land-based casino near Louisville; casinos in Ohio and elsewhere in Indiana; and slot parlors associated with racetracks in Kentucky. A significant slot parlor associated with a racetrack opened in Northern Kentucky in September 2022.

***Stockman's Casino***

Stockman's Casino is the largest of several casinos in Churchill County, Nevada, which has a population of approximately 25,000 residents. Churchill County is also the home of the Fallon Naval Air Station, the United States Navy's premier air training facility, informally referred to as the "Top Gun" school. While the Navy appears to be expanding its base in Fallon, a reduction of its activities at the base would likely have an adverse effect on Stockman's results of operations. Fallon is approximately 30 minutes east of the large Tesla battery factory and other developments in the Tahoe-Reno Industrial Center. Stockman's also competes with casinos in other rural communities in the area, as well as with casinos in Reno, some of which are significantly larger and offer more amenities.

***Grand Lodge Casino***

Grand Lodge is located in Incline Village, Nevada, and is one of four casinos located within a five-mile radius in the North Lake Tahoe area.

Grand Lodge Casino also competes with casinos in South Lake Tahoe and Reno. There are also numerous Native American casinos in California serving the Northern California market.

***American Place / The Temporary***

The Temporary (and, upon opening, American Place) compete against two existing casinos which primarily serve the suburbs north of Chicago, a tribal casino in Milwaukee, and slot machines in bars (limited to six machines per bar) in many parts of Illinois. The Temporary is the only full-service casino in Lake County, Illinois, which has a population of approximately 700,000 residents. Including areas neighboring Lake County, we estimate that The Temporary is the closest casino to more than one million individuals. The permanent American Place facility is being designed to offer more, and better, amenities than any other casino operating today in Illinois.

**Marketing**

Our marketing efforts are conducted through various means, including our customer loyalty programs and specialized marketing campaigns, such as our seasonal "Christmas Casino" event at Rising Star Casino Resort. We advertise through various channels, including radio, television, Internet, billboards, newspapers and magazines, direct mail, email and social media. We also maintain websites to inform customers about our properties and utilize social media sites to promote our brands, unique events, and special deals. Our customer loyalty programs include the Slipper Rewards Club, the Bronco Billy's Mile High Rewards Club, the Rising Star VIP Club, the Grand Lodge Players Advantage Club®, the Stockman's Winner's Club, and Legacy Rewards. Under these programs, customers earn points based on their volume of wagering that may be redeemed for various benefits, such as "free play," complimentary dining, and hotel stays.

Our properties do not have coordinated loyalty programs, due to the disparate locations of our properties. Instead, our loyalty programs focus on providing each casino's customers the amenities they most prefer in each market.

**Intellectual Property**

We use a variety of trademarks, patents and copyrights in our operations and believe that we have all the licenses necessary to conduct our continuing operations. We have registered several trademarks with the United States Patent and Trademark Office or otherwise acquired the licenses to use certain trademarks, patents and copyrights that are material to conduct our business.

**Employees**

As of March 1, 2023, we had 13 full-time corporate employees, four of whom are executive officers and one additional senior management employee. Our casino properties had 1,268 full-time and 259 part-time employees, as follows:

| | March 1, 2023 | |
|---|---|---|
| **Employee Count by Property / Location** | **Full-time** | **Part-time** |
| Silver Slipper Casino and Hotel | 437 | 62 |
| Bronco Billy's Casino and Hotel | 150 | 61 |
| Rising Star Casino Resort | 215 | 81 |
| Grand Lodge Casino | 73 | 25 |
| Stockman's Casino | 53 | 7 |
| The Temporary / American Place | 340 | 23 |
| Corporate | 13 | — |
| Total Employees | 1,281 | 259 |

We believe that our relationship with our employees is excellent. None of our employees are currently represented by labor unions.

**Available Information**

Our principal executive offices are located at Full House Resorts, Inc., One Summerlin, 1980 Festival Plaza Drive, Suite 680, Las Vegas, Nevada 89135, and our telephone number is (702) 221-7800. Our website address is www.fullhouseresorts.com. We make available, free of charge, on or through our Internet website, our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. Our Internet website and information contained on our Internet website are not part of this Annual Report on Form 10-K and are not incorporated by reference herein.

**Cautionary Note Regarding Forward-Looking Statements**

This Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act") for which the Private Securities Litigation Reform Act of 1995 provides a safe harbor. These forward-looking statements can be identified by use of terms such as "believes," "expects," "anticipates," "estimates," "plans," "intends," "objectives," "goals," "aims," "projects," "forecasts," "future," "possible," "seeks," "may," "could," "should," "will," "might," "likely," "enable," or similar words or expressions, as well as statements containing phrases such as "in our view," "we cannot assure you," "although no assurance can be given," or "there is no way to anticipate with certainty." Examples of forward-looking statements include, among others, statements we make regarding our plans, beliefs or expectations regarding our growth strategies; our expected construction budgets, estimated commencement and completion dates, expected amenities, and our expected operational performance for Chamonix and American Place; our expected operational performance for The Temporary; our investments in capital improvements and other projects, including the amounts of such investments, the timing of commencement or completion of such capital improvements and projects and the resulting impact on our financial results; our sports wagering contracts with third-party providers, including the expected revenues and expenses and our expectations regarding our ability to replace our terminated sports wagering contract in Indiana or to operate sports wagering contracts ourselves; our expectation to exercise our buyout option on the Silver Slipper Casino and Hotel; adequacy of our financial resources to fund operating requirements and planned capital expenditures and to meet our debt and contractual obligations; expected sources of revenue; anticipated sources of funds; anticipated or potential legislative actions; beliefs in connection with our marketing efforts; factors that affect the financial performance of our properties; adequacy of our insurance; competitive outlook; outcome of legal matters; impact of recently issued accounting standards; and estimates regarding certain accounting and tax matters, among others.

Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based only on our current beliefs, expectations and assumptions regarding the future of our business, future plans and strategies, projections, anticipated events and trends, the economy and other future conditions. Because forward-looking statements relate to the future, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict and many of which are outside of our control. Our actual results and financial condition may differ materially from those indicated in the forward-looking statements. Therefore, you should not rely on any of these forward-looking statements. Important factors that could cause our actual results and financial condition to differ materially from those indicated in the forward-looking statements include, among others, the factors as discussed throughout Part I, Item 1A. "Risk Factors" and Part II, Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations" of this Annual Report on Form 10-K.

These forward-looking statements speak only as of the date on which this statement is made, and we undertake no obligation to update or revise any forward-looking statements as a result of future developments, events or conditions, except as required by law. New risks emerge from time to time and it is not possible for us to predict all such risk factors, nor can we assess the impact of all such risk factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ significantly from those forecast in any forward-looking statements. You should also be aware that while we communicate from time to time with securities analysts, we do not disclose to them any material non-public information, internal forecasts or other confidential business information. Therefore, you should not assume that we agree with any statement or report issued by any analyst, irrespective of the content of the statement or report. To the extent that reports issued by securities analysts contain projections, forecasts or opinions, those reports are not our responsibility and are not endorsed by us.

**Item 1A. Risk Factors.**

An investment in our securities is subject to risks inherent to our business. We have described below what we currently believe to be the material risks and uncertainties in our business. Before making an investment decision, you should carefully consider the risks and uncertainties described below, together with all of the other information included or incorporated by reference in this Annual Report on Form 10-K.

We also face other risks and uncertainties beyond what is described below. This Annual Report on Form 10-K is qualified in its entirety by these risk factors. If any of the following risks actually occur, our business, financial condition and results of operations could be materially and adversely affected. If this were to happen, the value of securities, including our common stock, could decline significantly. You could lose all or part of your investment.

**Summary of Risk Factors**

The following is a summary of the risk factors discussed in Part I, Item 1A. "Risk Factors" of this Form 10-K. This summary should be read in conjunction with those Risk Factors and should not be relied upon as an exhaustive summary of the material risks facing our business.

**Risks Related to our Business and Operations**

- We face significant competition from other gaming and entertainment operations.
- We may face revenue declines if discretionary consumer spending drops due to an economic downturn.
- We cannot assure you that any of our contracted sports betting parties, through the use of our permitted website "skins," will be able to compete effectively, that our contracted sports parties will have the ability and/or willingness to sustain sports betting operations should they experience an extended period of unprofitability, or that we will have the ability to replace existing partners or vendors on similar terms as our existing contractual revenue minimums.
- Marine transportation is inherently risky, and insurance may be insufficient to cover losses that may occur to our assets or result from our ferry boat operations.
- Our Mississippi casino hotel currently generates a significant percentage of our revenues and Adjusted EBITDA. Our ability to meet our operating and debt service requirements is dependent, in part, upon the continued success of that property.
- We derive our revenues and operating income from our properties located in Mississippi, Colorado, Indiana, Nevada and Illinois, and are especially subject to certain risks, including economic and competitive risks, associated with the conditions in those areas and in the states from which we draw patrons.
- Some of our operations are located on leased property. If the lessor of the Grand Lodge Casino exercises its buyout rights or if we default on this or certain of our other leases, the applicable lessors could terminate the affected leases and we could lose possession of the affected casino.
- A prolonged closure of our casinos would negatively impact our ability to service our debt.
- The impact of the ongoing COVID-19 pandemic on our business and results of operations remains uncertain.
- Adverse weather conditions, road construction, gasoline shortages and other factors affecting our facilities and the areas in which we operate could make it more difficult for potential customers to travel to our properties and deter customers from visiting our properties.
- Our results of operations and financial condition could be materially adversely affected by the occurrence of natural disasters, including as a result of climate change, such as hurricanes, floods, wildfires, pandemics, epidemics, widespread health emergencies, or outbreaks of infectious diseases such as the coronavirus pandemic, or other catastrophic events, including war, terrorism and gun violence.
- Several of our properties, including Silver Slipper, Bronco Billy's and Rising Star, are accessed by our customers via routes that have few alternatives.
- We may incur property and other losses that are not adequately covered by insurance, including adequate levels of Weather Catastrophe Occurrence/Named Windstorm, Flood and Earthquake insurance coverage for our properties.
- We depend on our key personnel and our ability to attract and retain employees.
- Higher wage and benefit costs could adversely affect our business.
- Rising operating costs at our gaming properties could have a negative impact on our business.
- We face the risk of fraud and cheating.
- Win rates for our gaming operations depend on a variety of factors, some beyond our control.
- The concentration and evolution of the slot machine manufacturing industry could impose additional costs on us.
- Our business may be adversely affected by legislation prohibiting tobacco smoking.
- We rely on, among other things, trademarks, licenses, confidentiality procedures, and contractual provisions to protect our intellectual property rights and we may be unable to protect or may not be successful in protecting our intellectual property rights.
- Our commercial success depends upon us avoiding the infringement of intellectual property rights owned by others and any such infringements, including those that are inadvertent, may have a material adverse effect on our business.
- We are subject to risks related to corporate social responsibility and reputation.

**Risks Related to Development and Growth Opportunities**

- We are engaged from time to time in one or more construction and development projects, including Chamonix and American Place, and many factors could prevent us from completing them as planned.
- The construction costs for our growth projects, including Chamonix and American Place, may exceed budgeted amounts plus contingencies, which may result in insufficient funds to complete these projects or the need to raise additional capital.
- There is no assurance that our growth projects, including Chamonix and American Place, will not be subject to additional regulatory restrictions, delays, or challenges.
- There is no assurance that our growth projects, including Chamonix and American Place, will be successful.
- Failure to comply with the terms of our construction disbursement agreement related to Chamonix could limit our access to funds.
- We face a number of challenges prior to opening new or upgraded facilities.
- We may face disruption and other difficulties in integrating and managing facilities we have recently developed or acquired, or may develop or acquire in the future.
- The construction of Chamonix and American Place may inconvenience customers and disrupt business activity at the adjoining Bronco Billy's casino and the Temporary, respectively.
- The permanent American Place facility, additional growth projects or potential enhancements at our properties may require us to raise additional capital.
- The casino, hotel and resort industry is capital intensive, and we may not be able to finance expansion and renovation projects, which could put us at a competitive disadvantage.
- We may face risks related to our ability to receive regulatory approvals required to complete certain acquisitions, mergers, joint ventures, and other developments, as well as other potential delays in completing certain transactions.
- If we fail to obtain necessary government approvals in a timely manner, or at all, it can adversely impact our various expansion, development, investment and renovation projects.
- Insufficient or lower-than-expected results generated from our new developments and acquired properties may negatively affect our operating results and financial condition.

**Risks Related to our Indebtedness**

- Our significant indebtedness could adversely affect our financial health and prevent us from fulfilling our obligations.
- The indenture governing the Notes and the Credit Facility impose restrictive covenants and limitations that could significantly affect our ability to operate our business and lead to events of default if we do not comply with the covenants.
- To service our indebtedness, we will require a significant amount of cash. Our ability to generate cash depends on many factors beyond our control.
- We may not be able to generate sufficient cash flows to service all of our indebtedness and fund our operating expenses, working capital needs and capital expenditures, and we may be forced to take other actions to satisfy our obligations under our indebtedness, which may not be successful.
- We depend on our subsidiaries for certain dividends, distributions and repayment of our indebtedness, including the Notes and any borrowings under the Credit Facility.
- Our ability to obtain additional financing on commercially reasonable terms may be limited.
- The obligations under the Notes and the Credit Facility are collateralized by a security interest in substantially all of our assets, so if we default on those obligations, the holders of the Notes and lenders under the Credit Facility could foreclose on our assets. In addition, the existence of these security interests may adversely affect our financial flexibility.
- We and our subsidiaries may still be able to incur substantially more debt, which could further exacerbate the risks described above.

**Risks Related to our Legal and Regulatory Environment**

- We face extensive regulation from gaming and other regulatory authorities and the cost of compliance or failure to comply with such regulations may adversely affect our business and results of operations.
- Changes in legislation and regulation of our business could have an adverse effect on our financial condition, results of operations and cash flows.
- Stockholders may be required to dispose of their shares of our common stock if they are found unsuitable by gaming authorities.

- We are subject to environmental laws and potential exposure to environmental liabilities.
- We are subject to litigation which, if adversely determined, could cause us to incur substantial losses.
- Our ferry boat service is highly regulated, which can adversely affect our operations.

**Risks Related to Technology**

- Our gaming operations rely heavily on technology services and an uninterrupted supply of electrical power. If we experience damage or service interruptions, we may have to cease some or all of our operations, which will result in a decrease in revenue.
- Our information technology and other systems are subject to cyber-security risk, misappropriation of customer information and other breaches of information security.

**General Risks**

- Our ability to utilize our net operating loss ("NOL") carryforwards and certain other tax attributes may be limited.
- The market price for our common stock may be volatile, and investors may not be able to sell their stock at a favorable price, or at all.
- The exercise of outstanding options to purchase common stock may result in substantial dilution and may depress the trading price of our common stock.

**Risks Related to our Business and Operations**

***We face significant competition from other gaming and entertainment operations.***

The gaming industry is characterized by an increasingly high degree of competition among a large number of participants. Our casinos and contracted sport wagering businesses compete with other forms of gaming, such as casinos, racetracks, state-sponsored lotteries, sweepstakes, charitable gaming, video gaming terminals at bars, restaurants, taverns and truck stops, illegal slot machines and skill games, fantasy sports and internet or mobile-based gaming platforms, including online gaming and sports betting. Certain state and other jurisdictions are considering expansion of such forms of gaming. Each of these could divert customers from our casinos and services, and thus materially and adversely affect our business.

In most markets, we compete directly with other casino facilities operating in the immediate and surrounding market areas. In some markets, we face competition from nearby markets in addition to direct competition within our market areas. As competing properties and new markets are opened, our operating results may be negatively impacted. In addition, some of our direct competitors in certain markets may have superior facilities and/or operating conditions. We expect each existing or future market in which we participate to be highly competitive. The competitive position of each of our casino properties is discussed in Part I, Item 1. "Business – Competition."

In a broader sense, our casinos and sports wagering businesses face competition from all manner of leisure and entertainment activities, including other non-gaming resorts and vacation destinations, shopping, athletic events, television and movies, concerts, and travel.

***We may face revenue declines if discretionary consumer spending drops due to an economic downturn.***

Our revenues are highly dependent upon the volume and spending levels of customers at our properties and, as such, our business has been in the past, and could be in the future, adversely impacted by economic downturns. Decreases in discretionary consumer spending brought about by factors such as, but not limited to, lackluster recoveries from recessions; increases in costs of goods and services due to continued or increased inflationary pressures; pandemics, epidemics, widespread health emergencies, or outbreaks of infectious diseases such as COVID-19; high unemployment levels; higher income taxes; low levels of consumer confidence; weakness or uncertainty in the housing market; cultural and demographic changes; the impact of high energy, fuel, food and healthcare costs; fears of war or actual conflicts, such as the Russian invasion of Ukraine, civil unrest, terrorism or violence; and increased stock market volatility may negatively impact our revenues and operating cash flow. This could lead to a reduction in discretionary spending by our guests on entertainment and leisure activities, which could have a material adverse effect on our revenues, cash flow and results of operations. Furthermore, during periods of economic contraction, our revenues may decrease while many of our costs remain fixed and some costs may increase, resulting in decreased earnings.

***We cannot assure you that any of our contracted sports betting parties, through the use of our permitted website "skins," will be able to compete effectively, that our contracted sports parties will have the ability and/or willingness to sustain sports betting operations should they experience an extended period of unprofitability, or that we will have the ability to replace existing partners or vendors on similar terms as our existing contractual revenue minimums or operate the skins ourselves.***

Our contracted sports betting parties, through the use of our permitted website "skins," compete in a rapidly evolving and highly competitive market against an increasing number of competitors. The success of their sports betting operations is dependent on a number of factors that are beyond their control, and ours, including the ultimate tax rates and license fees charged by jurisdictions across the United States; their ability to gain market share in a newly developing market; the timeliness and the technological and popular viability of their products; their ability to compete with new entrants in the market; changes in consumer demographics and public tastes and preferences; and the availability and popularity of other forms of entertainment. While our current agreements with our contracted sports betting parties provide us with contractual minimums for revenue upon their launch of operations, we cannot assure you that any of our contracted sports parties will be able to compete effectively or that they will have the ability or willingness to sustain sports betting operations for an extended period of unprofitability. Should any of our contracted sports betting parties cease operations, whether due to unprofitability or for other reasons, there can be no assurance that we will be able to replace them on similar terms as our existing agreements or at all, or that we will be able to successfully operate the skins ourselves.

***Marine transportation is inherently risky, and insurance may be insufficient to cover losses that may occur to our assets or result from our ferry boat operations.***

The operation of our ferry boat is subject to various inherent risks, including:

- catastrophic marine disasters and accidents;
- adverse weather conditions or natural disasters;
- mechanical failure or equipment damage;
- hazardous substance spills; and
- navigation and human errors.

The occurrence of any of these events may result in, among other things, damage to or loss of our ferry boat, damage to other vessels and the environment, loss of revenues, short-term or long-term interruption of ferry boat service, termination of our vessel charter or other contracts, fines, penalties or other restrictions on conducting business, damage to our reputation and customer relationships, and death or injury to personnel and passengers. Such occurrences may also result in a significant increase in our operating costs or liability to third parties.

***Our Mississippi casino hotel currently generates a significant percentage of our revenues and Adjusted EBITDA. Our ability to meet our operating and debt service requirements is dependent, in part, upon the continued success of that property.***

For the year ended December 31, 2022, we generated 49.5% of our revenues and 51.7% of our Adjusted Segment EBITDA from our casino resort in Mississippi. Therefore, until our new developments are operating, our results will be dependent on the regional economies and competitive landscapes at our Mississippi property. Likewise, our ability to meet our operating and debt service requirements is dependent, in part, upon the continued success of this property.

***We derive our revenues and operating income from our properties located in Mississippi, Colorado, Indiana, Nevada and Illinois, and are especially subject to certain risks, including economic and competitive risks, associated with the conditions in those areas and in the states from which we draw patrons.***

Because we derive our revenues and operating income from properties concentrated in five states, we are subject to greater risks from regional conditions than a gaming company with operating properties in a greater number of different geographic regions. A decrease in revenues from, or an increase in costs for, one of these locations is likely to have a proportionally greater impact on our business and operations than it would for a gaming company with more geographically diverse operating properties. Risks from regional conditions include the following:

- regional economic conditions;
- regional competitive conditions, including legalization or expansion of gaming in Mississippi, Colorado, Indiana, Nevada, Illinois or in neighboring states;
- allowance of new types of gaming, such as the introduction of online sports wagering in Louisiana or Internet gaming;
- reduced land or air travel due to increasing fuel costs or transportation disruptions; and,
- vulnerability to regional economic downturns in the markets in which we operate.

***Some of our operations are located on leased property. If the lessor of the Grand Lodge Casino exercises its buyout rights or if we default on this or certain of our other leases, the applicable lessors could terminate the affected leases and we could lose possession of the affected casino.***

We lease certain parcels of land at our Silver Slipper Casino and Hotel in Mississippi, certain land and buildings at Bronco Billy's Hotel and Casino in Colorado (much of which is to be utilized for Chamonix), one of the two hotels at our Rising Star Casino Resort in Indiana, and certain parcels at American Place in Illinois. We also lease casino space at our Grand Lodge Casino in Nevada. Unless we have a purchase option under such leases and exercise such option, we will have no interest in the improvements thereon at the expiration of the leases. We have purchase options on substantially all of our leased property, except for our corporate offices and the Grand Lodge Casino. It is either currently more advantageous for us to continue to lease rather than exercise such buyout options, or we have certain restrictions which only allow us to exercise the purchase option during certain future time periods. The obligations under the Notes and the Credit Facility are collateralized by a security interest in substantially all of our assets. The Notes contain representations and warranties, financial covenants, and restrictions on dividends customary for notes of this type. Mandatory prepayments, in whole or in part, of the Notes will be required upon the occurrence of certain events, including sales of certain assets, upon certain changes of control, or should the Company have certain unused funds in the construction disbursement account following the completion of Chamonix. The Credit Facility contains a number of negative covenants that, subject to certain exceptions, are substantially similar to the covenants contained in the Notes. The Credit Facility also requires compliance with a financial covenant as of the last day of each fiscal quarter, such that Adjusted EBITDA (as defined) for the trailing twelve-month period must equal or exceed the utilized portion of the Credit Facility, if drawn. Under certain circumstances and at the expirations of the underlying leases, we might be forced to exercise our buyout options in order to continue to operate those properties. There is no certainty that the funds could be raised at that time at a reasonable cost, or at all, to exercise some or all of the buyout options. The operating lease at the Grand Lodge Casino, which is set to expire on December 31, 2024, includes certain lessor buyout rights based upon a multiple of EBITDA that, if exercised, could result in the lessor purchasing our leasehold interest and the operating assets on terms that may be less than fair market value or financially unfavorable to us. Since we do not completely control the land, buildings, hotel and space underlying our leased properties, a lessor could take certain actions to disrupt our rights under the long-term leases, which are beyond our control. If the entity owning any leased land, buildings, hotel or space were to disrupt our use either permanently or for a significant period of time, and we were not in a position to exercise our buyout rights at that time, then the value of our assets could be impaired and our business and operations could be adversely affected. If we were to default on the lease, then the lessor could terminate the affected lease and we could lose possession of the affected land, buildings, hotel or space and any improvements thereon. The loss of the lease through exercise of buyout rights or through termination upon default could have a significant adverse effect on our business, financial condition and results of operations as we would then be unable to operate all or portions of the affected facilities, which, in turn, may result in a default under our debt agreements.

***A prolonged closure of our casinos would negatively impact our ability to service our debt.***

Our casinos are our primary sources of income and operating cash flows that we rely upon to pay all of our obligations and to remain in compliance with debt covenants under any indebtedness we may incur and meet our obligations when due. Because we operate in several different jurisdictions, we are subject to different legal and market conditions in order to remain open. We have no control over and cannot predict the length of any future operating restrictions or future closures of our casinos and hotels. Any required closures may require us to seek to amend our debt agreements, though there is no certainty that we would be successful in such efforts. Additionally, we may be required to seek additional liquidity through the issuance of new debt or equity, or through the sale of certain assets. Our ability to obtain additional financing would depend in part on factors outside of our control.

***The impact of the ongoing COVID-19 pandemic on our business and results of operations remains uncertain.***

The extent of the ongoing and future effects of pandemics, including COVID-19 and new variants, on our business remains uncertain and depends on a number of factors that are beyond our control, including the possibility that governmental regulations and directives enacted in the future may limit the operations of our properties or prohibit or discourage customers from visiting our properties. Our ability to attract customers to our properties and results of operations would be negatively impacted if we were required to reinstate limitations on the number of customers present in our facilities, reduce gaming operations, restrict hotel, food and beverage outlets or special events or implement other social distancing or health and safety measures. In addition, even as the COVID-19 pandemic subsides, the disruption already caused by the COVID-19 pandemic may still lead to prolonged changes in consumer behavior, the effects of which are still yet to be fully realized. The ultimate economic impacts to us of the evolving COVID-19 pandemic are uncertain and difficult to predict and could adversely impact our business, financial condition and results of operations.

***Adverse weather conditions, road construction, gasoline shortages and other factors affecting our facilities and the areas in which we operate could make it more difficult for potential customers to travel to our properties and deter customers from visiting our properties.***

Our continued success depends upon our ability to draw customers from each of the geographic markets in which we operate. Adverse weather conditions or road construction can deter our customers from traveling to our facilities or make it difficult for them to frequent our properties. In recent years, there were severe cold temperatures that we believe adversely affected our Indiana and Mississippi properties' financial performance, and historically abnormal snow levels and forest fires in the Lake Tahoe region adversely affected visitation and financial performance at Grand Lodge. Moreover, gasoline shortages or fuel price increases could make it more difficult for potential customers to travel to our properties and deter customers from visiting. Our dockside gaming facility in Indiana, as well as any additional riverboat or dockside casino properties that might be developed or acquired, are also subject to risks, in addition to those associated with land-based casinos, which could disrupt our operations. Although our Indiana casino vessel does not leave its moorings in normal operations, there are risks associated with the movement or mooring of vessels on waterways, including risks of casualty due to river turbulence, flooding, collisions with other vessels and severe weather conditions. Our ferry boat that we operate at Rising Star has similar risks as our Indiana casino vessel, as well as additional risks related to ferry boat operations.

***Our results of operations and financial condition could be materially adversely affected by the occurrence of natural disasters, including as a result of climate change, such as hurricanes, floods, wildfires, pandemics, epidemics, widespread health emergencies, or outbreaks of infectious diseases such as the coronavirus pandemic, or other catastrophic events, including war, terrorism and gun violence.***

Natural disasters and extreme weather conditions, potentially exacerbated by climate change, such as major hurricanes, tornadoes, typhoons, floods, fires and earthquakes, could adversely affect our business and operating results. Certain of our properties are located in areas that may be subject to extreme weather conditions. Hurricanes are common in the area in which our Mississippi property is located, and the severity of such natural disasters is unpredictable. In October 2020, Hurricane Zeta caused the temporary closure of the Silver Slipper and caused approximately $5 million of damage, most of which was covered by insurance. In 2005, prior to the development of the Silver Slipper, Hurricanes Katrina and Rita caused significant damage in the Gulf Coast region. Additionally, our Indiana property is at risk of flooding due to its proximity to the Ohio River. Wildfires are also increasing in frequency and intensity, and the Western United States and the Rocky Mountain Region have been experiencing continuing drought conditions. Conversely, recent months have seen larger than normal snowfall in the Lake Tahoe region, sometimes impacting regional travel. Bronco Billy's and Grand Lodge were adversely affected by nearby forest fires and the impacts therefrom. Changes in federal, state, and local legislation and regulation based on concerns about climate change could result in increased regulatory costs, which may include capital expenditures at our existing properties to ensure compliance with any new or updated regulations. This may also adversely affect our operations. There can be no assurance that the potential impacts of climate change and severe weather will not have a material adverse effect on our properties, operations or business.

If a pandemic, epidemic or outbreak of an infectious disease, such as the COVID-19 pandemic, occurs in the United States or on a global scale, our business may be adversely affected. As described elsewhere in these Risk Factors, such events may result in closures of our properties, a period of business disruption, and/or in reduced operations, any of which could materially affect our business, financial condition and results of operations.

Catastrophic events, such as terrorist and war activities in the United States and elsewhere, when they occur, have had a negative effect on travel and leisure expenditures, including lodging, gaming and tourism. Gun violence has also occurred at casinos, including a mass shooting at a casino in Las Vegas in 2017. We cannot accurately predict the extent to which such events may affect us, directly or indirectly, in the future. There also can be no assurance that we will be able to obtain or choose to purchase any insurance coverage with respect to occurrences of terrorist and violent acts and any losses that could result from these acts. If there is a prolonged disruption at our properties due to natural disasters, terrorist attacks or other catastrophic events, our results of operations and financial condition could be materially adversely affected.

***Several of our properties, including Silver Slipper, Bronco Billy's and Rising Star, are accessed by our customers via routes that have few alternatives.***

The Silver Slipper is located at the end of a dead-end road, with no other access. Bronco Billy's is accessed by most guests via a mountain pass; if that pass is closed for any reason, the alternative is longer. Rising Star's primary access from Cincinnati is via a road alongside the Ohio River; if this road is closed, for example, by flooding, the alternative routes involve a ferry boat or more winding roads through the rolling hills inland from the river. If access to any of these roads is blocked for any significant period, our results of operations and financial condition could be materially affected.

***We may incur property and other losses that are not adequately covered by insurance, including adequate levels of Weather Catastrophe Occurrence/Named Windstorm, Flood and Earthquake insurance coverage for our properties.***

Although we maintain insurance that our management believes is customary and appropriate for our business, there can be no assurance that insurance will be available at reasonable costs in any given year or adequate to cover all losses and damage to which our business or our assets might be subjected. The lack of adequate insurance for certain types or levels of risk could expose us to significant losses in the event that a catastrophe occurred for which we are uninsured or under-insured. Any losses we incur that are not adequately covered by insurance may decrease our future operating income, require us to find replacements or repairs for destroyed property, and reduce the funds available for payments of our obligations. In addition, certain casualty events, such as labor strikes, nuclear events, acts of war, declines in visitation and loss of income due to fear of terrorism or other acts of violence, loss of electrical power due to catastrophic events, rolling blackouts or otherwise, deterioration or corrosion, insect or animal damage, pandemic-related shutdowns and pollution, may not be covered at all under our policies. The occurrence of any of the foregoing could, therefore, expose us to substantial uninsured losses.

There is no certainty that insurance companies will continue to offer insurance at acceptable rates, or at all, in hurricane-prone areas or other areas affected by extreme weather, including the Mississippi Gulf Coast. Some insurance companies may significantly limit the amount of coverage they will write in these markets and increase the premiums charged for this coverage. Additionally, uncertainty can occur as to the viability of certain insurance companies. While we believe that the insurance companies from which we have purchased insurance policies will remain solvent, there is no certainty that this will be the case.

***We depend on our key personnel and our ability to attract and retain employees.***

We are highly dependent on the services of our executive management team and other members of our senior management team. Our ability to attract and retain key personnel is affected by the competitiveness of our compensation packages and the other terms and conditions of employment, our continued ability to compete effectively against other gaming companies, and our growth prospects. The loss of the services of any members of our senior management team could have a material adverse effect on our business, financial condition and results of operations. We have faced increased challenges in attracting and retaining qualified employees, particularly in light of recent labor shortages, including increased employee resignations that took place throughout the United States as a result of the COVID-19 pandemic. If we fail to retain our current employees, it would be difficult and costly to identify, recruit and train replacements needed to continue to conduct and expand our business. There can be no assurance that we will be able to retain and motivate our employees.

***Higher wage and benefit costs could adversely affect our business.***

While the majority of our employees earn more than the minimum wage in their relative jurisdictions and many receive medical plan benefits from us, changes in federal and state minimum wage laws and other laws relating to employee benefits, including the Patient Protection and Affordable Care Act, have in the past, and could in the future, cause us to incur additional wage and benefits costs. Increased labor costs brought about by changes in either federal or state minimum wage laws, other regulations or prevailing market conditions have recently, and could in the future, further increase our expenses, which could have an adverse impact on our profitability, or decrease the number of employees we are able to employ, which could decrease customer service levels at our gaming facilities and therefore adversely impact revenues.

***Rising operating costs at our gaming properties could have a negative impact on our business.***

The operating expenses associated with our gaming properties could increase due to, among other reasons, the following factors:

- continued or increased inflationary pressures;
- supply chain issues that are beyond our control;
- changes in federal, state or local tax or regulations, including gaming regulations or gaming taxes, could impose additional restrictions or increase our operating costs;
- aggressive marketing and promotional campaigns by our competitors for an extended period of time could force us to increase our expenditures for marketing and promotional campaigns in order to maintain our existing customer base or attract new customers;
- as our properties age, we may need to increase our expenditures for repairs, maintenance, and to replace equipment necessary to operate our business in amounts greater than what we have spent historically;
- our reliance on slot play revenues and any additional costs imposed on us from slot machine vendors;
- availability and cost of the many products and services we provide our customers, including food, beverages, retail items, entertainment, hotel rooms, spa and golf;
- availability and costs associated with insurance;
- increases in costs of labor;
- our properties use significant amounts of electricity, natural gas and other forms of energy, and energy price increases may adversely affect our cost structure;
- our properties use significant amounts of water, and a water shortage may adversely affect our operations; and
- at Grand Lodge, we rely on Hyatt Lake Tahoe to provide certain items at reasonable costs, including food, beverages, parking and rooms. Any change in its pricing or the availability of such items may affect our ability to compete.

If our operating expenses increase without any offsetting increase in our revenues, our results of operations would suffer.

***We face the risk of fraud and cheating.***

Our gaming customers may attempt or commit fraud or cheat in order to increase winnings. Acts of fraud or cheating could involve the use of counterfeit chips or other tactics, possibly in collusion with our employees. Internal acts of cheating could also be conducted by employees directly or through collusion with dealers, surveillance staff, floor managers or other casino or gaming area staff. While we carry insurance for employee theft, such insurance may not cover all or any of such losses. Failure to discover such acts or schemes in a timely manner could result in losses in our gaming operations. In addition, negative publicity related to such schemes could have an adverse effect on our reputation, potentially causing a material adverse effect on our business, financial condition, results of operations and cash flows.

***Win rates for our gaming operations depend on a variety of factors, some beyond our control.***

The gaming industry is characterized by an element of chance. In addition to the element of chance, win rates are also affected by other factors, including players' skill and experience, the mix of games played, the financial resources of players, the spread of table limits, the volume of bets played and the amount of time played. Our gaming profits are mainly derived from the difference between our casino winnings and the casino winnings of our gaming customers. Since there is an inherent element of chance in the gaming industry, we do not have full control over our winnings or the winnings of our gaming customers. If our winnings do not exceed the winnings of our gaming customers by enough to cover our operating costs, we may record a loss from our gaming operations, which could have a material adverse effect on our business, financial condition, results of operations and cash flows.

***The concentration and evolution of the slot machine manufacturing industry could impose additional costs on us.***

A majority of our revenues are attributable to slot machines and related systems operated by us at our gaming facilities. It is important, for competitive reasons, that we offer popular and up-to-date slot machine games to our customers. A substantial majority of the slot machines sold in the U.S. in recent years were manufactured by only a few companies, and there has been recent consolidation activity within the gaming equipment sector. In recent years, slot machine manufacturers have frequently refused to sell slot machines featuring the most popular games, instead requiring participation lease arrangements. Participation slot machine leasing arrangements typically require the payment of a fixed daily rental or a percentage payment of coin-in or net win. Generally, a participation lease is more expensive over the long term than the cost to purchase a new machine. For competitive reasons, we may be forced to purchase new slot machines or enter into participation lease arrangements that are more expensive than our current costs associated with the continued operation of our existing slot machines. If the newer slot machines do not result in sufficient incremental revenues to offset the increased investment and participation lease costs, it could hurt our profitability.

***Our business may be adversely affected by legislation prohibiting tobacco smoking.***

Legislation in various forms to ban indoor tobacco smoking has been enacted or introduced in jurisdictions in which we operate. Except for our casinos in Colorado and Illinois, the gaming areas of our properties are not currently subject to tobacco restrictions. If additional restrictions on smoking are enacted in jurisdictions in which we operate, we could experience a decrease in gaming revenue. This is particularly the case if such restrictions are not applicable to all competitive facilities in that gaming market.

***We rely on, among other things, trademarks, licenses, confidentiality procedures, and contractual provisions to protect our intellectual property rights and we may be unable to protect or may not be successful in protecting our intellectual property rights.***

Our commercial success depends upon our ability to develop brands and to successfully obtain or acquire proprietary or statutory protection for our intellectual property rights and to implement new or improved technologies purchased or licensed from third parties. We rely on, among other things, trademarks, licenses, confidentiality procedures, and contractual provisions to protect our intellectual property rights. While we enter into license, confidentiality, and non-disclosure agreements to attempt to limit access to, and distribution of, proprietary and confidential information, it is possible that:

- some or all of our confidentiality and non-disclosure agreements will not be honored;
- disputes concerning the ownership of intellectual property will arise with our strategic partners, users or others;
- unauthorized disclosure or use of our intellectual property, including know-how or trade secrets, will occur;
- we will be unable to successfully enforce our trademark or copyright rights; or
- contractual provisions may not be enforceable.

There can be no assurance that we will be successful in protecting our intellectual property rights or that we will become aware of third-party infringements that might be occurring. Inability to protect our intellectual property rights could have a material adverse effect on our prospects, business, financial condition or results of operations.

***Our commercial success depends upon us avoiding the infringement of intellectual property rights owned by others and any such infringements, including those that are inadvertent, may have a material adverse effect on our business.***

The industries in which we compete have many participants that own, or claim to own, intellectual property, including participants that own intellectual property similar to our own, and proprietary rights for technologies similar to those used or licensed by us. Some of this intellectual property may provide very broad protection to the third-party owners thereof. Patents in particular can be issued very rapidly and there is often a great deal of secrecy surrounding pending patent applications. We cannot determine with certainty whether any existing third-party intellectual property or the issuance of any new third-party intellectual property would require our partners or suppliers to alter their technologies or services, pay for licenses, challenge the validity or enforceability of the intellectual property, or cease certain activities. Third parties may assert intellectual property infringement claims against us and against our partners and/or suppliers. We may be subject to these types of claims either directly or indirectly through indemnities assuming liability for these claims that we may provide to certain partners or suppliers. There can be no assurance that our attempts to negotiate favorable intellectual property indemnities in favor of us with our partners or suppliers for infringement of third-party intellectual property rights will be successful or that a partner's or supplier's indemnity will cover all damages and losses suffered by us and our partners and other suppliers due to infringing products, or that we can secure a license, modification or replacement of a partner's or supplier's products with non-infringing products that may otherwise mitigate such damages and losses.

Some of our competitors have, or are affiliated with companies that have, substantially greater resources than us, and these competitors may be able to sustain the costs of complex intellectual property infringement litigation to a greater degree and for longer periods of time than us. Regardless of whether third-party claims of infringement against us have any merit, these claims could:

- adversely affect our relationships with our customers;
- be time-consuming to evaluate and defend;
- result in costly litigation;
- result in negative publicity for us;
- divert our management's attention and resources;
- cause product and software delivery delays or stoppages;
- subject us to significant liabilities;
- require us to enter into costly royalty or licensing agreements;
- require us to develop possible workaround solutions that may be costly and disruptive to implement; or
- require us to cease certain activities or to cease providing services in certain markets.

In addition to being liable for potentially substantial damages relating to intellectual property following an infringement action against us, we may be prohibited from commercializing certain technologies, or products or services unless we obtain a license from the holder of the applicable intellectual property rights. There can be no assurance that we will be able to obtain any such license or acquire intellectual property on commercially reasonable terms, or at all. If we do not obtain such a license, our prospects, business, operating results and financial condition could be materially adversely affected and we could be required to cease related business operations in some markets and restructure our business to focus on continuing operations in other markets.

***We are subject to risks related to corporate social responsibility and reputation.***

Many factors influence our reputation and the value of our brands, including the perception held by our customers, business partners, other key stakeholders and the communities in which we do business. Our business faces increasing scrutiny related to environmental, social and governance activities and risk of damage to our reputation and the value of our brands if we fail to act responsibly in a number of areas, such as diversity and inclusion, environmental stewardship, climate change, workplace conduct, human rights, philanthropy and support for local communities. Any harm to our reputation could impact employee engagement and retention and the willingness of customers and our partners to do business with us, which could have a material adverse effect on our business, results of operations and cash flows.

**Risks Related to Development and Growth Opportunities**

***We are engaged from time to time in one or more construction and development projects, including Chamonix and American Place, and many factors could prevent us from completing them as planned.***

We are currently constructing Chamonix in Cripple Creek, Colorado, adjoining and connected to our existing Bronco Billy's casino. We also intend to construct the permanent American Place facility in Waukegan, Illinois, located adjacent to The Temporary.

Construction of these types of projects have certain inherent risks, including the risks of fire, structural collapse, human error and electrical, mechanical and plumbing malfunction. Our development and expansion projects are exposed to significant risks, including:

- shortage of materials, including due to supply chain issues that are beyond our control;
- shortage of skilled labor or work stoppages;
- unforeseen construction scheduling, engineering, excavation, environmental or geological problems;
- increases in the cost of steel and other raw materials for construction, driven by inflation, U.S. tariffs on imports, demand, higher labor and construction costs and other factors, may cause price increases beyond those anticipated in the budgets for our development projects;
- natural disasters, hurricanes, weather interference, changes in river levels, floods, fires, earthquakes, the impacts of pandemic such as coronavirus, or other casualty losses or delays;
- unanticipated cost increases or delays in completing the project;
- delays in obtaining, or inability to obtain or maintain, necessary license or permits;
- lack of sufficient funds, or delays in the availability of, financing;
- failure to comply with the terms of our disbursement agreements under our indenture could limit our access to funds for the projects;
- changes to plans or specifications;
- performance by contractors and subcontractors;
- disputes with contractors;
- mechanic's liens on real property collateral that may have priority over the liens securing our indebtedness;
- personal injuries to workers and other persons;
- structural heights and the use of cranes;
- disruption of our operations caused by diversion of management's attention to new development projects and construction at our existing properties;
- remediation of environmental contamination at some of our proposed construction sites, which may prove more difficult or expensive than anticipated in our construction budgets;
- failure to obtain and maintain necessary gaming regulatory approvals and licenses, or failure to obtain such approvals and licenses on a timely basis;
- requirements or government-established "goals" concerning union labor or requiring that a portion of the project expenditures be through companies controlled by specific ethnic or gender groups, goals that may not be obtainable, or may only be obtainable at additional project cost; and
- other unanticipated circumstances or cost increases.

The occurrence of any of the foregoing could increase the total costs of a project, or delay or prevent its construction, development, expansion or opening. Escalating construction costs may cause us to modify the design and scope of projects from those initially contemplated or cause the budgets for those projects to be increased. We generally carry insurance to cover certain liabilities related to construction, but not all risks are covered, and it is uncertain whether such insurance will provide sufficient payment in a timely fashion even for those risks that are insured and material to us.

***The construction costs for our growth projects, including Chamonix and American Place, may exceed budgeted amounts plus contingencies, which may result in insufficient funds to complete these projects or the need to raise additional capital.***

Delays in the completion of the plans and specifications for our growth projects, including Chamonix and American Place, could delay completion of the projects. In addition, completion of the plans and specifications while construction is in progress could cause inefficiencies, and certain items may need to be modified or replaced after they have been purchased, constructed or installed in order to conform to building code requirements or subsequently-developed plans and specifications. The Pre-Construction Services Agreement and Letter of Intent with our general contractor for Chamonix provides that the cost of construction may increase and the deadlines for the contractor's obligations to complete construction may be adjusted for alterations in the project's scope. We may enter into similar arrangements with the general contractor for American Place. We can give no assurance that changes in the scope of these projects will not increase the cost of the projects or extend their completion dates. We establish budgets for the projects based, in part, on our estimate of the cost of various construction goods and services for parts of the projects that, in some cases, are not yet fully designed. If the actual cost with respect to these allowance items exceeds the estimated amount, we will be responsible for the payment of those excess amounts out of the cash flow from our other operations and from cash balances and other financial resources. Our cash flow, cash reserves and other financial resources may not be adequate at any given time to address balancing of the construction budgets if there are increased costs. If our contingency, cash flow from operations and anticipated excess liquidity are insufficient to cover any shortfall, we may not have sufficient funds to complete the projects without seeking additional capital or at all.

***There is no assurance that our growth projects, including Chamonix and American Place, will not be subject to additional regulatory restrictions, delays, or challenges.***

We received approval of the plans for Chamonix from the Cripple Creek Historic Preservation Commission and Cripple Creek City Council in January and February 2021, respectively. Additionally, as part of these approvals, the Cripple Creek City Council voted to amend the prior Development Agreement with Bronco Billy's regarding the project, as an Amended and Restated Development Agreement, and further amended as the Second Amendment to Amended and Restated Development Agreement in which we are obligated to complete the project by December 31, 2023. If we do not complete the project by that date, the City may exercise its right of reversion for previously vacated rights of way of portions of 2nd Avenue and a nearby alley. If the project is substantially underway at the deadline, it is likely that the City Council would agree to extend the deadline; however, there is no certainty that would be the case. We are still developing our plans related to the permanent facility for American Place. Such plans will be subject to regulatory approval. Illinois regulations allow The Temporary to only operate for two years, unless the Illinois Gaming Board approves an additional year to accommodate appropriate construction. Construction of the permanent American Place facility may require more than two years. We have not yet applied for the additional year permitted under the regulations and, if we do so, there is no certainty such extension will be granted. We intend to avoid having an extended period of time between the closing of The Temporary and the opening of American Place, as it could be detrimental to our business, but there is no certainty that this can be achieved. Completion of these projects could also be delayed by weather, labor shortages or other construction delays. There is no assurance that these projects will not be subject to additional restrictions, delays, or challenges.

***There is no assurance that our growth projects, including Chamonix and American Place, will be successful.***

In addition to the construction and regulatory risks associated with the development of our growth projects, including Chamonix and American Place, we cannot assure you that the level of consumer demand for these projects will meet our expectations. The operating results of these projects may be materially different than expected due to, among other factors, consumer spending and preferences in the geographic areas, competition from other markets, or other developments that may be beyond our control. In addition, these projects may be more sensitive than anticipated by management to certain risks, including risks associated with downturns in the economy. Further, these projects may not generate cash flows on our anticipated timeline. We may not be able to successfully implement our growth strategy with respect to these projects, capital investments, and acquisitions. There is no assurance that these projects will result in a more successful business operation, or that these projects will increase clientele or revenues. With respect to Chamonix, there is no assurance that a more modern expansion will attract new visitors to a city with historic architecture. The occurrence of any of these issues could adversely affect our prospects, financial condition and results of operations.

***Failure to comply with the terms of our disbursement agreement related to Chamonix could limit our access to funds.***

As of December 31, 2022, we had approximately $134.6 million deposited in a construction disbursement account for Chamonix. The funds in the construction disbursement account, which will be used to fund the completion of the design, development, construction, equipping and opening costs of Chamonix, will be disbursed pursuant to the terms of our Cash Collateral and Disbursement Agreement. Funds will be distributed from this account only upon satisfaction of certain conditions, including the approval of the disbursements by an independent construction consultant, as contemplated by the Cash Collateral and Disbursement Agreement. Such agreement is designed to ensure that the funds in the construction disbursement account at each test date are sufficient to fund the anticipated costs to complete the Chamonix project. If we fail to satisfy draw conditions or the independent construction consultant does not give its approval to construction draws, in each case under our Cash Collateral and Disbursement Agreement, we may have to put additional funds into the construction disbursement account. There is no certainty that we would have access to funds when needed to keep the account "in balance," which could cause delays in the construction of Chamonix.

***We face a number of challenges prior to opening new or upgraded facilities.***

No assurance can be given that, when we endeavor to open new or upgraded facilities, the expected timetables for opening such facilities will be met in light of the uncertainties inherent in the development of the regulatory framework, construction, the licensing process, legislative action and litigation. Delays in opening new or upgraded facilities could lead to increased costs and delays in receiving anticipated revenues with respect to such facilities and could have a material adverse effect on our business, financial condition and results of operations.

***We may face disruption and other difficulties in integrating and managing facilities we have recently developed or acquired, or may develop or acquire in the future.***

We may face certain challenges as we integrate the operational and administrative systems of recently developed or acquired facilities into our business. As a result, the realization of anticipated benefits may be delayed or substantially reduced. Events outside of our control, including changes in state and federal regulations and laws, as well as economic trends, also could adversely affect our ability to realize the anticipated benefits from the acquisition or development.

We expect to continue pursuing expansion opportunities. We regularly evaluate opportunities for acquisition and development of new properties. We could face significant challenges in managing and integrating our expanded or combined operations and any other properties we may develop or acquire, particularly in new competitive markets. The integration of properties we may develop or acquire will require the dedication of management resources that may temporarily divert attention from our day-to-day business. The process of integrating properties that we may acquire also could interrupt the activities of those businesses, which could have a material adverse effect on our business, financial condition and results of operations. In addition, the development of new properties may involve construction, local opposition, regulatory, legal and competitive risks, as well as the risks attendant to partnership deals on these development opportunities. In projects where we team up with a joint venture partner, if we cannot reach agreement with such partners, or our relationships otherwise deteriorate, we could face significant increased costs and delays. Local opposition can delay or increase the anticipated cost of a project. Finally, given the competitive nature of these types of limited license opportunities, litigation is possible.

Management of new properties, especially in new geographic areas, may require that we increase our management resources. We cannot assure you that we will be able to manage any new or acquired operations effectively or realize any of the anticipated benefits of our acquisitions. We also cannot assure you that, if acquisitions are completed, the acquired businesses will generate returns consistent with our expectations. Our ability to achieve our objectives in connection with any acquisition we may consummate may be highly dependent on, among other things, our ability to retain the senior-level property management teams of such acquisition candidates. If, for any reason, we are unable to retain these management teams following such acquisitions or if we fail to attract new capable executives, our operations after consummation of such acquisitions could be materially adversely affected. If we make new acquisitions or new investments, we may face additional risks related to our business, results of operations, financial condition, liquidity, ability to satisfy financial covenants and comply with other restrictive covenants under our indenture, and ability to pay or refinance our indebtedness.

The occurrence of some or all of the above-described events could have a material adverse effect on our business, financial condition and results of operations.

***The construction of Chamonix and American Place may inconvenience customers and disrupt business activity at the adjoining Bronco Billy's casino and The Temporary, respectively.***

Although we have attempted to minimize disruption of our existing Bronco Billy's operations, construction of Chamonix has required portions of the adjoining Bronco Billy's to be closed or disrupted. For example, Chamonix is being built, in part, on surface parking lots that were once used by guests of Bronco Billy's. As a result, we closed such parking lots and relocated guest parking until Chamonix's new parking garage is available for use. Similarly, all on-site hotel rooms at Bronco Billy's were closed to facilitate construction. The Temporary was designed so that construction of American Place on adjoining land should not materially disrupt business activity at The Temporary, but there is no certainty that this will be the case. Disruptions in operations at Bronco Billy's or The Temporary could have an adverse effect on our business, financial condition and results of operations.

***The permanent American Place facility, additional growth projects or potential enhancements at our properties may require us to raise additional capital.***

We may need to access financial institution sources, capital markets, private sources or otherwise obtain additional funds to fund the permanent American Place facility. Additional capital may also be needed to fund other growth projects or potential enhancements we may undertake at our other properties. We do not know when, or if, financial institution sources, capital markets or private sources will permit us to raise additional funds for such phases and enhancements in a timely manner, on acceptable terms, or at all. Inability to access financial institution sources, capital markets or private sources, or the availability of capital only on less-than-favorable terms, may cause or force us to delay, reduce, or cancel our growth and enhancement projects.

Our ability to obtain additional funding may also be limited by our financial condition, results of operations or other factors, such as our credit rating or outlook at the time of any such financing or offering and the covenants in our existing debt agreements, as well as by general economic conditions and contingencies and uncertainties that are beyond our control. As we seek additional financing, we will be subject to the risks of rising interest rates and other factors affecting the financial markets.

***The casino, hotel and resort industry is capital intensive, and we may not be able to finance expansion and renovation projects, which could put us at a competitive disadvantage.***

Our properties have an ongoing need for renovations and other capital improvements to remain competitive, including replacement, from time to time, of furniture, fixtures and equipment, including slot machines. We may also need to make capital expenditures at our casino properties to comply with applicable laws and regulations.

Renovations and other capital improvements at our properties may require significant capital expenditures. In addition, renovations and capital improvements sometimes generate little or no cash flow until the projects are completed. We may not be able to fund such projects solely from existing resources and cash provided from operating activities. Consequently, we may have to rely upon the availability of debt or equity capital to fund renovations and capital improvements, and our ability to carry them out could be limited if we cannot obtain satisfactory debt or equity financing, which will depend on, among other things, market conditions. We cannot assure you that we will be able to obtain additional equity or debt financing, if needed, or that we will be able to obtain such financing on favorable terms. A failure to renovate or properly maintain our properties may put us at a competitive disadvantage.

***We may face risks related to our ability to receive regulatory approvals required to complete certain acquisitions, mergers, joint ventures, and other developments, as well as other potential delays in completing certain transactions.***

Our growth may be fueled, in part, by the acquisition of existing gaming and development properties. In addition to standard closing conditions, our material transactions, including but not limited to acquisitions, are often conditioned on the receipt of regulatory approvals and other hurdles that create uncertainty and could increase costs. Such delays could significantly reduce the benefits to us of such transactions and could have a material adverse effect on our business, financial condition and results of operations.

***If we fail to obtain necessary government approvals in a timely manner, or at all, it can adversely impact our various expansion, development, investment and renovation projects.***

The scope of the approvals required for expansion, development, investment or renovation projects can be extensive and may include regulatory approvals, state and local land-use permits, and building and zoning permits. Unexpected changes or concessions required by local, state or federal regulatory authorities could involve significant additional costs and delay the scheduled openings of the facilities. We may not obtain the necessary permits, licenses, entitlements and approvals within the anticipated time frames, or at all.

***Insufficient or lower-than-expected results generated from our new developments and acquired properties may negatively affect our operating results and financial condition.***

We cannot assure you that the revenues generated from our new developments and acquired properties will be sufficient to pay related expenses if and when these developments are completed; or, even if revenues are sufficient to pay expenses, that the new developments and acquired properties will yield an adequate or expected return, or any return, on our significant investments. As previously discussed, the development of new properties may involve construction, regulatory, legal and competitive risks or local opposition, any of which can significantly increase the anticipated cost of a project. Our projects, if completed, may not achieve the level of guest acceptance and patronage we anticipate. For this or other reasons, such projects may take significantly longer than we expect to generate returns, if any. If our new developments or acquired properties do not achieve the financial results anticipated, it could adversely affect our revenues and results of operations. Moreover, lower-than-expected results from the opening of a new facility may make it more difficult to raise capital.

**Risks Related to our Indebtedness**

***Our significant indebtedness could adversely affect our financial health and prevent us from fulfilling our obligations.***

As of December 31, 2022, the total principal amount of our indebtedness, excluding unamortized debt issuance costs, was $410.0 million, consisting entirely of the Notes. Our Credit Facility was drawn for $36.0 million in January 2023 and remains outstanding as of this report date. The Notes and the Credit Facility are summarized in Part I, Item 1. “Business — Operating Properties — American Place / The Temporary.” We also have a finance lease at our Rising Star Casino Resort with an outstanding balance of $2.8 million.

Our debt could, among other things:

- require us to dedicate a large portion of our cash flow from operations to the servicing and repayment of our debt, thereby reducing funds available for working capital, capital expenditures and acquisitions, and other general corporate requirements;
- limit our ability to obtain additional financing to fund future working capital, capital expenditures and other general corporate requirements;
- limit our flexibility in planning for, or reacting to, changes in our business and the industries in which we operate;
- restrict our ability to make strategic acquisitions or dispositions or to exploit business opportunities;
- increase our vulnerability to general adverse economic and industry conditions and increases in interest rates;
- place us at a competitive disadvantage compared to our competitors that have less debt; and

- adversely affect our credit rating, which may adversely affect our cost to borrow funds or the market price of our common stock.

Any of these risks could impact our ability to fund our operations or limit our ability to expand our business, which could have a material adverse effect on our business, financial condition, results of operations and prospects.

***The indenture governing the Notes and the Credit Facility impose restrictive covenants and limitations that could significantly affect our ability to operate our business and lead to events of default if we do not comply with the covenants.***

The indenture governing the Notes and the Credit Facility impose restrictive covenants on us and our subsidiaries that may limit our current and future operations. The restrictions that are imposed include, among other obligations, limitations on our and our subsidiaries' ability to:

- incur additional debt and guarantee indebtedness;
- make payments on subordinated obligations;
- make dividends or distributions and repurchase stock;
- make investments;
- enter into transactions with affiliates;
- grant liens on our property to secure debt;
- sell assets or enter into mergers or consolidations;
- sell equity interest in our subsidiaries;
- make capital expenditures; or
- amend or modify our subordinate indebtedness without obtaining certain consents from the holders of our indebtedness.

These restrictions could adversely affect our ability to:

- obtain additional financing for our operations;
- make needed capital expenditures;
- make strategic acquisitions or investments or enter into alliances;
- withstand a continued and sustained downturn in our business or the economy in general;
- engage in business activities, including future opportunities, that may be in our interest; and
- plan for or react to market conditions or otherwise execute our business strategies.

Our ability to comply with the covenants under the indenture, the Credit Facility, or in any instrument governing future indebtedness, may be affected by general economic conditions, industry conditions, and other events beyond our control, including delays in the completion of new projects under construction. As a result, there can be no assurance that we will be able to comply with these covenants. Our failure to comply with the covenants contained under the indenture the Credit Facility, or in any instrument governing future indebtedness, including failure to comply as a result of events beyond our control, could result in an event of default. If there were an event of default and it is not waived by the requisite parties (at their option), the agent, the trustee or holders, as applicable, could cause all the outstanding obligations under the Notes, the Credit Facility or other future indebtedness to be due and payable, subject to applicable grace periods, which could materially and adversely affect our operating results and our financial condition. Additionally, this could trigger cross-defaults under other debt obligations. We cannot assure you that our assets or cash flow would be sufficient to repay our obligations under the Notes, the Credit Facility or any future outstanding debt obligations, if accelerated upon an event of default, or that we would be able to borrow sufficient funds to refinance the Notes, the Credit Facility or any future debt instruments.

***To service our indebtedness, we will require a significant amount of cash. Our ability to generate cash depends on many factors beyond our control.***

Our ability to make payments on and to refinance our indebtedness, and to fund planned capital expenditures and expansion efforts, will depend upon our ability to generate cash in the future. This, to a certain extent, is subject to general economic, financial, competitive, legislative, regulatory and other factors.

We cannot assure you that our business will generate sufficient cash flows from operations or asset sales, our anticipated growth in operations, including through our expansion efforts, will be realized, or that future borrowings will be available to us in amounts sufficient to enable us to repay the Notes, and any amounts outstanding under the Credit Facility and to fund our other liquidity needs. In addition, as we undertake substantial new developments or facility renovations or if we consummate significant acquisitions in the future, our cash requirements may increase significantly and we may need to obtain additional equity or debt financing or joint venture partners. Any increase in our level of indebtedness could impose additional cash requirements on us in order to support interest payments. If we incur additional debt, the related risks that we now face could intensify.

If we are not able to generate sufficient cash flows from operations to repay the Notes or any amounts outstanding under the Credit Facility, as needed, or to obtain adequate additional financing, we may have to adopt one or more alternatives, such as reducing or delaying planned expenses and capital expenditures, selling assets, or issuing equity.

***We may not be able to generate sufficient cash flows to service all of our indebtedness and fund our operating expenses, working capital needs and capital expenditures, and we may be forced to take other actions to satisfy our obligations under our indebtedness, which may not be successful.***

Our ability to make scheduled payments on or refinance our indebtedness will depend upon our future operating performance and our ability to generate cash flow in the future, which are subject to general economic, financial, business, competitive, legislative, regulatory and other factors that are beyond our control. We cannot assure you that our business will generate sufficient cash flow from operations, or that future borrowings will be available to us in an amount sufficient to enable us to pay our indebtedness or fund our other liquidity needs. If our cash flows and capital resources are insufficient to fund our debt service obligations, we could face substantial liquidity problems and could be forced to reduce or delay investment and capital expenditures, dispose of material assets or operations, seek additional debt or equity capital or restructure or refinance our indebtedness. Such alternative measures, if necessary, may not be available on commercially reasonable terms or at all and, even if successful, such alternative actions may not allow us to meet our scheduled debt service obligations. The indenture governing the Notes and the Credit Facility restrict our ability to dispose of assets and use the proceeds from asset dispositions, and may also restrict our ability to raise debt or equity capital to repay or service our indebtedness. If we cannot make scheduled payments on our debt, we will be in default and, as a result, our lenders could declare all outstanding amounts to be due and payable and foreclose against the collateral securing such debt, and we could be forced into bankruptcy or liquidation, any of which could have a material adverse effect on our business, financial condition, results of operations and prospects and could result in you losing your investment in us.

***We depend on our subsidiaries for certain dividends, distributions and repayment of our indebtedness, including the Notes and any borrowings under the Credit Facility.***

The source of much of our cash flow to pay our obligations under the Notes and any borrowings under the Credit Facility and to make payments on any other indebtedness will be dividends and distributions from our subsidiaries. If our subsidiaries are unable to make dividend payments or distributions to us and sufficient cash or liquidity is not otherwise available, we may not be able to pay interest or principal under the Notes or borrowings under the Credit Facility. Unless they guarantee the Notes and the Credit Facility, our subsidiaries (a) will not have any obligation to pay amounts due under the Notes and the Credit Facility or to make funds available for that purpose and (b) may not be able to, or be permitted to, make distributions to enable us to make payments in respect of our indebtedness, including the Notes and the Credit Facility. Each of our subsidiaries is a distinct legal entity and, under certain circumstances, legal and contractual restrictions may limit our ability to obtain cash from our subsidiaries. In addition, while the indentures governing the Notes and the Credit Facility limit the ability of our restricted subsidiaries to restrict the payment of dividends or make other intercompany payments to us, these limitations will be subject to certain qualifications and exceptions. In the event that we do not receive distributions from our subsidiaries, we may be unable to make required principal and interest payments on our indebtedness, including the Notes and the Credit Facility.

***Our ability to obtain additional financing on commercially reasonable terms may be limited.***

Although we believe that our cash, cash equivalents, working capital, future cash from operations, and the capital obtained from the Notes and available borrowing under the Credit Facility will provide adequate resources to fund completion of Chamonix, the Temporary at American Place and ongoing operating requirements, we may need to refinance or seek additional financing to compete effectively or grow our business, including to complete the permanent American Place facility. These financing strategies may not be completed on satisfactory terms, if at all. In addition, certain financing transactions require approval of gaming regulatory authorities. Some requirements may prevent or delay us from obtaining necessary capital. We cannot assure you that we will be able to obtain any additional financing, refinance our existing debt, or fund our growth efforts. If we are unable to obtain financing on commercially reasonable terms, it could:

- reduce funds available to us for purposes such as working capital, capital expenditures, strategic acquisitions and other general corporate purposes;
- restrict our ability to capitalize on business opportunities;
- increase our vulnerability to economic downturns and competitive pressures in the markets in which we operate; and
- place us at a competitive disadvantage.

***The obligations under the Notes and the Credit Facility are collateralized by a security interest in substantially all of our assets, so if we default on those obligations, the holders of the Notes and lenders under the Credit Facility could foreclose on our assets. In addition, the existence of these security interests may adversely affect our financial flexibility.***

The obligations under the Notes and any borrowings under the Credit Facility are secured by a security interest in substantially all of our assets. As a result, if we default under our obligations under the Notes or the Credit Facility, the holders of the Notes and the lenders under the Credit Facility, acting through their appointed agent, could foreclose on their security interests and liquidate some or all of these assets, which could harm our business, financial condition and results of operations and could require us to reduce or cease operations. In addition, the pledge of these assets and other restrictions may limit our flexibility in raising capital for other purposes. Because substantially all of our assets are pledged under these financing arrangements, our ability to incur additional secured indebtedness or to sell or dispose of assets to raise capital may be impaired, which could have an adverse effect on our financial flexibility.

***We and our subsidiaries may still be able to incur substantially more debt, which could further exacerbate the risks described above.***

We and our subsidiaries may be able to incur substantial additional indebtedness in the future. The indentures governing the Notes and the Credit Facility do not fully prohibit us or our subsidiaries from doing so. If new debt is added to our or our subsidiaries' current debt levels, the related risks that we or they now face could intensify.

**Risks Related to our Legal and Regulatory Environment**

***We face extensive regulation from gaming and other regulatory authorities and the cost of compliance or failure to comply with such regulations may adversely affect our business and results of operations.***

*Licensing.* The gaming industry is highly regulated, and we must maintain our licenses and pay gaming taxes to continue our operations. The ownership, management and operation of gaming facilities are subject to extensive state and local regulation in the jurisdiction in which it is located. These laws, rules and regulations generally concern the responsibility, financial stability and character of the owners, managers, and persons with financial interest in the gaming operations. The regulatory authorities in jurisdictions where we operate have broad discretion. They may, for any reason set forth in the applicable legislation, rules and regulations, limit, condition, suspend, fail to renew or revoke a license or registration to conduct gaming operations. Furthermore, because we are subject to regulation in each jurisdiction in which we operate, and because regulatory agencies within each jurisdiction review our compliance with gaming laws in other jurisdictions, it is possible that gaming compliance issues in one jurisdiction may lead to reviews and compliance issues in other jurisdictions.

*Taxation and fees.* We believe that the prospect of significant tax revenue is one of the primary reasons that jurisdictions permit legalized gaming. As a result, gaming companies are typically subject to significant revenue-based taxes and fees in addition to normal federal, state, and local income and employment taxes. Such taxes and fees are subject to increase at any time. From time to time, federal, state, and local legislators and officials have proposed changes in tax laws, or in the administration of such laws, affecting the gaming industry. In addition, any downturn in economic conditions could intensify the efforts of state and local governments to raise revenues through increases in gaming taxes and/or property taxes. It is not possible to determine with certainty the likelihood of changes in tax laws or in the administration of such laws. Any material increase, or the adoption of additional taxes or fees, could have a material adverse effect on our business, financial condition and results of operations.

*Compliance with other laws.* In addition to gaming regulations, we are also subject to various federal, state, and local laws and regulations affecting businesses in general. These laws and regulations include, but are not limited to, environmental matters, employment, currency transactions, taxation, construction, zoning, land-use laws, marketing and advertising, smoking, and regulations governing the serving of alcoholic beverages.

The Bank Secrecy Act, enforced by the Financial Crimes Enforcement Network ("FinCEN") of the U.S. Treasury Department, requires us to report currency transactions in excess of $10,000, including groupings of related transactions, occurring within a gaming day, including identification of the guest by name and social security number, to the Internal Revenue Service ("IRS"). This regulation also requires us to report certain suspicious activity, including any transaction that exceeds $5,000 that we know, suspect or have reason to believe involves funds from illegal activity or is designed to evade federal regulations or reporting requirements. Periodic audits by the IRS and our internal audit function assess compliance with the Bank Secrecy Act, and substantial penalties can be imposed against us if we fail to comply with this regulation. In recent years, the U.S. Treasury Department has increased its focus on Bank Secrecy Act compliance throughout the gaming industry. Recent public comments by FinCEN suggest that casinos should make efforts to obtain information on each customer's sources of income. This could impact our ability to attract and retain casino guests.

We also deal with significant amounts of cash in our operations and are subject to various reporting and anti-money laundering regulations. Any violations of anti-money laundering laws or regulations by any of our properties could have an adverse effect on our financial condition, results of operations or cash flows. Such laws and regulations could change or could be interpreted differently in the future, or new laws and regulations could be enacted.

Our riverboat and ferry boat operations at Rising Star must comply with certain federal and state laws and regulations with respect to boat design, on-board facilities, equipment, personnel and safety. In addition, we are required to have third parties periodically inspect and certify our boats for safety, stability and single compartment flooding integrity. All of our casinos also must meet local fire safety standards. We could incur additional costs if our gaming facilities are not in compliance with one or more of these regulations.

***Changes in legislation and regulation of our business could have an adverse effect on our financial condition, results of operations and cash flows.***

Regulations governing the conduct of gaming activities and the obligations of gaming companies in any jurisdiction in which we have or in the future may have gaming operations are subject to change and could impose additional operating, financial, competitive or other burdens on the way we conduct our business.

In particular, certain areas of law governing new gaming activities, such as the federal and state law applicable to sports betting, are new or developing in light of emerging technologies. New and developing areas of law may be subject to the interpretation of the government agencies tasked with enforcing them. In some circumstances, a government agency may interpret a statute or regulation in one manner and then reconsider its interpretation at a later date. No assurance can be provided that government agencies will interpret or enforce new or developing areas of law consistently, predictably, or favorably. Moreover, legislation to prohibit, limit or add burdens to our business may be introduced in the future in states where gaming has been legalized. In addition, from time to time, legislators and special interest groups have proposed legislation that would expand, restrict or prevent gaming operations or which may otherwise adversely impact our operations in the jurisdictions in which we operate. Any expansion of gaming or restriction on or prohibition of our gaming operations or enactment of other adverse regulatory changes could have a material adverse effect on our operating results.

***Stockholders may be required to dispose of their shares of our common stock if they are found unsuitable by gaming authorities.***

While gaming authorities generally focus on stockholders with more than 5% and often 10% of a company's shares, such authorities generally can require that *any* beneficial owner of our common stock and other securities file an application for a finding of suitability. If a gaming authority requires a record or beneficial owner of our securities to file a suitability application, the owner must apply for a finding of suitability within 30 days or at an earlier time prescribed by the gaming authority. The gaming authority has the power to investigate an owner's suitability and the owner must pay all costs of the investigation. If the owner is found unsuitable, then the owner may be required by law to dispose of our securities. Our certificate of incorporation also provides us with the right to repurchase shares of our common stock from certain beneficial owners declared by gaming regulators to be unsuitable holders of our equity securities. The price we may pay to any such beneficial owner may be below the price such beneficial owner would otherwise accept for his or her shares of our common stock.

***We are subject to environmental laws and potential exposure to environmental liabilities.***

We are subject to various federal, state and local environmental laws and regulations that govern our operations, including emissions and discharges into the environment, and the handling and disposal of hazardous and non-hazardous substances and wastes. Failure to comply with such laws and regulations could result in costs for corrective action, penalties or the imposition of other liabilities or restrictions. We also are subject to laws and regulations that impose liability and clean-up responsibility for releases of hazardous substances into the environment. Under certain of these laws and regulations, a current or previous owner or operator of property may be liable for the costs of remediating contaminated soil or groundwater on or from its property, without regard to whether the owner or operator knew of, or caused, the contamination, as well as incur liability to third parties impacted by such contamination. The presence of contamination, or failure to remediate it properly, may adversely affect our ability to use, sell or rent property. There can be no assurances that these matters or other matters arising under environmental laws will not have a material adverse effect on our business, financial condition, or results of operations in the future.

***We are subject to litigation which, if adversely determined, could cause us to incur substantial losses.***

From time to time during the normal course of operating our businesses, we are subject to various litigation claims and legal disputes. Some of the litigation claims may not be covered under our insurance policies, or our insurance carriers may seek to deny coverage. As a result, we might also be required to incur significant legal fees, which may have a material adverse effect on our financial position. In addition, because we cannot accurately predict the outcome of any action, it is possible that, as a result of current and/or future litigation, we will be subject to adverse judgments or settlements that could significantly reduce our earnings or result in losses.

***Our ferry boat service is highly regulated, which can adversely affect our operations.***

Our ferry boat service at the Rising Star Casino Resort is subject to stringent local, state and federal laws and regulations governing, among other things, the health and safety of our passengers and personnel, and the operation and insurance of our vessel. Many aspects of our ferry boat service are subject to regulation by a wide array of agencies, including the U.S. Coast Guard and other federal authorities, the State of Indiana and Commonwealth of Kentucky authorities, as well as local authorities in Ohio County, Indiana and Boone County, Kentucky. In addition, we are required by various governmental and quasi-governmental agencies to obtain, maintain and periodically renew certain permits, licenses and certificates with respect to our ferry boat service. Compliance with or the enforcement of applicable laws and regulations can be costly. In addition, failure to comply with applicable laws and regulations may result in administrative and civil penalties, criminal sanctions or, in certain cases, the suspension or termination of our ferry boat service.

**Risks Related to Technology**

***Our gaming operations rely heavily on technology services and an uninterrupted supply of electrical power. If we experience damage or service interruptions, we may have to cease some or all of our operations, which will result in a decrease in revenue.***

Our gaming operations rely heavily on technology services and an uninterrupted supply of electrical power. Our security system and all of our slot machines are controlled by computers and reliant on electrical power to operate. A loss of electrical power or a failure of the technology services needed to run the computers could make us unable to run all or parts of our gaming operations. Any unscheduled interruption in our technology services or interruption in the supply of electrical power is likely to result in an immediate, and possibly substantial, loss of revenue due to a shutdown of our gaming operations. Although we have designed our systems around industry-standard designs to reduce downtime in the event of outages or catastrophic occurrences, they remain vulnerable to damage or interruption from floods, fires, power loss, telecommunication failures, terrorist attacks, computer viruses, computer denial-of-service attacks and similar events. Additionally, substantial increases in the cost of electricity and natural gas could negatively affect our results of operations.

***Our information technology and other systems are subject to cyber-security risk, misappropriation of customer information and other breaches of information security.***

We rely extensively on our computer systems to process customer transactions, manage customer data, manage employee data and communicate with third-party vendors and other third parties, and we may also access the Internet to use our computer systems. Our operations require that we collect and store customer data, including credit card numbers and other personal information, for various business purposes, including marketing and promotional purposes. We also collect and store personal information about our employees. Breaches of our security measures or information technology systems or the accidental loss, inadvertent disclosure or unapproved dissemination of proprietary information or sensitive personal information or confidential data about us, or our customers, or our employees including the potential loss or disclosure of such information as a result of hacking or other cyber-attack, computer virus, fraudulent use by customers, employees or employees of third party vendors, trickery or other forms of deception or unauthorized use, or due to system failure, could expose us, our customers, our employees or other individuals affected to a risk of loss or misuse of this information, result in litigation and potential liability for us, damage our reputation or brand names or otherwise harm our business. Additionally, disruptions in the availability of our computer systems, through cyber-attacks or otherwise, could impact our ability to service our customers and adversely affect our sales and the results of operations. We rely on proprietary and commercially available systems, software, tools and monitoring to provide security for processing, transmission and storage of customer information, such as payment card, employee information and other confidential or proprietary information. Our data security measures are reviewed and evaluated regularly; however, they might not protect us against increasingly sophisticated and aggressive threats. The cost and operational consequences of implementing further data security measures could be significant and there is no certainty that such measures, if purchased, could thwart all threats. Additionally, while we maintain cyber risk insurance to assist in the cost of recovery from a significant cyber event, such coverage may not be sufficient.

Additionally, the collection of customer and employee personal information imposes various privacy compliance related obligations on our business and increases the risks associated with a breach or failure of the integrity of our information technology systems. The collection and use of personal information are governed by privacy laws and regulations enacted in the United States and other jurisdictions around the world. Privacy regulations continue to evolve and on occasion may be inconsistent from one jurisdiction to another.

There are also laws and regulations governing the collection and use of biometric information, such as fingerprints and facial scans. For example, the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 et seq. ("BIPA") applies to the collection and use of "biometric identifiers" and "biometric information" which include fingerprints and facial scans. BIPA requires written notice and consent before a private entity (like us and our subsidiaries) may collect or disseminate biometric information. It further provides that any private entity in possession of biometric information must establish, publish and comply with a policy regarding its schedule for destroying biometric information and follow reasonable security measures to protect such information. Individuals are afforded a private right of action under BIPA and may recover statutory damages equal to the greater of $1,000 (or $5,000 for reckless violations) or actual damages and reasonable attorneys' fees and costs for each unlawful collection of biometric information, which the Illinois Supreme Court has interpreted to include not only the initial collection of information to create a biometric template, but also, each subsequent scan of biometric information to identify an individual. Many Illinois businesses, including casinos, have been accused of using biometric-enabled devices, including hand or fingerprint scanners for timekeeping or security purposes, and facial recognition technology for security purposes, without the required policy, notice or consent. Any biometric-enabled devices or technologies used by us in Illinois must comply with BIPA's notice, consent, policy and security requirements to avoid potential liability. In addition to BIPA, a number of other proposals exist for new federal and state privacy legislation that, if passed, could increase our potential liability, increase our compliance costs and materially adversely affect our business.

Compliance with applicable privacy laws and regulations may increase our operating costs and/or adversely impact our ability to market our products, properties and services to our customers. In addition, non-compliance with applicable privacy laws and regulations by us (or in some circumstances non-compliance by third party service providers engaged by us) may also result in damage of reputation, result in vulnerabilities that could be exploited to breach our systems and/or subject us to fines, payment of damages, lawsuits (including class actions) or restrictions on our use or transfer of personal information (including biometric information).

**General Risks**

***Our ability to utilize our net operating loss, or NOL, carryforwards and certain other tax attributes may be limited.***

Our ability to utilize our NOL carryforwards to offset potential future taxable income and related income taxes that would otherwise be due is dependent upon our generation of future taxable income before the expiration dates, if applicable, of the NOL carryforwards, and we cannot predict with certainty when, or whether, we will generate sufficient taxable income to use all of our NOL carryforwards.

Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an "ownership change," generally defined as a greater than 50 percentage point change (by value) in its equity ownership by certain stockholders over a three-year period, the corporation's ability to use its pre-change NOL carryforwards and other pre-change tax attributes (such as research and development tax credits) to offset its post-change income or taxes may be limited. We have experienced ownership changes in the past, and we may experience ownership changes in the future and/or subsequent shifts in our stock ownership (some of which may be outside our control). As a result, if we earn net taxable income, our ability to use our pre-change NOL carryforwards to offset U.S. federal taxable income may be subject to limitations under Section 382, which could potentially result in increased future tax liability to us. In addition, at the state level, there may be periods during which the use of NOL carryforwards is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed.

***The market price for our common stock may be volatile, and investors may not be able to sell our stock at a favorable price or at all.***

Many factors could cause the market price of our common stock to rise and fall, including:

- actual or anticipated variations in our quarterly results of operations;
- the impact of the coronavirus pandemic on our business;
- change in market valuations of companies in our industry;
- change in expectations of future financial performance;
- regulatory changes;
- fluctuations in stock market prices and volumes;
- issuance of common stock market prices and volumes;
- the addition or departure of key personnel; and
- announcements by us or our competitors of acquisitions, investments, dispositions, joint ventures or other significant business decisions.

In addition, the stock market in general has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to companies' operating performance, for example, as a result of the coronavirus epidemic or increases in the borrowing rates set by the Federal Reserve. Broad market and industry factors may materially harm the market price of our common stock, regardless of our operating performance. In the past, following periods of volatility in the market price of a company's securities, stockholder derivative lawsuits and/or securities class-action litigation has sometimes been instituted against that company, sometimes irrespective of whether the company took any action contributing to such volatility. Such litigation, if instituted against us, could result in substantial costs and a diversion of management's attention and resources.

***The exercise of outstanding options to purchase common stock may result in substantial dilution and may depress the trading price of our common stock.***

If our outstanding options to purchase shares of our common stock are exercised and the underlying shares of common stock issued upon such exercise are sold, our stockholders may experience substantial dilution and the market price of our shares of common stock could decline. Further, the perception that such securities might be exercised could adversely affect the trading price of our shares of common stock. During the time that such securities are outstanding, they may adversely affect the terms on which we could obtain additional capital.

**Item 1B. Unresolved Staff Comments.**

Not applicable.

**Item 2. Properties.**

Substantially all of our assets collateralize our indebtedness, as discussed inNote 6 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data." The majority of our facilities are subject to leases of the underlying real estate assets, which, among other things, includes the land underlying the facility and the buildings used in business operations, as discussed in Note 7 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data." See Part I, Item 1. "Business — Operating Properties" for additional discussions.

| | | December 31, 2022 | | | | |
|---|---|---|---|---|---|---|
| **Segments and Properties** | **Locations** | **Owned Land (acres)** | **Leased Land (acres)** | **Slot Machines** | **Table Games** | **Hotel Rooms** |
| **Colorado** | | | | | | |
| Bronco Billy's Casino and Hotel | Cripple Creek, CO | 6.06 | 4.27 | 391 | 7 | 14 |
| Chamonix Casino Hotel (under construction) | Cripple Creek, CO | (a) | (a) | (a) | (a) | (a) |
| **Illinois** | | | | | | |
| The Temporary / American Place (under development) | Waukegan, IL | 9.95 | (b) | (b) | (b) | — |
| **Indiana** | | | | | | |
| Rising Star Casino Resort | Rising Sun, IN | 289.58 | 3.01 | 617 | 16 | 294 |
| **Mississippi** | | | | | | |
| Silver Slipper Casino and Hotel | Hancock County, MS | 0.03 | 43.70 | 759 | 20 | 129 |
| **Nevada** | | | | | | |
| Grand Lodge Casino | Incline Village, NV | — | 0.48 | 265 | 9 | (c) |
| Stockman's Casino | Fallon, NV | 4.73 | — | 190 | 2 | — |

(a) Chamonix is being constructed on a mix of land owned by us and leased to us. When Chamonix is complete, the Colorado segment is currently expected to have a total of 630 slot machines, 17 table games, and 313 guest rooms.

(b) In January 2023, we entered into an agreement with the City of Waukegan to lease 31.70 acres of land for The Temporary (which opened in February 2023) and the future American Place. As of March 1, 2023, The Temporary had 841 slot machines and 28 table games, which we expect to increase to 1,000 slot machines and 50 table games in the near-term. The permanent American Place facility is expected to have 1,640 slot machines and 100 table games.

(c) Located within the Hyatt Lake Tahoe, which offers 422 rooms.

**Item 3. Legal Proceedings.**

A discussion of our legal proceedings is contained in Note 9 to our consolidated financial statements set forth in Part II,Item 8. "Financial Statements and Supplementary Data" of this Annual Report on Form 10-K.

**Item 4. Mine Safety Disclosures.**

Not applicable.

## PART II

### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Our common stock is traded on the Nasdaq Capital Market under the symbol "FLL."

On March 13, 2023, we had 72 "registered holders" of record of our common stock. We believe that a substantial number of stockholders hold their common stock in "street name" or are otherwise beneficial holders whose shares of record are held by banks, brokers, and other financial institutions. Such holders are not included in the number of "registered holders" above.

**Dividend Policy**

We have not paid any dividends on our common stock to date. The payment of dividends in the future will be at the discretion of our board of directors and will be contingent upon our revenues and earnings, if any; the terms of our indebtedness; our capital requirements; growth opportunities; and general financial condition. Our debt covenants restrict the payment of dividends and it is the present intention of our board of directors to retain all earnings, if any, for use in our business operations, debt reduction and growth initiatives, reinvesting such earnings on behalf of stockholders. Accordingly, we do not anticipate paying any dividends in the foreseeable future.

### Item 6. [Reserved]

**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

The following discussion of our results of operations and financial condition should be read together with the other financial information and consolidated financial statements included in this Form 10-K. This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from the results anticipated in the forward-looking statements as a result of a variety of factors, including those discussed in Part I, Item 1A. "Risk Factors" and elsewhere in this Annual Report on Form 10-K. The results of operations for the periods reflected herein are not necessarily indicative of results that may be expected for future periods. Full House Resorts, Inc., together with its subsidiaries, may be referred to as "Full House," the "Company," "we," "our" or "us."

**Executive Overview**

Our primary business is the ownership and/or operation of casino and related hospitality and entertainment facilities, which includes offering casino gambling, hotel accommodations, dining, golfing, RV camping, sports betting, entertainment and retail outlets, among other amenities. We currently operate six casinos: five on real estate that we own or lease and one located within a hotel owned by a third party. Construction continues for a seventh property, Chamonix Casino Hotel ("Chamonix"), adjacent to our existing Bronco Billy's Casino and Hotel in Cripple Creek, Colorado. We are also designing our permanent American Place casino destination, which will be built adjacent to a temporary facility that we opened in February 2023 named The Temporary by American Place ("The Temporary") (see Note 12 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data"). We intend to operate The Temporary until the opening of American Place. Additionally, we benefit from seven permitted sports wagering "skins" – three in Colorado, three in Indiana, and one in Illinois. Other companies operate or will operate these online sports wagering websites under their brands, paying us a percentage of revenues, as defined, subject to annual minimum amounts.

In addition to our Contracted Sports Wagering segment, we view each of the states that we operate in as distinct operating segments. Our portfolio consists of the following:

| Segments and Properties | Locations |
|---|---|
| **Colorado** | |
| Bronco Billy's Casino and Hotel | Cripple Creek, CO (near Colorado Springs) |
| Chamonix Casino Hotel (under construction) | Cripple Creek, CO (near Colorado Springs) |
| **Illinois** | |
| The Temporary by American Place (opened on February 17, 2023) and American Place (under development) | Waukegan, IL (northern suburb of Chicago) |
| **Indiana** | |
| Rising Star Casino Resort | Rising Sun, IN (near Cincinnati) |
| **Mississippi** | |
| Silver Slipper Casino and Hotel | Hancock County, MS (near New Orleans) |
| **Nevada** | |
| Grand Lodge Casino (leased and part of the Hyatt Regency Lake Tahoe Resort, Spa and Casino) | Incline Village, NV (North Shore of Lake Tahoe) |
| Stockman's Casino | Fallon, NV (one hour east of Reno) |
| **Contracted Sports Wagering** | |
| Three sports wagering websites ("skins") | Colorado |
| Three sports wagering websites ("skins") | Indiana |
| One sports wagering website ("skin"), expected to commence Spring 2023 | Illinois |

Our financial results are dependent upon the number of patrons that we attract to our properties and the amounts those guests spend per visit. While we provide credit at some of our casinos where permitted by gaming regulations, most of our revenues are cash-based, through customers wagering with cash or paying for non-gaming services with cash or credit cards. Our revenues are primarily derived from slot machines, but also include other gaming activities, including table games, keno and sports betting. In addition, we derive a significant amount of revenue from our hotels and our food and beverage outlets. We also derive revenues from our golf course and ferry boat service at Rising Star, our RV parks owned at Rising Star and managed at Silver Slipper, and retail outlets and entertainment. We often provide hotel rooms, food and beverages, entertainment, ferry usage, and golf privileges to customers on a complimentary basis; the value of such services is included as revenue in those categories, offset by contra-revenue in the casino revenue category. As a result, the casino revenues in our financial statements reflect patron gaming wins and losses, reduced by the retail value of complimentary services, the value of free play provided to customers, the value of points earned by casino customers that can be redeemed for services or free play, and adjustments for certain progressive jackpots offered by the Company.

We set minimum and maximum betting limits for our slot machines and table games based on market conditions, customer demand and other factors. Our gaming revenues are derived from a broad base of guests that includes both high- and low-stakes players. At Silver Slipper, our sports book operations are in partnership with a company specializing in race and sports betting. At Rising Star, Bronco Billy's, and The Temporary/American Place, we have contracted with other companies to operate our online sports wagering skins under their own brands in exchange for a percentage of revenues, as defined, subject to annual minimum amounts. Our operating results may also be affected by, among other things, overall economic conditions affecting the disposable income of our guests, weather conditions affecting access to our properties, achieving and maintaining cost efficiencies, taxation and other regulatory changes, and competitive factors, including but not limited to, additions and improvements to the competitive supply of gaming facilities, as well as pandemics, epidemics, widespread health emergencies, or outbreaks of infectious diseases such as the coronavirus.

We may experience significant fluctuations in our quarterly operating results due to seasonality, variations in gaming hold percentages and other factors. Consequently, our operating results for any quarter or year are not necessarily comparable and may not be indicative of results in future periods.

Our market environment is highly competitive and capital-intensive. Nevertheless, there are significant restrictions and barriers to entry vis-à-vis opening new casinos in most of the markets in which we operate. We rely on the ability of our properties to generate operating cash flow to pay interest, repay debt, and fund maintenance and certain growth-related capital expenditures. We continuously focus on improving the operating margins of our existing properties through a combination of revenue growth and expense management. We also assess growth and development opportunities, which include capital investments at our existing properties, the development of new properties, and the acquisition of existing properties.

*Recent Developments*

**American Place.** In December 2021, we were selected by the IGB to develop and operate American Place, our proposal for a casino and entertainment destination in Waukegan, Illinois. While the larger, more lavish American Place facility is under construction, we will operate a temporary casino facility, aptly named The Temporary. Opened in February 2023, The Temporary was designed to include approximately 1,000 slot machines, 50 table games, a fine-dining restaurant, two additional restaurants, and a center bar. The permanent American Place facility is expected to include a world-class casino with a state-of-the-art sportsbook; a premium boutique hotel comprised of twenty luxurious villas; a 1,500-seat live entertainment venue; and various food and beverage outlets.

To accommodate operations for The Temporary, as well as construction of the permanent American Place facility, we entered into a 99-year ground lease (the "Ground Lease") with the City of Waukegan, Illinois (the "City") in January 2023 for approximately 32 acres of land (the "City-Owned Parcel"), which is adjacent to a 10-acre parcel of land that we purchased in March 2022 for $7.5 million. Annual rent under the Ground Lease is the greater of (i) $3.0 million or (ii) 2.5% of Adjusted Gross Receipts (as defined) generated by either the Temporary or American Place. The Ground Lease is only terminable to the extent that the Development and Host Community Agreement with the City is terminated. We have the right to purchase the City-Owned Parcel at any time during the term of the Ground Lease for $30 million, but if we do so prior to the opening of American Place, then we must continue to pay rent due to the City under the Ground Lease until the permanent casino is open. For more information, see Note 12 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data."

**Debt Financing.** On February 21, 2023, we issued $40.0 million of Additional Notes. The Additional Notes were issued pursuant to an amended indenture governing the $410 million of Existing Notes. In connection with the issuance of the Additional Notes, we entered into a Fourth Supplemental Indenture with Wilmington Trust, National Association, as trustee, dated February 21, 2023 (as further amended, the "Indenture"). The Additional Notes are treated as a single series of senior secured debt securities with the Existing Notes and as a single class for all purposes under the Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase. Proceeds from the offering, net of related expenses and discounts, were approximately $34 million.

The Notes bear interest at a rate of 8.25% per year and mature on February 15, 2028. Interest on the Notes is payable on February 15 and August 15 in arrears of each year.

Also on February 21, 2023, we entered into a Second Amendment to the Credit Agreement with Capital One, National Association ("Capital One"), which, among other things, increased the amount of additional Indebtedness permitted under our Credit Agreement, dated as of March 31, 2021 (as further amended, the "Credit Agreement"), permitting the issuance of the Additional Notes.

The Notes are guaranteed, jointly and severally (such guarantees, the "Guarantees"), by each of the Company's restricted subsidiaries (collectively, the "Guarantors"). The Notes and the Guarantees are the Company's and the Guarantor's general senior secured obligations, subject to the terms of the Collateral Trust Agreement (as defined in the Indenture), ranking senior in right of payment to all of the Company's and the Guarantor's existing and future debt that is expressly subordinated in right of payment to the Notes and the Guarantees, if any, and ranking equally in right of payment with all of the Company's and the Guarantors' existing and future senior debt.

The Notes, together with borrowings under the Credit Facility, are equally and ratably secured by a first priority security interest in, subject to certain exceptions and limitations and the terms of the Collateral Trust Agreement, the Company's and the Guarantors' furniture, equipment, inventory, accounts receivable, other personal property and real property. Additionally, the Notes (but not the borrowings under the Credit Facility) are secured by a first priority security interest in the securities accounts and the deposit accounts established pursuant to the Cash Collateral and Disbursement Agreement.

**Sports Wagering in Illinois.** In May 2022, we signed a retail and mobile sports wagering contract for Illinois. Such operations are expected to commence in Spring 2023, pending the receipt of customary gaming approvals. We received an upfront fee of $5 million, which was capitalized and will be amortized over the eight-year term of the agreement that is expected to commence in Spring 2023. We will receive a percentage of revenues (as defined), subject to an annual minimum of $5 million. For more information, see Note 9 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data."

**Sports Wagering in Colorado.** In December 2022, we entered into a contract with a third-party to operate mobile sports wagering under our permitted third skin in Colorado. The 10-year agreement began its contractual term in March 2023. Such agreement replaces an unrelated operator that ceased operations in May 2022. In total, we have three sports wagering agreements in Colorado, for which we receive a percentage of revenues (as defined), subject to annual minimums totaling $3 million. For more information, see Note 9 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data."

**COVID-19 Pandemic Update.** The COVID-19 pandemic continues to evolve and certain precautionary and stimulus measures, as well as other factors, have created economic uncertainty both in the United States and globally, as well as significant and prolonged volatility in, and disruption to, financial markets, labor markets and supply chains. Global supply chain disruptions and other world events have resulted in shipping delays, increased shipping costs, supply shortages, and inflationary pressures, including increases in prices for fuel, food, building materials, labor, and other items. These increased costs, labor shortages, and supply shortages continued to put additional constraints on our operating business and our construction projects for the year ended December 31, 2022. We do not know when, or if, these cost, labor, and supply chain issues will materially alleviate and, accordingly, they may continue to impact our existing business and our construction projects.

We believe that we have a strong balance sheet and sufficient liquidity in place. As of December 31, 2022, we had total cash and cash equivalents of $191.2 million, including $134.6 million of restricted cash reserved to fund the construction of Chamonix, and availability under our revolver. As noted above, we further augmented our liquidity in the first quarter of 2023 through the issuance of $40.0 million of Additional Notes, as well as the drawdown of $36.0 million under our Credit Facility.

*Key Performance Indicators*

We use several key performance indicators to evaluate the operations of our properties. These key performance indicators include the following:

*Gaming revenue indicators:*

Slot coin-in is the gross dollar amount wagered in slot machines and table game drop is the total amount of cash or credit exchanged into chips at table games for use by our customers. Slot coin-in and table game drop are indicators of volume.

Slot win is the difference between customer wagers and customer winnings on slot machines. Table game hold is the difference between the amount of money or markers exchanged into chips at the tables and customer winnings paid. Slot win and table game hold percentages represent the relationship between slot win and coin-in and table game win and drop.

*Room revenue indicators:*

Hotel occupancy rate is an indicator of the utilization of our available rooms. Complimentary room sales, or the retail value of accommodations furnished to customers free of charge, are included in the calculation of the hotel occupancy rate.

*Adjusted EBITDA, Adjusted Segment EBITDA and Adjusted Segment EBITDA Margin:*

Management uses Adjusted EBITDA as a measure of our performance. For a description of Adjusted EBITDA see "Non-GAAP Measure." We utilize Adjusted Segment EBITDA as the measure of segment profitability in assessing performance and allocating resources at the reportable segment level. For information regarding our operating segments, see Note 11 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data." Additionally, we use Adjusted Segment EBITDA Margin, which is calculated by dividing Adjusted Segment EBITDA by the property's revenues.

**Results of Operations 2022 Compared to 2021**

*Consolidated operating results*

The following tables summarize our consolidated operating results for the years ended December 31, 2022 and 2021:

| *(In thousands)* | Year Ended December 31, 2022 | 2021 | Increase / (Decrease) |
|---|---|---|---|
| Revenues | $ 163,281 | $ 180,159 | (9.4)% |
| Operating expenses | 150,598 | 142,605 | 5.6 % |
| Operating income | 12,683 | 37,554 | (66.2)% |
| Interest and other non-operating expenses, net | 27,518 | 25,413 | 8.3 % |
| Income tax (benefit) expense | (31) | 435 | (107.1)% |
| Net (loss) income | $ (14,804) | $ 11,706 | (226.5)% |

| *(In thousands)* | Year Ended December 31, 2022 | 2021 | Increase / (Decrease) |
|---|---|---|---|
| **Casino revenues** | | | |
| Slots | $ 99,490 | $ 113,612 | (12.4)% |
| Table games | 13,535 | 13,749 | (1.6)% |
| Other | 851 | 3,070 | (72.3)% |
| | 113,876 | 130,431 | (12.7)% |
| **Non-casino revenues, net** | | | |
| Food and beverage | 26,494 | 27,347 | (3.1)% |
| Hotel | 9,282 | 9,624 | (3.6)% |
| Other | 13,629 | 12,757 | 6.8 % |
| | 49,405 | 49,728 | (0.6)% |
| **Total revenues** | $ 163,281 | $ 180,159 | (9.4)% |

| *(In thousands)* | Year Ended December 31, 2022 | 2021 | Increase / (Decrease) |
|---|---|---|---|
| Slot coin-in | $ 1,837,852 | $ 1,951,311 | (5.8)% |
| Slot win[1] | $ 135,793 | $ 148,232 | (8.4)% |
| Slot hold percentage[2] | 7.4 % | 7.6 % | (0.2)pts |
| Table game drop | $ 76,130 | $ 77,104 | (1.3)% |
| Table game win[1] | $ 13,733 | $ 13,823 | (0.7)% |
| Table game hold percentage[2] | 18.0 % | 17.9 % | 0.1 pts |

(1) Does not reflect reductions in casino revenues from "discretionary comps." For details on our customer loyalty programs, see Note 2 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data."

(2) The three-year averages for slot hold percentage and table game hold percentage were 7.5% and 17.9%, respectively.

The following discussion is based on our consolidated financial statements for the years ended December 31, 2022 and 2021.

**Revenues.** Consolidated revenues decreased by 9.4% (or $16.9 million) in 2022, primarily due to a $14.9 million decline in slot revenues from lower volumes at our three properties in Colorado, Mississippi, and Indiana. These lower volumes can be primarily attributed to the absence of government stimulus programs of the same scale as in 2021; construction disruptions at Bronco Billy's to advance the completion of our Chamonix project; the launch of competing online sports wagering in Louisiana in January 2022; and adverse weather in December 2022 across several properties. Additionally, our revenues were impacted by factors that are inherently hard to quantify, as discussed in the "Recent Developments – COVID-19 Pandemic Update" section. These include inflationary pressures, which could affect the spending pattern of customers, as well as labor shortages for us to meet the demands of potential customers. "Other Non-casino Revenues" includes $7.2 million of revenue related to our contracted sports wagering agreements in 2022, compared to $5.9 million in 2021. See "Operating Results – Reportable Segments" below for details.

**Operating expenses.** Consolidated operating expenses increased by 5.6% (or $8.0 million) in 2022, primarily due to $9.5 million of additional preopening costs for The Temporary and Chamonix and a $2.6 million increase to food and beverage costs. Such amounts were partially offset by a $4.0 million decrease in casino costs tied to lower volumes than in 2021, as noted above.

See further information within our reportable segments described below.

**Interest and other non-operating expense, net.**

*Interest Expense*

| ***(In thousands)*** | **Year Ended December 31,** | |
|---|---|---|
| | **2022** | **2021** |
| Interest expense (excluding bond fee amortization and premium) | $ 33,496 | $ 24,179 |
| Amortization of debt issuance costs, discounts and premiums | 1,649 | 1,349 |
| Capitalized interest | (10,802) | (1,871) |
| Interest income and other | (1,355) | — |
| | $ 22,988 | $ 23,657 |

Interest expense decreased marginally due to increases in capitalized interest related to construction of The Temporary and Chamonix projects, as well as interest income earned during the year. Both items more than offset the increased interest expense that resulted from the February 2022 issuance of $100 million of additional senior secured notes. See Note 6 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data" for a more detailed discussion.

*Other non-operating expense, net*

In 2022, we incurred $4.5 million of other non-operating expense, primarily consisting of debt modification costs related to our offering of $100 million of additional notes in February 2022. In 2021, we incurred $1.8 million of other non-operating expense, which included $0.4 million for the extinguishment of prior debts and $1.3 million for the settlement of our former warrants. See Note 6 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data" for a more detailed discussion.

**Income taxes.** Our effective income tax rates for the years ended December 31, 2022 and 2021 were 0.2% and 3.6%, respectively. Our tax rates differ from the statutory rate of 21.0% primarily due to changes in valuation allowance and items that are permanently treated differently for GAAP and tax purposes. During 2022, we continued to provide a valuation allowance against our deferred tax assets ("DTAs"), net of any available deferred tax liabilities, as applicable, based on our analysis of the timing of reversal of such deferred taxes. For 2022, the valuation allowance was $15.2 million, compared to $9.9 million for 2021. In future years, if it is determined that we meet the more likely than not threshold of utilizing our DTAs, then we may reverse some or all of our valuation allowance.

We do not expect to pay any federal income taxes or receive any federal tax refunds related to our 2022 results. We used net operating loss carryforwards from previous years to offset taxable income generated in 2022. Due to the level of uncertainty regarding sufficient prospective income as measured under GAAP, we maintain a valuation allowance against our DTAs, as mentioned above. See Note 8 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data" for a more detailed discussion.

*Operating results — reportable segments*

We manage our casinos based primarily on geographic regions within the United States and type of income. For more information, please refer to our earlier discussion within the "Executive Overview" section.

The following table presents detail by segment of our consolidated revenues and Adjusted EBITDA (see "Non-GAAP Measure" for more information). Additionally, management uses Adjusted Segment EBITDA as its measure of segment profitability in accordance with GAAP.

| ***(In thousands)*** | **Year Ended December 31,** | | **Increase / (Decrease)** |
|---|---|---|---|
| | **2022** | **2021** | |
| **Revenues** | | | |
| Mississippi | $ 80,860 | $ 90,628 | (10.8)% |
| Indiana | 39,090 | 41,435 | (5.7)% |
| Colorado | 16,185 | 23,660 | (31.6)% |
| Nevada | 19,950 | 18,516 | 7.7 % |
| Contracted Sports Wagering | 7,196 | 5,920 | 21.6 % |
| | $ 163,281 | $ 180,159 | (9.4)% |
| **Adjusted Segment EBITDA and Adjusted EBITDA** | | | |
| Mississippi | $ 19,488 | $ 29,843 | (34.7)% |
| Indiana | 6,888 | 8,736 | (21.2)% |
| Colorado | (688) | 5,545 | (112.4)% |
| Nevada | 4,908 | 4,933 | (0.5)% |
| Contracted Sports Wagering | 7,127 | 5,890 | 21.0 % |
| Adjusted Segment EBITDA | 37,723 | 54,947 | (31.3)% |
| Corporate | (5,589) | (7,733) | (27.7)% |
| Adjusted EBITDA | $ 32,134 | $ 47,214 | (31.9)% |
| | | | |
| **Adjusted Segment EBITDA Margin** | | | |
| Mississippi | 24.1 % | 32.9 % | (8.8) pts |
| Indiana | 17.6 % | 21.1 % | (3.5) pts |
| Colorado | (4.3)% | 23.4 % | (27.7) pts |
| Nevada | 24.6 % | 26.6 % | (2.0) pts |
| Contracted Sports Wagering | 99.0 % | 99.5 % | (0.5) pts |

***Mississippi***

Our Mississippi segment consists of the Silver Slipper Casino and Hotel. The prior year was among the best in the property's history in terms of casino revenue and total revenue, benefiting from the issuance of government stimulus checks to customers. Compared to 2021, total revenues during 2022 decreased by 10.8% (or $9.8 million), primarily due to declines in casino revenue of 14.5% (or $9.2 million). During 2022, slot revenue declined by 12.4% (or $6.6 million) due to lower volumes. Other casino revenues declined by $2.2 million during 2022, primarily from our on-site sports book that was impacted by the competitive launch of online sports wagering in January 2022 within nearby Louisiana.

Non-casino revenue decreased by 2.3% (or $0.6 million) during 2022, also due to lower volumes during the year. The majority of our non-casino revenue comes from our food and beverage operations, which revenue declined by 2.6% (or $0.5 million). Hotel revenue rose by 1.1% (or $0.1 million), due to higher average daily room rates as compared to 2021, despite a decline in hotel occupancy rates to 91.7% in 2022, as compared to 93.6% in 2021.

Adjusted Segment EBITDA decreased by 34.7% (or $10.4 million) from the prior year, reflecting revenue declines from a lack of stimulus payments and the launch of online sports wagering in Louisiana mentioned above; a $1.8 million increase in food costs; and a $1.4 million increase in property insurance costs.

***Indiana***

Our Indiana segment consists of Rising Star Casino Resort. Similar to the Silver Slipper, total revenues for the prior year benefited from customers receiving government stimulus payments. Additionally, a nearby facility with "historical racing machines" (which are a form of slot machine) opened in September 2022. As a result, total revenues for 2022 decreased by 5.7% (or $2.3 million), compared to 2021, due to declines in casino revenue of 7.6% (or $2.2 million). During 2022, slot revenue declined by 5.7% (or $1.5 million) due to lower volumes, while table game revenue declined by $0.7 million.

Non-casino revenue declined by 0.8% (or $0.1 million) during 2022, also from lower volumes. Increases in food and beverage revenue of 12.0% (or $0.4 million) nearly offset decreases in other non-casino revenue (3.1%, or $0.1 million) and hotel revenue (9.7%, or $0.4 million). Total occupied room-nights declined by 9.2% in 2022 to 47,587 room-nights from 51,951 room-nights in 2021, and average daily room rates also declined.

Adjusted Segment EBITDA decreased by 21.2% (or $1.8 million) from the prior year due to lower volumes as discussed above. Lower volumes led to declines in many variable costs, such as gaming taxes, related fees, and payroll. However, marketing costs during 2022 increased by $0.5 million to address lower volumes, as 2021 was assisted by the issuance of government stimulus checks to customers.

***Colorado***

Our Colorado segment includes Bronco Billy's Casino and Hotel and the Chamonix project. The Colorado gaming market, including Cripple Creek, has shown significant growth since betting limits were eliminated in May 2021. Bronco Billy's, however, has incurred significant construction disruption, including temporarily-reduced gaming and restaurant capacity and the temporary absence of all on-site hotel rooms and on-site self-parking. Total revenues for 2022 decreased by 31.6% (or $7.5 million) when compared to 2021, reflecting business disruptions to accommodate the construction of Chamonix.

Casino revenue for 2022 decreased by 33.0% (or $6.7 million), compared to 2021, which was largely due to the construction disruptions mentioned above. Slot revenue declined by 34.5% (or $6.8 million) during 2022. Table games revenue rose by 18.7% (or $0.1 million) during 2022 due to a higher hold percentage and increased volumes versus 2021, when table games operations resumed in February 2021 under pandemic-related constraints.

Non-casino revenue decreased by 23.2% (or $0.8 million) during 2022, due to declines in food and beverage revenue of 26.6% (or $0.6 million) after the temporary closure of the property's steakhouse since May 2022 and, to a lesser extent, declines in ATM and related surcharge income of $0.1 million.

Adjusted Segment EBITDA decreased by $6.2 million, from positive Adjusted Segment EBITDA of $5.5 million to an Adjusted Segment EBITDA loss of $688,000, due to significant disruptions in 2022 from the construction of Chamonix, as mentioned above. Similar to Rising Star, lower volumes also led to declines in many variable costs, such as gaming taxes, gaming position fees, and food and beverage costs. To alleviate the lack of on-site parking, Bronco Billy's currently offers complimentary valet parking and a free shuttle service to an off-site parking lot, resulting in additional expenses. The casino has also maintained much of its payroll, despite reduced activity levels, anticipating the need for the larger workforce required to open and operate Chamonix.

In addition to construction disruption due to our neighboring Chamonix project, we are currently undergoing a modest refurbishment of a portion of Bronco Billy's, which began in May 2022. Accordingly, Bronco Billy's contribution to earnings was impacted by the casino refurbishment (which was completed in December 2022), and will likely continue to be impacted until restaurant work at Bronco Billy's is completed in the third quarter of 2023 and Chamonix begins its phased opening, potentially also in the third quarter of 2023. When Chamonix opens, Bronco Billy's will share the significant on-site parking garage, valet and surface parking capacity of the new casino, and also benefit from Chamonix's adjoining 300-guestroom hotel.

The market in Cripple Creek is seasonal, favoring the summer months.

***Nevada***

The Nevada segment consists of the Grand Lodge and Stockman's casinos. Our Nevada operations have historically been seasonal, with the summer months accounting for a disproportionate share of annual revenues. Additionally, snowfall levels during the winter months can often affect operations, as Grand Lodge Casino is located near several major ski resorts. We typically benefit from a "good" snow year, resulting in extended periods of operation at the nearby ski areas, although at times, major snowstorms can restrict access to the property.

Total revenues for 2022 increased by 7.7% (or $1.4 million), compared to 2021, primarily due to higher casino revenue at Grand Lodge. Casino revenue increased by 9.1% (or $1.5 million) in 2022 due to higher revenue from both our slots and table games departments. Slot revenue rose by 5.4% (or $0.8 million) and table games revenue rose by 34.3% (or $0.8 million) in 2022, due to increases in both volumes and higher hold percentages. During the third quarter of 2021, Grand Lodge was adversely affected by significant wildfires in the area. Additionally, in July 2022, Stockman's resumed table games operations, which had remained closed since March 2020.

Adjusted Segment EBITDA was relatively flat at $4.9 million each for 2022 and 2021. Increased volumes – largely reflecting the recovery of tourism to the Lake Tahoe region at Grand Lodge during 2022 – resulted in higher variable costs, such as gaming taxes, related fees, and payroll.

***Contracted Sports Wagering***

The Contracted Sports Wagering segment consists of our on-site and online sports wagering skins in Colorado, Indiana and, upon launch, Illinois.

For 2022, revenues increased by 21.6% or ($1.3 million) and Adjusted Segment EBITDA increased by 21.0% or ($1.2 million), compared to 2021, which results reflect an additional skin that contractually went live on December 1, 2021, as well as an acceleration of deferred revenue for two agreements (one in each of Indiana and Colorado) that ceased operations in May 2022, when one of our contracted parties ceased operations, each in Indiana and Colorado. In December 2022, we entered into a sports wagering agreement to replace such operator in Colorado. We are currently evaluating whether to utilize the remaining skin in Indiana ourselves or to find a replacement operator for such skin. However, there is no certainty that we will be able to enter into an agreement with a replacement operator or successfully operate the skin ourselves.

Additionally, the results of this segment do not yet include income contribution from our agreement for a third party to operate on-site and online sports betting in Illinois. Under such agreement, we will receive a percentage of revenues, as defined in the contract, subject to an annualized minimum of $5 million, with minimal expected expenses. We anticipate the Illinois sports operations will begin in Spring 2023, subject to customary regulatory approvals. For details, see Note 9 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data."

***Corporate***

Corporate expenses declined by 27.7% (or $2.1 million) in 2022. In 2021, we incurred $2.1 million of costs related to non-recurring corporate initiatives. Additionally, increases to certain third-party costs were offset by a decrease in accrued bonus compensation.

*Non-GAAP Measure*

"Adjusted EBITDA" is earnings before interest and other non-operating income (expense), taxes, depreciation and amortization, preopening expenses, impairment charges, asset write-offs, recoveries, gain (loss) from asset disposals, project development and acquisition costs, and non-cash share-based compensation expense. Adjusted EBITDA information is presented solely as supplemental disclosure to measures reported in accordance with generally accepted accounting principles in the United States of America ("GAAP") because management believes this measure is (i) a widely used measure of operating performance in the gaming and hospitality industries and (ii) a principal basis for valuation of gaming and hospitality companies. In addition, a version of Adjusted EBITDA (known as Consolidated Cash Flow) is utilized in the covenants within our credit facility, although not necessarily defined in the same way as above. Adjusted EBITDA is not, however, a measure of financial performance or liquidity under GAAP. Accordingly, this measure should be considered supplemental and not a substitute for net income (loss) or cash flows as an indicator of our operating performance or liquidity.

The following table presents a reconciliation of net (loss) income to Adjusted EBITDA:

| ***(In thousands)*** | **Year Ended December 31,** | |
|---|---|---|
| | **2022** | **2021** |
| **Net (loss) income** | $ (14,804) | $ 11,706 |
| Income tax (benefit) expense | (31) | 435 |
| Interest expense, net | 22,988 | 23,657 |
| Loss on modification and extinguishment of debt, net | 4,530 | 409 |
| Adjustment to fair value of warrants | — | 1,347 |
| **Operating income** | 12,683 | 37,554 |
| Project development costs, net | 228 | 782 |
| Preopening costs | 9,558 | 17 |
| Depreciation and amortization | 7,930 | 7,219 |
| Loss on disposal of assets, net | 42 | 676 |
| Stock-based compensation | 1,693 | 966 |
| **Adjusted EBITDA** | $ 32,134 | $ 47,214 |

The following tables present reconciliations of operating income (loss) to Adjusted Segment EBITDA and Adjusted EBITDA:

**For the Year Ended December 31, 2022**
***(In thousands)***

| | Operating Income (Loss) | Depreciation and Amortization | Loss / (gain) on Disposal of Assets | Project Development Costs | Preopening Costs | Stock-Based Compensation | Adjusted Segment EBITDA and Adjusted EBITDA |
|---|---|---|---|---|---|---|---|
| **Reporting segments** | | | | | | | |
| Mississippi | $ 16,684 | $ 2,757 | $ 47 | $ — | $ — | $ — | $ 19,488 |
| Indiana | 4,532 | 2,356 | — | — | — | — | 6,888 |
| Colorado | (3,544) | 1,429 | (5) | — | 1,432 | — | (688) |
| Nevada | 3,938 | 970 | — | — | — | — | 4,908 |
| Contracted Sports Wagering | 7,127 | — | — | — | — | — | 7,127 |
| | 28,737 | 7,512 | 42 | — | 1,432 | — | 37,723 |
| **Other operations** | | | | | | | |
| Corporate | (16,054) | 418 | — | 228 | 8,126 | 1,693 | (5,589) |
| | $ 12,683 | $ 7,930 | $ 42 | $ 228 | $ 9,558 | $ 1,693 | $ 32,134 |

**For the Year Ended December 31, 2021**
***(In thousands)***

| | Operating Income (Loss) | Depreciation and Amortization | Loss on Disposal of Assets | Project Development Costs | Preopening Costs | Stock-Based Compensation | Adjusted Segment EBITDA and Adjusted EBITDA |
|---|---|---|---|---|---|---|---|
| **Reporting segments** | | | | | | | |
| Mississippi | $ 26,553 | $ 2,701 | $ 589 | $ — | $ — | $ — | $ 29,843 |
| Indiana | 6,396 | 2,340 | — | — | — | — | 8,736 |
| Colorado | 3,959 | 1,482 | 87 | — | 17 | — | 5,545 |
| Nevada | 4,386 | 547 | — | — | — | — | 4,933 |
| Contracted Sports Wagering | 5,890 | — | — | — | — | — | 5,890 |
| | 47,184 | 7,070 | 676 | — | 17 | — | 54,947 |
| **Other operations** | | | | | | | |
| Corporate | (9,630) | 149 | — | 782 | — | 966 | (7,733) |
| | $ 37,554 | $ 7,219 | $ 676 | $ 782 | $ 17 | $ 966 | $ 47,214 |

Operating expenses deducted to arrive at operating income (loss) in the above tables include facility rents related to: (i) Mississippi of $2.0 million in 2022 and $2.3 million in 2021, (ii) Nevada of $1.8 million in both 2022 and 2021, and (iii) Colorado of $12,000 in 2022 and $0.6 million in 2021. During 2022, $0.9 million of qualifying rent in Colorado was reclassified to preopening costs for our Chamonix construction project. Finance lease payments of $0.7 million in both 2022 and 2021 related to Rising Star's smaller hotel within the Indiana segment are not deducted, as such payments are accounted for as interest expense and amortization of debt related to the finance obligation.

**Liquidity and Capital Resources**

*Cash Flows*

As of December 31, 2022, we had $191.2 million of cash and equivalents, including $134.6 million of restricted cash dedicated to the construction of Chamonix. Subsequent to year-end, we closed on the issuance of additional senior secured notes, resulting in net proceeds of approximately $34 million. We currently estimate that between $10 million and $15 million of cash is required for our day-to-day operations, including on-site cash in our slot machines, change and redemption kiosks, and cages. We believe that current cash balances, together with the available borrowing capacity under our revolving credit facility and cash flows from operating activities across our six properties (including The Temporary, which opened in February 2023), will be sufficient to meet our liquidity and capital resource needs for the next 12 months of operations.

**Cash flows – operating activities.** On a consolidated basis, cash provided by operations during 2022 was $4.4 million, compared to $29.5 million in 2021. Trends in our operating cash flows tend to follow trends in operating income, excluding non-cash charges, but are also affected by changes in working capital. Our operating cash flows decreased in 2022 primarily due to decreases in revenues and income, which includes preopening expenses incurred for The Temporary (which opened in February 2023) and Chamonix.

**Cash flows – investing activities.** On a consolidated basis, cash used in investing activities during 2022 was $172.1 million, primarily related to capital expenditures for Chamonix and The Temporary/American Place. In 2021, such amount was $37.2 million, primarily for our Chamonix construction project and real estate purchases in Cripple Creek, as well as to repair hurricane damage at Silver Slipper.

**Cash flows – financing activities.** On a consolidated basis, cash provided by financing activities during 2022 was $93.6 million, while cash provided by financing activities during 2021 was $235.3 million. In February 2022, we received $102.0 million of gross proceeds from the issuance of additional senior secured notes to construct The Temporary. In February and March 2021, respectively, we received $310.0 million of gross proceeds from the issuance of our 2028 Notes and $46.0 million of gross proceeds from our underwritten equity offering. These cash inflows in 2021 were partially offset by the payoff of the Prior Notes (including the related prepayment premiums), as well as expenses related to our debt and equity offerings.

*Other Factors Affecting Liquidity*

We have significant outstanding debt and contractual obligations, in addition to planned capital expenditures related to the construction of Chamonix and American Place. Our principal debt matures in February 2028. Certain planned capital expenditures designed to grow the Company, such as the permanent American Place facility and the potential future expansion of Silver Slipper, may require additional financing and/or temporarily reduce the Company's ability to repay debt.

Our operations are subject to financial, economic, competitive, regulatory and other factors, many of which are beyond our control. Such factors include the potential effects of COVID-19 and its variants. The extent to which our liquidity in future periods may be affected by COVID-19 and its variants may largely depend on future developments. Such future developments are highly uncertain and cannot be accurately predicted at this time, as discussed under "Recent Developments."

**Long-Term Debt.** At December 31, 2022, we had $410.0 million of principal indebtedness outstanding under the Existing Notes as issued in February 2021 and February 2022, and no drawn amounts under the Credit Facility or any outstanding letters of credit. With the exception of our Credit Facility, we have fixed interest rates on the remainder of our debt.

See Note 6 and Note 12 to the consolidated financial statements set forth in Part II,Item 8. "Financial Statements and Supplementary Data" for details on our debt obligations.

**Hyatt Option to Purchase our Leasehold Interest and Related Assets.** Our lease with Hyatt to operate the Grand Lodge Casino currently has an option for Hyatt to purchase our leasehold interest and related casino operating assets. The lease, which has been extended several times in the past, was subsequently extended through December 31, 2024. See Note 7 and Note 12 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data" for further information about this option and related rental commitments that could affect our liquidity and capital resources.

**Capital Investments.** In addition to normal maintenance capital expenditures, we continue to make significant capital investments related to the construction of Chamonix, The Temporary and American Place.

*Chamonix* — As previously discussed in "Operating Properties — Chamonix Casino and Hotel" under Part I, Item 1. "Business," we increased the size of the Chamonix project's hotel capacity by 67%, to approximately 300 luxury guest rooms and suites from our previously planned 180 guest rooms. To fund Chamonix's construction, we issued our 2028 Notes and placed a portion of such proceeds into a restricted cash account dedicated to Chamonix's construction (see Note 6 to the consolidated financial statements set forth in Part II,Item 8. "Financial Statements and Supplementary Data"). As of December 31, 2022, the balance of such restricted cash account was approximately $135 million. We expect to invest all of such amount in 2023, as full completion of construction is expected before the end of 2023.

*American Place* — As discussed above in the "Executive Overview," we were selected by the IGB to develop and operate American Place in Waukegan, Illinois. While the larger permanent facility is under construction, we will operate a temporary casino named The Temporary by American Place, which opened in February 2023. During 2023, we expect to invest approximately $70 million into this project, consisting largely of significant upfront gaming license payments and the recent completion of The Temporary's construction, as well as professional fees related to the design of the permanent American Place facility. We expect to transfer purchased slot machines and other equipment to the permanent casino once opened. See Note 6 and Note 12 to the consolidated financial statements set forth in Part II,Item 8. "Financial Statements and Supplementary Data."

*Other Capital Expenditures* — Additionally, we may fund various other capital expenditure projects, depending on our financial resources. Our capital expenditures may fluctuate due to decisions regarding strategic capital investments in new or existing facilities, and the timing of capital investments to maintain the quality of our properties. No assurance can be given that any of our planned capital expenditure projects will be completed or that any completed projects will be successful. Our annual capital expenditures typically include some number of new slot machines and related equipment; to some extent, we can coordinate such purchases to match our resources.

We evaluate projects based on a number of factors, including profitability forecasts, length of the development period, the regulatory and political environment, and the ability to secure the funding necessary to complete the development or acquisition, among other considerations. No assurance can be given that any additional projects will be pursued or completed or that any completed projects will be successful.

**Principal Debt Arrangements**

See Note 6 to the consolidated financial statements set forth in Part II,Item 8. "Financial Statements and Supplementary Data" for more information.

**Critical Accounting Estimates and Policies**

Our consolidated financial statements were prepared in conformity with accounting principles generally accepted in the United States of America. Certain of our accounting policies require that we apply significant judgment in defining the appropriate assumptions for calculating estimates that affect reported amounts and disclosures. By their nature, judgments are subject to an inherent degree of uncertainty, and therefore, actual results may differ from our estimates. We believe the following critical accounting policies affect the most significant judgments and estimates used in the preparation of our consolidated financial statements.

**Impairment of Long-lived Assets, Goodwill and Indefinite-Lived Intangibles**

Our long-lived assets include property and equipment, goodwill, and indefinite-lived intangibles, and are evaluated at least annually (and more frequently when circumstances warrant) to determine if events or changes in circumstances indicate that the carrying value may not be recoverable. Examples of such events or changes in circumstances that might indicate impairment testing is warranted might include, as applicable, an adverse change in the legal, regulatory or business climate relative to gaming nationally or in the jurisdictions in which we operate, or a significant long-term decline in historical or forecasted earnings or cash flows or the fair value of our property or business, possibly as a result of competitive or other economic or political factors. In evaluating whether a loss in value is other than temporary, we consider: (i) the length of time and the extent to which the fair value or market value has been less than cost; (ii) the financial condition and near-term prospects of the casino property, including any specific events which may influence the operations; (iii) our intent related to the asset and ability to retain it for a period of time sufficient to allow for any anticipated recovery in fair value; (iv) the condition and trend of the economic cycle; (v) historical and forecasted financial performance; and (vi) trends in the general market.

We review the carrying value of our property and equipment used in our operations whenever events or circumstances indicate that the carrying value of an asset may not be recoverable from estimated future undiscounted cash flows expected to result from its use and eventual disposition. If the undiscounted cash flows exceed the carrying value, no impairment is indicated. If the undiscounted cash flows do not exceed the carrying value, then an impairment is recorded based on the fair value of the asset. Fair value is typically measured using a discounted cash flow model whereby future cash flows are discounted using a weighted-average cost of capital, developed using a standard capital-asset pricing model, based on guideline companies in our industry.

We test our goodwill and indefinite-lived intangible assets for impairment annually during the fourth quarter or when a triggering event occurs. For our 2022 and 2021 annual impairment tests, we utilized the option to perform a qualitative analysis for our goodwill and indefinite-lived intangibles and concluded it was more likely than not that the fair values of such intangibles exceeded their carrying values. Any impairment charges incurred are not reversed if a subsequent evaluation concludes a higher valuation than the carrying value. For further discussion of goodwill and other intangible assets, see Note 2 and Note 4 to the consolidated financial statements set forth in Part II, Item 8. “Financial Statements and Supplementary Data.”

**Fixed Asset Capitalization and Depreciation Policies**

We define fixed assets as certain property and equipment with economic useful lives that extend beyond a year. Such fixed assets are stated at cost. For the majority of our property and equipment, cost was determined at the acquisition date based on estimated fair values. We acquired Bronco Billy’s in May 2016, Silver Slipper in October 2012, Rising Star in April 2011 and Stockman’s in January 2007. Project development costs, which are amounts expended on the pursuit of new business opportunities, acquisition-related costs, as well as other business development activities in the ordinary course of business, are expensed as incurred. Maintenance and repairs that neither materially add to the value of the property nor appreciably prolong its life are also expensed as incurred. Depreciation and amortization are provided on a straight-line basis over the estimated useful lives of the assets. When we construct assets, we capitalize direct costs of the project, including fees paid to architects and contractors and property taxes. Salaries are capitalized only for employees working directly on the project. In addition, interest cost associated with major development and construction projects is capitalized as part of the cost of the project. Interest is typically capitalized on amounts expended on the project using the weighted-average cost of our outstanding borrowings. Capitalization of interest starts when construction activities begin and ceases when construction is substantially complete or development activity is suspended for more than a brief period.

We must make estimates and assumptions when accounting for capital expenditures. Whether an expenditure is considered a maintenance expense or a capital asset is sometimes a matter of judgment. When constructing or purchasing assets, we must determine whether existing assets are being replaced or otherwise impaired, which also may be a matter of judgment. In addition, our depreciation expense is highly dependent on the assumptions we make about our assets' estimated useful lives. We determine the estimated useful lives based on our experience with similar assets, engineering studies, and our estimate of the usage of the asset. Whenever events or circumstances occur, which would change the estimated useful life of an asset, we account for the change prospectively.

**Income Taxes**

We are subject to federal and state taxes in the United States. Significant judgment is required in determining our provision for income taxes, our deferred tax assets and liabilities, and any valuation allowance recorded against our net DTAs. Such valuation allowance was $15.2 million for 2022 and $9.9 million for 2021. We make these estimates and judgments about our future taxable income that are based on assumptions that are consistent with our future plans. Tax laws, regulations, and administrative practices may be subject to change due to economic or political conditions, including fundamental changes to the applicable tax laws.

Our income tax returns are subject to examination by the IRS and other tax authorities. Positions taken in tax returns are sometimes subject to uncertainty in the tax laws and may not ultimately be accepted by the IRS or other tax authorities. We assess our tax positions using a two-step process. A tax position is recognized if it meets a more likely than not threshold. It is then measured at the largest amount of benefit that is greater than 50 percent likely of being realized. Additionally, we recognize accrued interest and penalties, if any, related to unrecognized tax benefits in income tax expense. For further discussion of income taxes, see Note 8 to the consolidated financial statements set forth in Part II, Item 8. "Financial Statements and Supplementary Data."

**Recently Issued Accounting Pronouncements Not Yet Adopted**

See Note 2 to the consolidated financial statements set forth in Part II,Item 8. "Financial Statements and Supplementary Data" for a discussion of recently issued accounting pronouncements not yet adopted.

**Item 7A. Quantitative and Qualitative Disclosures about Market Risk.**

As a smaller reporting company during the year ended December 31, 2022, as defined by Rule 12b-2 of the Exchange Act, we are not required to provide the information required by this Item.

**Item 8. Financial Statements and Supplementary Data.**

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the stockholders and the Board of Directors of Full House Resorts, Inc.

**Opinion on Internal Control over Financial Reporting**

We have audited the internal control over financial reporting of Full House Resorts, Inc. and subsidiaries (the "Company") as of December 31, 2022, based on criteria established in Internal Control — Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022, based on criteria established in Internal Control — Integrated Framework (2013) issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2022 of the Company and our report dated March 15, 2023, expressed an unqualified opinion on those financial statements.

**Basis for Opinion**

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

**Definition and Limitations of Internal Control over Financial Reporting**

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Deloitte & Touche LLP

Las Vegas, Nevada
March 15, 2023

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Full House Resorts, Inc.

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Full House Resorts, Inc. and subsidiaries (the "Company") as of December 31, 2022 and 2021, the related consolidated statements of operations, stockholders' equity, and cash flows, for each of the two years in the period ended December 31, 2022, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2022, based on criteria established in Internal Control — Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 15, 2023, expressed an unqualified opinion on the Company's internal control over financial reporting.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

### Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

***Income Taxes – Valuation Allowance – Refer to Note 8 to the financial statements***

*Critical Audit Matter Description*

The Company recognizes deferred tax assets and liabilities resulting from the future tax consequences attributable to the differences between the financial statements and tax basis of their respective assets and liabilities. The Company provides valuation allowances against deferred tax assets when it is deemed more likely than not that some portion or all of the deferred tax assets will not be realized. Future realization of deferred tax assets depends on the generation of future taxable income during the periods in which those temporary differences become deductible. Sources of taxable income include future reversals of deferred tax liabilities, projected future taxable income, ability to carry tax attributes back to prior years, and tax planning strategies.

The Company's valuation allowance for its US federal and certain state deferred tax assets was $15.2 million as of December 31, 2022. We identified the Company's valuation allowance analysis and conclusion as a critical audit matter because of the estimates and judgments required by management in determining whether deferred tax assets are more likely than not to be realized, including the projected timing and pattern of future reversals of existing temporary differences and the projection of future sources of taxable income. Auditing management's projected timing and pattern of future reversals of existing taxable temporary differences and the projection of future sources of taxable income, which affect the recorded valuation allowance, required a high degree of auditor judgment and an increased extent of effort, including the need to involve our income tax specialists.

*How the Critical Audit Matter Was Addressed in the Audit*

Our audit procedures related to the Company's valuation allowance analysis included the following, among others:

- We tested the effectiveness of management's internal controls over the valuation allowance analysis.
- With the assistance of our income tax specialists, we evaluated the reasonableness of management's analysis, including the projected timing and pattern of future reversals of deferred tax assets and liabilities. We evaluated the reasonableness of management's assessment of the significance and weighting of negative and positive evidence that is objectively verifiable, as well as whether it was more likely than not that sufficient estimated taxable income sources would be generated in the future for all or a portion of the net deferred tax assets to be realized, including consideration of:
    - Relevant tax laws and regulations;
    - Future reversals of deferred tax assets and liabilities;
    - Relevant tax planning strategies; and
    - Projected future taxable income, including adjustments for non-recurring items, as applicable.

/s/ Deloitte & Touche LLP

Las Vegas, Nevada
March 15, 2023

We have served as the Company's auditor since 2019.

**FULL HOUSE RESORTS, INC. AND SUBSIDIARIES**
**CONSOLIDATED STATEMENTS OF OPERATIONS**
(In thousands, except share and per share data)

| | Year Ended December 31, | |
|---|---|---|
| | **2022** | **2021** |
| **Revenues** | | |
| Casino | $ 113,876 | $ 130,431 |
| Food and beverage | 26,494 | 27,347 |
| Hotel | 9,282 | 9,624 |
| Other operations, including contracted sports wagering | 13,629 | 12,757 |
| | 163,281 | 180,159 |
| **Operating costs and expenses** | | |
| Casino | 39,788 | 43,765 |
| Food and beverage | 26,372 | 23,757 |
| Hotel | 4,806 | 4,444 |
| Other operations | 2,168 | 1,980 |
| Selling, general and administrative | 59,706 | 59,965 |
| Project development costs, net | 228 | 782 |
| Preopening costs | 9,558 | 17 |
| Depreciation and amortization | 7,930 | 7,219 |
| Loss on disposal of assets, net | 42 | 676 |
| | 150,598 | 142,605 |
| **Operating income** | 12,683 | 37,554 |
| **Other expense** | | |
| Interest expense, net | (22,988) | (23,657) |
| Loss on modification and extinguishment of debt, net | (4,530) | (409) |
| Adjustment to fair value of warrants | — | (1,347) |
| | (27,518) | (25,413) |
| **(Loss) income before income taxes** | (14,835) | 12,141 |
| Income tax (benefit) expense | (31) | 435 |
| **Net (loss) income** | $ (14,804) | $ 11,706 |
| | | |
| **Basic (loss) earnings per share** | $ (0.43) | $ 0.36 |
| **Diluted (loss) earnings per share** | $ (0.43) | $ 0.33 |
| **Basic weighted average number of common shares outstanding** | 34,354,847 | 32,516,758 |
| **Diluted weighted average number of common shares outstanding** | 34,354,847 | 34,945,951 |

The accompanying notes are an integral part of these consolidated financial statements.

**FULL HOUSE RESORTS, INC. AND SUBSIDIARIES**
**CONSOLIDATED BALANCE SHEETS**
(In thousands, except share data)

| | December 31, | |
|---|---|---|
| | **2022** | **2021** |
| **ASSETS** | | |
| Current assets | | |
| Cash and equivalents | $ 56,589 | $ 88,721 |
| Restricted cash | 134,587 | 176,572 |
| Accounts receivable, net of reserves of $249 and $257 | 4,082 | 4,693 |
| Inventories | 1,479 | 1,660 |
| Prepaid expenses and other | 6,184 | 3,726 |
| | 202,921 | 275,372 |
| | | |
| Property and equipment, net | 339,057 | 149,540 |
| Operating lease right-of-use assets, net | 15,771 | 15,814 |
| Finance lease right-of-use assets, net | 3,808 | — |
| Goodwill | 21,286 | 21,286 |
| Other intangible assets, net | 10,869 | 10,896 |
| Deposits and other | 1,617 | 934 |
| | $ 595,329 | $ 473,842 |
| **LIABILITIES AND STOCKHOLDERS' EQUITY** | | |
| Current liabilities | | |
| Accounts payable | $ 4,602 | $ 3,885 |
| Construction payable | 30,279 | 4,537 |
| Accrued payroll and related | 3,784 | 5,473 |
| Accrued interest | 12,966 | 9,861 |
| Other accrued liabilities | 9,964 | 10,241 |
| Current portion of operating lease obligations | 2,485 | 3,542 |
| Current portion of finance lease obligation | 1,581 | 514 |
| | 65,661 | 38,053 |
| | | |
| Operating lease obligations, net of current portion | 13,418 | 12,903 |
| Finance lease obligations, net of current portion | 4,727 | 2,783 |
| Long-term debt, net | 401,852 | 301,619 |
| Deferred income taxes, net | 1,024 | 1,055 |
| Contract liabilities, net of current portion | 8,856 | 4,714 |
| | 495,538 | 361,127 |
| Commitments and contingencies (Note 9) | | |
| Stockholders' equity | | |
| Common stock, $0.0001 par value, 100,000,000 shares authorized; 35,302,549 and 35,302,549 shares issued and 34,407,654 and 34,242,581 shares outstanding | 4 | 4 |
| Additional paid-in capital | 110,590 | 108,911 |
| Treasury stock, 894,895 and 1,059,968 common shares | (1,091) | (1,292) |
| (Accumulated deficit) retained earnings | (9,712) | 5,092 |
| | 99,791 | 112,715 |
| | $ 595,329 | $ 473,842 |

The accompanying notes are an integral part of these consolidated financial statements.

**FULL HOUSE RESORTS, INC. AND SUBSIDIARIES**
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**
(In thousands)

| | Common Stock | | Additional Paid-in | Treasury Stock | | (Accumulated Deficit) Retained | Total Stockholders' |
|---|---|---|---|---|---|---|---|
| | Shares | Dollars | Capital | Shares | Dollars | Earnings | Equity |
| **Balances, January 1, 2021** | 28,385 | $ 3 | $ 64,826 | 1,261 | $ (1,538) | $ (6,614) | $ 56,677 |
| Net income | — | — | — | — | — | 11,706 | 11,706 |
| Equity offering, net | 6,917 | 1 | 42,973 | — | — | — | 42,974 |
| Issuance of stock on options exercised | — | — | 146 | (201) | 246 | — | 392 |
| Stock-based compensation | — | — | 966 | — | — | — | 966 |
| **Balances, December 31, 2021** | 35,302 | 4 | 108,911 | 1,060 | (1,292) | 5,092 | 112,715 |
| Net loss | — | — | — | — | — | (14,804) | (14,804) |
| Issuance of stock on options exercised and restricted stocks vested | — | — | (14) | (165) | 201 | — | 187 |
| Stock-based compensation | — | — | 1,693 | — | — | — | 1,693 |
| **Balances, December 31, 2022** | 35,302 | $ 4 | $ 110,590 | 895 | $ (1,091) | $ (9,712) | $ 99,791 |

The accompanying notes are an integral part of these consolidated financial statements.

**FULL HOUSE RESORTS, INC. AND SUBSIDIARIES**
**CONSOLIDATED STATEMENTS OF CASH FLOWS**
(In thousands)

| | Year Ended December 31, | |
|---|---|---|
| | **2022** | **2021** |
| **Cash flows from operating activities:** | | |
| Net (loss) income | $ (14,804) | $ 11,706 |
| Adjustments to reconcile net (loss) income to net cash provided by operating activities: | | |
| Depreciation and amortization | 7,930 | 7,219 |
| Amortization of debt issuance costs, discounts and premiums | 1,649 | 1,349 |
| Non-cash change in ROU operating lease assets | 3,397 | 3,128 |
| Stock-based compensation | 1,693 | 966 |
| Change in fair value of stock warrants | — | 1,347 |
| Loss on disposal of assets, net | 42 | 676 |
| Proceeds from insurance related to property damage | — | 1,334 |
| Loss on modification and extinguishment of debt, net | 4,530 | 409 |
| Other operating activities | 319 | — |
| Increases and decreases in operating assets and liabilities: | | |
| Accounts receivable | 611 | 211 |
| Prepaid expenses, inventories and other | (2,277) | (1,414) |
| Operating lease right-of-use assets | (386) | — |
| Deferred taxes | (31) | 435 |
| Common stock warrant liability | — | (4,000) |
| Operating lease liabilities | (3,509) | (3,334) |
| Contract liabilities | 3,970 | (234) |
| Accounts payable and other liabilities | 1,243 | 9,706 |
| Net cash provided by operating activities | 4,377 | 29,504 |
| **Cash flows from investing activities:** | | |
| Capital expenditures | (170,939) | (36,991) |
| Other | (1,175) | (226) |
| Net cash used in investing activities | (172,114) | (37,217) |
| **Cash flows from financing activities:** | | |
| Proceeds from Senior Secured Notes due 2028 borrowings | 100,000 | 310,000 |
| Proceeds from premium on Senior Secured Notes due 2028 borrowings | 2,000 | — |
| Proceeds from equity offering, net of issuance costs | — | 42,974 |
| Payment of debt discount and issuance costs | (7,945) | (9,429) |
| Repayment of Senior Secured Notes due 2024 | — | (106,825) |
| Prepayment premiums of Senior Secured Notes due 2024 | — | (1,261) |
| Repayment of finance lease obligations | (514) | (492) |
| Proceeds from exercise of stock options | 187 | 392 |
| Other | (108) | (51) |
| Net cash provided by financing activities | 93,620 | 235,308 |
| **Net (decrease) increase in cash, cash equivalents and restricted cash** | (74,117) | 227,595 |
| Cash, cash equivalents and restricted cash, beginning of period | 265,293 | 37,698 |
| **Cash, cash equivalents and restricted cash, end of period** | $ 191,176 | $ 265,293 |

The accompanying notes are an integral part of these consolidated financial statements.

**FULL HOUSE RESORTS, INC. AND SUBSIDIARIES**
**CONSOLIDATED STATEMENTS OF CASH FLOWS – (Continued)**
(In thousands)

| | Year Ended December 31, | |
|---|---|---|
| | **2022** | **2021** |
| **Supplemental Cash Flow Disclosure:** | | |
| Cash paid for interest, net of amounts capitalized | $ 19,589 | $ 12,373 |
| | | |
| **Supplemental Schedule of Non-Cash Investing and Financing Activities:** | | |
| Accounts payable related capital expenditures | $ 30,995 | $ 4,899 |
| Gain on extinguishment of CARES Act unsecured loans | — | 5,696 |
| Right-of-use assets obtained in exchange for lease liabilities: | | |
| Operating leases | 1,121 | — |
| Financing leases | 3,498 | — |
| Operating lease right-of-use asset and liability remeasurements | 1,846 | 1,582 |

The accompanying notes are an integral part of these consolidated financial statements.

**FULL HOUSE RESORTS, INC. AND SUBSIDIARIES**
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

## 1. ORGANIZATION

Formed as a Delaware corporation in 1987, Full House Resorts, Inc. owns, leases, operates, develops, manages, and/or invests in casinos and related hospitality and entertainment facilities. References in this document to "Full House," the "Company," "we," "our," or "us" refer to Full House Resorts, Inc. and its subsidiaries, except where stated or the context otherwise indicates.

The Company currently operates six casinos: five on real estate that we own or lease and one located within a hotel owned by a third party. We are currently constructing our seventh property, Chamonix Casino Hotel ("Chamonix"), adjacent to our existing Bronco Billy's Casino and Hotel in Cripple Creek, Colorado. We are also designing our permanent American Place casino destination, which will be built adjacent to a temporary facility that we opened in February 2023 named The Temporary by American Place ("The Temporary"). We intend to operate The Temporary until the opening of American Place. Additionally, we benefit from seven permitted sports wagering "skins" – three in Colorado, three in Indiana, and one in Illinois. Other companies operate or will operate these online sports wagering websites under their brands, paying us a percentage of revenues, as defined, subject to annual minimum amounts.

The following table presents selected information concerning our casino resort properties as of December 31, 2022:

| Segments and Properties | Locations |
|---|---|
| **Colorado** | |
| Bronco Billy's Casino and Hotel | Cripple Creek, CO (near Colorado Springs) |
| Chamonix Casino Hotel (under construction) | Cripple Creek, CO (near Colorado Springs) |
| **Illinois** | |
| The Temporary by American Place (opened on February 17, 2023) and American Place (under development) | Waukegan, IL (northern suburb of Chicago) |
| **Indiana** | |
| Rising Star Casino Resort | Rising Sun, IN (near Cincinnati) |
| **Mississippi** | |
| Silver Slipper Casino and Hotel | Hancock County, MS (near New Orleans) |
| **Nevada** | |
| Grand Lodge Casino (leased and part of the Hyatt Regency Lake Tahoe Resort, Spa and Casino) | Incline Village, NV (North Shore of Lake Tahoe) |
| Stockman's Casino | Fallon, NV (one hour east of Reno) |
| **Contracted Sports Wagering** | |
| Three sports wagering websites ("skins") | Colorado |
| Three sports wagering websites ("skins") | Indiana |
| One sports wagering website ("skin"), expected to commence Spring 2023 | Illinois |

The Company manages its casinos based primarily on geographic regions within the United States and type of income. See Note 11 for further information.

**COVID-19 Pandemic Update.** From March 2020 through the date of this report, our operations have been impacted by the novel coronavirus as a global pandemic ("COVID-19"). Although COVID-19 continues to spread throughout the U.S. and the world, the number of newly reported cases has been in overall decline in the U.S., though new variants could result in a reversal of these trends. The onset of COVID-19 resulted in the implementation of significant, government-imposed measures to prevent or reduce its spread, including travel restrictions, business restrictions, closing of borders, "shelter-in-place" orders and business closures. From April 2020 to March 2021, the federal government issued three rounds of stimulus payments for qualified individuals and sponsored certain CARES Act programs to offer economic relief and reduce the financial strain that many consumers and businesses alike felt from COVID-19 and related restrictions.

While the details of this impact have been disclosed throughout this report, the following discussion of our business focuses on execution of our strategies in a post-pandemic environment based on the assumption that the impact of COVID-19 will eventually diminish and our operations will fully recover. However, the effects of COVID-19 on our operations may persist for a longer period, even after the COVID-19 pandemic has subsided.

## 2. BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Principles of Consolidation and Accounting.** The consolidated financial statements include the accounts of Full House and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated.

Except when otherwise required by accounting principles generally accepted in the United States of America ("GAAP") and disclosed herein, the Company measures all of its assets and liabilities on the historical cost basis of accounting.

**Use of Estimates.** The consolidated financial statements have been prepared in conformity with GAAP. These principles require the Company's management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Fair Value and the Fair Value Input Hierarchy.** Fair value measurements affect the Company's accounting for net assets acquired in acquisition transactions and certain financial assets and liabilities. Fair value measurements are also used in its periodic assessments of long-lived tangible and intangible assets for possible impairment, including for property and equipment, goodwill, and other intangible assets. Fair value is defined as the expected price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date.

GAAP categorizes the inputs used for fair value into a three-level hierarchy:

- Level 1: Observable inputs, such as quoted prices in active markets for identical assets or liabilities;
- Level 2: Comparable inputs, other than quoted prices, that are observable for similar assets or liabilities in less active markets; and
- Level 3: Unobservable inputs, which may include metrics that market participants would use to estimate values, such as revenue and earnings multiples and relative rates of return.

Methods and assumptions used to estimate the fair value of financial instruments are affected by the duration of the instruments and other factors used by market participants to estimate value. The carrying amounts for cash and equivalents, restricted cash, accounts receivable, and accounts payable approximate their estimated fair value because of the short durations of the instruments and inconsequential rates of interest.

**Cash Equivalents and Restricted Cash.** Cash equivalents include cash involved in operations and cash in excess of daily requirements that is invested in highly liquid, short-term investments with initial maturities of three months or less when purchased.

Restricted cash balances consist of funds placed into a construction reserve account to fund the completion of the Chamonix construction project, in accordance with the Company's debt covenants.

**Accounts Receivable.** Accounts receivable consist primarily of casino, hotel and other receivables, are typically non-interest bearing, and are carried net of an appropriate reserve to approximate fair value. Reserves are estimated based on specific review of customer accounts including the customers' willingness and ability to pay and nature of collateral, if any, as well as historical collection experience and current economic and business conditions. Accounts are written off when management deems the account to be uncollectible and recoveries of accounts previously written off are recorded when received. Management believes that, as of December 31, 2022, no significant concentrations of credit risk existed for which a reserve had not already been recorded.

**Inventories.** Inventories consist primarily of food, beverage and retail items, and are stated at the lower of cost or net realizable value. Costs are determined using the first-in, first-out and the weighted average methods.

**Property and Equipment.** Property and equipment are stated at cost and are capitalized and depreciated, while normal repairs and maintenance are expensed in the period incurred. A significant amount of the Company's property and equipment was acquired through business combinations, and therefore, were recognized at fair value measured at the acquisition date. Gains or losses on dispositions of property and equipment are included in operating expenses, effectively as adjustments to depreciation estimates.

Certain events or changes in circumstances may indicate that the recoverability of the carrying amount of property, plant and equipment should be assessed, including, among others, a significant decrease in market value, a significant change in the business climate in a particular market, or a current period operating or cash flow loss combined with historical losses or projected future losses. For assets to be held and used, the Company reviews for impairment whenever indicators of impairment exist. When such events or changes in circumstances are present, the Company estimates the future cash flows expected to result from the use of the asset (or asset group) and its eventual disposition. These estimated future cash flows are consistent with those we use in our internal planning. If the undiscounted cash flows exceed the carrying value, no impairment is indicated. If the sum of the expected future cash flows (undiscounted and without interest charges) is less than the carrying amount, then the Company would recognize an impairment loss based on the fair value of the asset, typically measured using a discounted cash flow model.

Depreciation and amortization are computed using the straight-line method over the estimated useful lives of the assets or the term of the lease, whichever is appropriate under the circumstances. The Company determines the estimated useful lives based on our experience with similar assets, estimated usage of the asset, and industry practice. Whenever events or circumstances occur, which change the estimated useful life of an asset, the Company accounts for the change prospectively.

Depreciation and amortization is provided over the following estimated useful lives:

| Class of Assets | Estimated Useful Lives |
|---|---|
| Land improvements | 15 to 18 years |
| Buildings and improvements | 3 to 44 years |
| Furniture, fixtures and equipment | 2 to 10 years |

**Capitalized Interest.** Interest costs associated with major construction projects are capitalized and included in the cost of the projects. When no debt is incurred specifically for construction projects, interest is capitalized on amounts expended using the weighted average cost of the Company's outstanding borrowings. Capitalization of interest ceases when the project is substantially complete or construction activity is suspended for more than a brief period.

**Leases.** The Company determines if a contract is, or contains, a lease at inception or modification of the agreement. A contract is, or contains, a lease if there are identified assets and the right to control the use of an identified asset is conveyed for a period of time in exchange for consideration. Control over the use of the identified asset means that the lessee has both the right to obtain substantially all of the economic benefits from the use of the asset and the right to direct the use of the asset.

For material leases with terms greater than a year, the Company records right-of-use ("ROU") assets and lease liabilities on the balance sheet, as measured on a discounted basis. For finance leases, the Company recognizes interest expense associated with the lease liability, as well as depreciation (or amortization) expense associated with the ROU asset, depending on whether those ROU assets are expected to transfer to the Company upon lease expiration. If ownership of a finance lease ROU asset is expected to transfer to the Company upon lease expiration, it is included with the Company's property and equipment; other qualifying finance lease ROU assets, based on other classifying criteria under Accounting Standards Codification 842 ("ASC 842"), are disclosed separately on their own line, "Finance Lease Right-of-Use Assets, Net." For operating leases, the Company recognizes straight-line rent expense.

The Company does not recognize ROU assets or lease liabilities for leases with a term of 12 months or less. However, costs related to short-term leases with terms greater than one month, which the Company deems material, are disclosed as a component of lease expenses when applicable. Additionally, the Company accounts for new and existing leases containing both lease and non-lease components ("embedded leases") together as a single lease component by asset class for gaming-related equipment; as a result, the Company will not allocate contract consideration to the separate lease and non-lease components based on their relative standalone prices.

Finance and operating lease ROU assets and liabilities are recognized based on the present value of future minimum lease payments over the expected lease term at commencement, plus any qualifying initial direct costs paid prior to commencement for ROU assets. As the implicit rate is not determinable in most of the Company's leases, management uses the Company's incremental borrowing rate as estimated by third-party valuation specialists in determining the present value of future payments based on the information available at the commencement date and/or modification date. The expected lease terms include options to extend or terminate the lease when it is reasonably certain that the Company will exercise such options. Lease expense for minimum lease payments is recognized on a straight-line basis over the expected lease term for operating leases. For finance leases, the ROU asset depreciates/amortizes on a straight-line basis over the shorter of the lease term or useful life of the ROU asset as applicable, and the lease liability accretes interest based on the interest method using the discount rate determined at lease commencement.

**Goodwill and Indefinite-lived Intangible Assets.** Goodwill represents the excess of the purchase price of Bronco Billy's Casino and Hotel, Silver Slipper Casino and Hotel, and Stockman's Casino over the estimated fair value of their net tangible and other intangible assets on the acquisition date, net of subsequent impairment charges. The Company's other indefinite-lived intangible assets primarily include certain license rights to conduct gaming in certain jurisdictions and trade names. Goodwill and other indefinite-lived intangible assets are not amortized, but are periodically tested for impairment. The impairment loss recognized is the amount by which the carrying amount exceeds the fair value.

Tests of goodwill and indefinite-lived intangible assets start with a qualitative assessment to determine whether it is necessary to perform a quantitative test. If quantitative tests are performed, the evaluation of goodwill and other indefinite-lived intangible assets requires the use of estimates about future operating results, valuation multiples and discount rates to determine the estimated fair value. Changes in the assumptions can materially affect these estimates. Thus, to the extent that gaming volumes deteriorate in the near future, discount rates increase significantly, or reporting units do not meet projected performance, the Company could have impairments to record in the future and such impairments could be material. These tests for impairment are performed annually during the fourth quarter or when a triggering event occurs.

**Finite-lived Intangible Assets.** The Company's finite-lived intangible assets includes land lease acquisition costs and water rights. Finite-lived intangible assets are amortized over the shorter of their contractual or economic lives. The Company periodically evaluates the remaining useful lives of these intangible assets to determine whether events and circumstances warrant a revision to the remaining period of amortization and the possible need for impairment whenever events or changes in circumstances indicate that their carrying amounts may not be recoverable. If the sum of the expected future cash flows (undiscounted and without interest charges) is less than the carrying amount, then the Company would recognize an impairment loss.

**Debt Issuance Costs and Debt Discounts/Premiums.** Debt issuance costs and debt discounts/premiums incurred in connection with the issuance of debt have been included as a component of the carrying amount of debt, and are amortized over the contractual term of the debt to interest expense, using the straight-line method, which approximates the effective interest method. When its existing debt agreements are determined to have been modified, the Company amortizes such costs to interest expense using the effective interest method over the terms of the modified debt agreement.

**Revenue Recognition:**

***Accrued Club Points and Customer Loyalty Programs: Operating Revenues and Related Costs and Expenses.*** The Company's revenues consist primarily of casino gaming, food and beverage, hotel, and other revenues (such as sports wagering, golf, RV park operations, and entertainment). The majority of its revenues are derived from casino gaming, principally slot machines.

Gaming revenue is the difference between gaming wins and losses, not the total amount wagered. The Company accounts for its gaming transactions on a portfolio basis, as such wagers have similar characteristics and it would not be practical to view each wager on an individual basis.

The Company sometimes provides discretionary complimentary goods and services ("discretionary comps"). For these types of transactions, the Company allocates revenue to the department providing the complimentary goods or services based upon its estimated standalone selling price, offset by a reduction in casino revenues.

Many of the Company's customers choose to earn points under its customer loyalty programs. The Company's properties have separate customer loyalty programs: the Slipper Rewards Club, the Bronco Billy's Mile High Rewards Club, the Rising Star VIP Club, the Grand Lodge Players Advantage Club®, the Stockman's Winner's Club, and American Place's Legacy Rewards. As points are accrued, the Company defers a portion of its gaming revenue based on the estimated standalone value of loyalty points being earned by the customer. The standalone value of loyalty points is derived from the retail value of food, beverages, hotel rooms, and other goods or services for which such points may be redeemed. A liability related to these customer loyalty points is recorded, net of estimated breakage and other factors, until the customer redeems these points under such loyalty programs for various benefits, such as "free casino play," complimentary dining, or hotel stays, among others, depending on each property's specific offers. Upon redemption, the related revenue is recognized at retail value within the department providing the goods or services. Unredeemed points are forfeited if the customer becomes and remains inactive for a specified period of time. Liabilities based on the standalone retail value of such benefits was $0.7 million for December 31, 2022 and $0.8 million for December 31, 2021, and these amounts are included in "other accrued liabilities" on the consolidated balance sheets.

**Deferred Revenues: Market Access Fees from Sports Wagering Agreements.** The Company entered into several agreements with various unaffiliated companies allowing for online sports wagering within Indiana, Colorado and Illinois, as well as on-site sports wagering at Rising Star Casino Resort, Bronco Billy's Casino and Hotel, and The Temporary/American Place (the "Sports Agreements"). As part of these long-term Sports Agreements, the Company received one-time market access fees, which were recorded as long-term liabilities and are being recognized as revenue ratably over the initial contract terms (or as accelerated due to termination), beginning with the commencement of operations. On May 15, 2022, one of the Company's contracted parties for sports wagering ceased operations, which created one available skin in each of Colorado and Indiana. Accordingly, this accelerated the recognition of $1.6 million of deferred revenue, which was recognized through the May 2022 termination date, as opposed to the remaining eight years of the original 10-year term.

**Indiana.** The Company's three Sports Agreements commenced operations in December 2019, April 2021, and December 2021. As noted above, one of these Sports Agreements ceased operations in May 2022. The Company continues to evaluate whether to utilize the remaining skin itself or to find a replacement operator for such skin. There is no certainty that the Company will be able to enter into an agreement with a replacement operator or successfully operate the skin itself.

**Colorado.** The Company's three Sports Agreements commenced operations in June 2020, December 2020 and April 2021. As noted above, one of these Sports Agreements ceased operations in May 2022. In December 2022, the Company signed a Sports Agreement with a new third party for this available skin, which upfront fee was capitalized and will be amortized over the 10-year term of the agreement that contractually commenced in March 2023, but is still pending the receipt of customary gaming approvals. Under the Company's three active Sports Agreements in Colorado, we receive a percentage of revenues (as defined), subject to annual minimums totaling $3 million.

**Illinois.** In May 2022, the Company signed a Sports Agreement for its sole Illinois sports skin and received an upfront fee of $5.0 million, which was capitalized and will be amortized over the eight-year term of the agreement that is expected to commence in Spring 2023, pending the receipt of customary gaming approvals. The Company will also receive a percentage of revenues (as defined), subject to a minimum of $5.0 million per year.

In addition to the market access fees, deferred revenue includes the annual prepayment of contracted revenue, as required in two of the Sports Agreements. As of December 31, 2022, $2.0 million of such deferred revenue has been recognized during the year.

Deferred revenues consisted of the following as discussed above:

| *(In thousands)* | | December 31, | |
|---|---|---|---|
| | **Balance Sheet Location** | **2022** | **2021** |
| Deferred revenue, current | Other accrued liabilities | $ 1,651 | $ 1,822 |
| Deferred revenue, net of current portion | Contract liabilities, net of current portion | 8,856 | 4,714 |
| | | $ 10,507 | $ 6,536 |

***Other Revenues.*** The transaction price of rooms, food and beverage, and retail contracts is the net amount collected from the customer for such goods and services. The transaction price for such contracts is recorded as revenue when the good or service is transferred to the customer over their stay at the hotel or when the delivery is made for the food, beverage, retail and other contracts. Sales and usage-based taxes are excluded from revenues.

***Revenue by Source.*** The Company presents earned revenue as disaggregated by the type or nature of the good or service (casino, food and beverage, hotel, and other operations comprised mainly of retail, golf, entertainment, and contracted sports wagering) and by relevant geographic region within Note 11.

**Advertising Costs.** Costs for advertising are expensed as incurred, or the first time the advertising takes place, and are included in selling, general and administrative expenses. Total advertising costs were $2.7 million and $2.8 million for the years ended December 31, 2022 and 2021, respectively.

**Project Development and Acquisition Costs.** Project development and acquisition costs consist of amounts expended on the pursuit of new business opportunities and acquisitions, as well as other business development activities in the ordinary course of business, which are expensed as incurred. During 2022, these costs were primarily associated with our efforts to fund the development of The Temporary during the preliminary stages of the project. In 2021, these costs were associated with our pursuit of available gaming licenses in Waukegan, Illinois, and Terre Haute, Indiana.

**Preopening costs.** Preopening costs are related to the preopening phases of new ventures, in accordance with accounting standards regarding start-up activities, and are expensed as incurred. These costs consist of payroll, advertising, outside services, organizational costs and other expenses directly related to both the Chamonix and The Temporary developments.

**Stock-based Compensation.** Stock-based compensation costs are measured at the grant date, based on the estimated fair value of the award using the Black-Scholes option pricing model for stock options, and based on the closing share price of the Company's stock on the grant date for other stock-based awards. These costs are recognized as an expense on a straight-line basis over the employee's requisite service period (the vesting period of the award) net of forfeitures, which are recognized as they occur, and are included within selling, general and administrative expense on the consolidated statements of operations.

**Income Taxes.** We classify deferred tax assets and liabilities, along with any related valuation allowance, as non-current on the consolidated balance sheets. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that included the enactment date. Valuation allowances are provided against DTAs when it is deemed more likely than not that some portion or all of the DTAs will not be realized within a reasonable time period.

Our income tax returns are subject to examination by the Internal Revenue Service ("IRS") and other tax authorities. Positions taken in tax returns are sometimes subject to uncertainty in the tax laws and may not ultimately be accepted by the IRS or other tax authorities. We assess our tax positions using a two-step process. A tax position is recognized if it meets a more likely than not" threshold, and is measured at the largest amount of benefit that is greater than 50 percent likely of being realized. Additionally, we recognize accrued interest and penalties, if any, related to unrecognized tax benefits in income tax expense.

**Reclassifications.** To conform to the current-period presentation, the Company made certain minor financial statement presentation reclassifications to prior-period amounts. Such reclassifications had no effect on the previously reported results of operations or financial position.

**Earnings (loss) per share.** Earnings (loss) per share is computed by dividing net income (loss) applicable to common stock by the weighted-average number of common shares outstanding during the period. Diluted earnings per share reflects the additional dilution for all potentially-dilutive securities, including stock options, restricted stock and performance-based shares, using the treasury stock method.

| *(In thousands)* | Year Ended December 31, | |
|---|---|---|
| | **2022** | **2021** |
| **Numerator:** | | |
| Net (loss) income ─ basic | $ (14,804) | $ 11,706 |
| Net (loss) income ─ diluted | $ (14,804) | $ 11,706 |
| | | |
| **Denominator:** | | |
| Weighted-average common shares ─ basic | 34,355 | 32,517 |
| Potential dilution from share-based awards | — | 2,429 |
| Weighted-average common and common share equivalents ─ diluted | 34,355 | 34,946 |
| Anti-dilutive share-based awards excluded from the calculation of diluted (loss) earnings per share | 3,710 | 149 |

**Recently Issued Accounting Pronouncements Not Yet Adopted.** The Company believes that there are no other recently-issued accounting standards not yet effective that are currently likely to have a material impact on its financial statements.

### 3. PROPERTY AND EQUIPMENT, NET

Property and equipment, net consisted of the following:

| *(In thousands)* | December 31, | |
|---|---|---|
| | **2022** | **2021** |
| Land and improvements | $ 26,477 | $ 16,797 |
| Buildings and improvements | 120,732 | 119,696 |
| Furniture and equipment | 51,336 | 47,740 |
| Construction in progress | 227,006 | 44,847 |
| | 425,551 | 229,080 |
| Less: Accumulated depreciation | (86,494) | (79,540) |
| | $ 339,057 | $ 149,540 |

Property and equipment included assets under finance leases related to our hotel at Rising Star Casino Resort (see Note 7) are as follows:

| *(In thousands)* | December 31, | |
|---|---|---|
| | 2022 | 2021 |
| Leased land and improvements | $ 215 | $ 215 |
| Leased buildings and improvements | 5,787 | 5,787 |
| Leased furniture and equipment | 1,724 | 1,724 |
| | 7,726 | 7,726 |
| Less: Accumulated amortization | (3,160) | (3,004) |
| | $ 4,566 | $ 4,722 |

## 4. GOODWILL AND OTHER INTANGIBLES

**Goodwill:**

The following table sets forth changes in the carrying value of goodwill by segment:

| *(In thousands)* | Mississippi | Colorado | Nevada | Total |
|---|---|---|---|---|
| **Goodwill as of December 31, 2020** | $ 14,671 | $ 4,806 | $ 1,809 | $ 21,286 |
| Account activity | — | — | — | — |
| **Goodwill as of December 31, 2021** | 14,671 | 4,806 | 1,809 | 21,286 |
| Account activity | — | — | — | — |
| **Goodwill as of December 31, 2022** | $ 14,671 | $ 4,806 | $ 1,809 | $ 21,286 |

**Other Intangible Assets:**

The following tables set forth changes in the carrying value of intangible assets other than goodwill:

| *(In thousands)* | December 31, 2022 | | | |
|---|---|---|---|---|
| | Estimated Life (Years) | Gross Carrying Value | Accumulated Amortization | Other Intangible Assets, Net |
| Land Lease and Water Rights | 46 | $ 1,420 | $ (315) | $ 1,105 |
| Gaming Licenses | Indefinite | 7,843 | — | 7,843 |
| Trade Names | Indefinite | 1,800 | — | 1,800 |
| Trademarks | Indefinite | 121 | — | 121 |
| | | $ 11,184 | $ (315) | $ 10,869 |

| *(In thousands)* | December 31, 2021 | | | |
|---|---|---|---|---|
| | Estimated Life (Years) | Gross Carrying Value | Accumulated Amortization | Other Intangible Assets, Net |
| Casino Lease Option | 3 | $ 190 | $ (190) | $ — |
| Land Lease and Water Rights | 46 | 1,420 | (288) | 1,132 |
| Gaming Licenses | Indefinite | 7,843 | — | 7,843 |
| Trade Names | Indefinite | 1,800 | — | 1,800 |
| Trademarks | Indefinite | 121 | — | 121 |
| | | $ 11,374 | $ (478) | $ 10,896 |

There were no impairments to goodwill or other intangible assets for the two years ended December 31, 2022.

***Land Lease Acquisition Costs and Water Rights.*** Silver Slipper recognized intangible assets related to its lease agreement with Cure Land Company, LLC (see Note 7). The lease was valued at $970,000 and represents the excess fair value of the land over the estimated net present value of the land lease payments, and the water rights value of $450,000 represents the fair value of the water rights based upon market rates in Hancock County, Mississippi.

***Gaming Licenses.*** Gaming licenses primarily represent the value of the license to conduct gaming in certain jurisdictions, which are subject to highly extensive regulatory oversight and, in some cases, a limitation on the number of licenses available for issuance. The values of gaming licenses were primarily estimated using a multi-period excess earning method of the income approach, which examines the economic returns contributed by the identified tangible and intangible assets of a company, and then isolates the excess return, which is attributable to the asset being valued, based on cash flows attributable to the gaming license.

***Trade Names.*** Trade names represents the value of the Bronco Billy's casino name, which has existed for approximately31 years and provides brand recognition. The value was estimated using a relief-from-royalty method of the income approach based upon comparable trade name royalty agreements.

***Current and Future Amortization.*** Intangible asset amortization expense was approximately $31,000 and $70,000 for the years ended December 31, 2022 and 2021, respectively.

Future amortization expense for intangible assets is as follows:

***(In thousands)***

| For Years ending December 31, | Amortization Expense |
|---|---|
| 2023 | $ 31 |
| 2024 | 31 |
| 2025 | 31 |
| 2026 | 31 |
| 2027 | 31 |
| Thereafter | 950 |
| | $ 1,105 |

## 5. ACCRUED LIABILITIES

Other accrued liabilities consisted of the following:

| *(In thousands)* | December 31, 2022 | December 31, 2021 |
|---|---|---|
| **Contract and contract-related liabilities:** | | |
| Players club points and progressive jackpots | $ 3,010 | $ 2,971 |
| Outstanding chip liability | 416 | 399 |
| Unpaid wagers and other | 122 | 245 |
| Other gaming-related accruals | 421 | 347 |
| Contract liabilities, current | 1,651 | 1,822 |
| **Other accrued liabilities:** | | |
| Gaming and other taxes | 1,497 | 1,609 |
| Real estate and personal property taxes | 1,745 | 1,611 |
| Professional fees | 232 | 172 |
| Other | 870 | 1,065 |
| | $ 9,964 | $ 10,241 |

## 6. LONG-TERM DEBT

**Senior Secured Notes due 2028.** On February 12, 2021, the Company refinanced all of its outstanding Senior Secured Notes due 2024 (the "Prior Notes") with the issuance of $310 million aggregate principal amount of 8.25% Senior Secured Notes due 2028 (the "2028 Notes"). The net proceeds from the sale of the 2028 Notes were used to redeem all of the outstanding Prior Notes (including a 0.90% prepayment premium) and to repurchase all outstanding warrants. Additionally, $180 million of bond proceeds were initially placed into a construction reserve account to fund construction of Chamonix, which was later increased to $221 million in January 2022.

On February 7, 2022, the Company closed a private offering for an additional $100 million of Senior Secured Notes due 2028, which sold at a price of 102.0% of such principal amount. Proceeds from this sale were used: (i) to develop, equip and open The Temporary, which the Company intends to operate while it designs and constructs its permanent American Place facility, (ii) to pay the transaction fees and expenses of such offer and sale, and (iii) for general corporate purposes. The additional notes from this sale were issued pursuant to the indenture, dated as of February 12, 2021 (the "Original Indenture"), to which the Company issued the $310 million of 2028 Notes noted above (collectively, the "Existing Notes"). In connection with the issuance of the additional notes in February 2022, the Company and the subsidiary guarantors party to the Original Indenture also entered into three Supplemental Indentures with Wilmington Trust, National Association, as trustee (collectively, the "Amended Indenture").

As detailed in Note 12, the Company subsequently issued an additional $40.0 million of identical senior secured notes on February 21, 2023 (the "Additional Notes"), thereby increasing the outstanding borrowing under the Existing Notes to $450.0 million (collectively, the "Notes"), by further amending the indenture governing its senior secured notes and revolving credit facility to permit such sale.

The Notes bear interest at a fixed rate of 8.25% per year and mature on February 15, 2028. There is no mandatory debt amortization prior to the maturity date. Interest on the Notes is payable on February 15 and August 15 of each year.

The Notes are guaranteed, jointly and severally (such guarantees, the "Guarantees"), by each of the Company's restricted subsidiaries (collectively, the "Guarantors"). The Notes and the Guarantees will be the Company's and the Guarantor's general senior secured obligations, subject to the terms of the Collateral Trust Agreement (as defined and amended in the Indenture), ranking senior in right of payment to all of the Company's and the Guarantor's existing and future debt that is expressly subordinated in right of payment to the Notes and the Guarantees, if any. The Notes and the Guarantees will rank equally in right of payment with all of the Company's and the Guarantors' existing and future senior debt.

The Notes contain representations and warranties, financial covenants, and restrictions on dividends customary for notes of this type. Mandatory prepayments, in whole or in part, of the Notes will be required upon the occurrence of certain events, including sales of certain assets, upon certain changes of control, or should the Company have certain unused funds in the construction disbursement account following the completion of Chamonix.

On or prior to February 15, 2024, the Company may redeem up to 35% of the original principal amount of the Notes with proceeds of certain equity offerings at a redemption price of 108.25%, plus accrued and unpaid interest to the redemption date. In addition, the Company may redeem some or all of the Notes prior to February 15, 2024 at a redemption price of 100% of the principal amount of the Notes, plus accrued and unpaid interest to the redemption date and a "make-whole" premium.

At any time on or after February 15, 2024, the Company may redeem some or all of the Notes for cash at the following redemption prices.

| Redemption Periods | Percentage Premium |
|---|---|
| February 15, 2024 to February 14, 2025 | 104.125 % |
| February 15, 2025 to February 14, 2026 | 102.063 % |
| February 15, 2026 and Thereafter | 100.000 % |

**Revolving Credit Facility due 2026.** On February 7, 2022, the Company entered into a First Amendment to Credit Agreement with Capital One, National Association ("Capital One"), which, among other things, increased the borrowing capacity under the Company's Credit Agreement, dated as of March 31, 2021, from $15.0 million to $40.0 million (the "Credit Facility"). The amended $40.0 million senior secured revolving credit facility matures on March 31, 2026 and includes a letter of credit sub-facility. The Credit Facility may be used for working capital and other ongoing general purposes.

Under the First Amendment to Credit Agreement, the interest rate per annum applicable to loans under the Credit Facility was amended to be, at the Company's option, either (i) the Secured Overnight Financing Rate ("SOFR") plus a margin equal to 3.50% and a Term SOFR adjustment of 0.15%, or (ii) a base rate plus a margin equal to 2.50%. Upon completion of Chamonix (as defined in the agreement), the interest rate per annum applicable to loans under the Credit Facility will be reduced to, at the Company's option, either (i) SOFR plus a margin equal to 3.00% and a Term SOFR adjustment of 0.15%, or (ii) a base rate plus a margin equal to 2.00%. Terms regarding the annual commitment fee, customary letter of credit fees, and repayment date of March 31, 2026, remain unchanged from the original Credit Agreement, dated as of March 31, 2021. As of December 31, 2022, there were no drawn amounts under the Credit Facility. The Company subsequently borrowed $36.0 million from its Credit Facility on January 27, 2023 and further amended the Credit Agreement to permit the issuance of the Additional Notes in February 2023.

The Credit Facility is equally and ratably secured by the same assets and guarantees securing the Notes. The Company may make prepayments of any amounts outstanding under the Credit Facility (without any reduction of the revolving commitments) in whole or in part at any time without penalty.

The Credit Facility contains a number of negative covenants that, subject to certain exceptions, are substantially similar to the covenants contained in the Notes. The Credit Facility also requires compliance with a financial covenant as of the last day of each fiscal quarter, such that Adjusted EBITDA (as defined) for the trailing twelve-month period must equal or exceed the utilized portion of the Credit Facility, if drawn. The Company was in compliance with this financial covenant as of December 31, 2022.

Long-term debt, related premiums and issuance costs consisted of the following:

| *(In thousands)* | December 31, 2022 | December 31, 2021 |
|---|---|---|
| Revolving Credit Facility due 2026 | $ — | $ — |
| 8.25% Senior Secured Notes due 2028[1] | 410,000 | 310,000 |
| Less: Unamortized debt issuance costs and premiums, net | (8,148) | (8,381) |
| | $ 401,852 | $ 301,619 |

(1) The estimated fair value of these notes was approximately $360.6 million for December 31, 2022 and $327.5 million for December 31, 2021. The fair value was estimated using quoted market prices (Level 1 inputs) for these notes.

**Maturities of Long-Term Debt.** As of December 31, 2022, future maturities under the Existing Notes is as follows. See Note 12 for details regarding the subsequent issuance of Additional Notes.

*(In thousands)*

| For Years ending December 31, | Senior Secured Notes due 2028 |
|---|---|
| 2023 | $ — |
| 2024 | — |
| 2025 | — |
| 2026 | — |
| 2027 | — |
| Thereafter | 410,000 |
| | $ 410,000 |

**Interest expense, net.** Interest expense, net, was as follows for the two years ended December 31, 2022:

| *(In thousands)* | Year Ended December 31, 2022 | Year Ended December 31, 2021 |
|---|---|---|
| Interest expense (excluding bond fee amortization and premium) | $ 33,496 | $ 24,179 |
| Amortization of debt issuance costs, discounts and premiums | 1,649 | 1,349 |
| Capitalized interest | (10,802) | (1,871) |
| Interest income and other | (1,355) | — |
| | $ 22,988 | $ 23,657 |

## 7. LEASES

The Company has no material leases in which it is the lessor. As lessee, the Company has some finance leases and various operating leases for land, casino and office space, equipment, buildings, and signage. The Company's remaining lease terms, including extensions, range from one month to approximately 35 years as of December 31, 2022. The Company's lease agreements do not contain any material residual value guarantees or material restrictive covenants, but the land lease at Silver Slipper does include contingent rent as further discussed below. Subsequent to year-end, the Company executed a 99-year operating land lease in January 2023 with the City of Waukegan, on which site the Company built The Temporary and will build the permanent American Place facility (see Note 12).

***Operating Leases***

**Silver Slipper Casino Land Lease through April 2058 and Options to Purchase.** In 2004, the Company's subsidiary, Silver Slipper Casino Venture, LLC, entered into a land lease with Cure Land Company, LLC for approximately 31 acres of marshlands and a seven-acre parcel on which the Silver Slipper Casino and Hotel is situated. The land lease includes fixed, base monthly payments of $77,500 plus contingent rents of 3% of monthly gross gaming revenue (as defined in the lease) in excess of $3.65 million, with no scheduled base rent increases through the remaining lease term ending in 2058. We recognized $1.8 million of rent expense, including $0.9 million of contingent rents, during 2022, and $2.1 million of rent expense, including $1.2 million of contingent rents, during 2021.

Through October 1, 2027, the Company may buy out the lease for $15.5 million plus a seller-retained interest in Silver Slipper Casino and Hotel's operations of 3% of net income (as defined) for 10 years following the purchase date. In the event that the Company sells or transfers either: (i) substantially all of the assets of Silver Slipper Casino Venture, LLC or (ii) its membership interests in Silver Slipper Casino Venture, LLC in its entirety, then the purchase price will increase to $17.1 million, plus the retained interest mentioned above. In either case, the Company also has an option to purchase a four-acre portion from the total 38 acres of leased land for $2.0 million in connection with the development of an owned hotel, which may be exercised at any time and would accordingly reduce the purchase price of the remaining land by $2.0 million.

**Bronco Billy's / Chamonix Lease through January 2035 and Option to Purchase.** Bronco Billy's leases certain parking lots and buildings, including a portion of the hotel and casino, under a long-term lease. The lease term includes six renewal options in three-year increments to 2035. The Company exercised its third renewal option to extend the lease term through January 2026, with current annual lease payments of $0.4 million. Annual minimum rent will increase to $0.5 million starting in February 2026 with adjustments on each anniversary thereafter, based on the consumer price index. The lease also contains a $7.6 million purchase option exercisable at any time during the lease term, or as extended, and a right of first refusal on any sale of the property.

In September 2022, the Company remeasured this lease's related ROU asset and liability balances on its balance sheet, by factoring in all renewal terms through January 2035 to reflect the partial overlap of Chamonix's construction on leased land. As a result of that overlap, the Company is deemed likely to exercise each renewal unless it exercises its purchase buyout right.

**Third Street Corner Building through August 2023 and Option to Purchase.** The Company began leasing this building in August 2018, which is currently used as office space for Chamonix's construction personnel, obviating the need for construction trailers. The lease had an initial three-year term with annual lease payments of $0.2 million. This was extended to August 13, 2023, with current annual lease payments of $0.3 million. The Company currently has the right to purchase the casino at any time during the extended lease term for $2.8 million.

**Grand Lodge Casino Lease through December 2024.** The Company's subsidiary, Gaming Entertainment (Nevada), LLC, has a lease with Incline Hotel, LLC, the owner of the Hyatt Regency Lake Tahoe Resort ("Hyatt Lake Tahoe"), to operate the Grand Lodge Casino. It is collateralized by the Company's interests under the lease and property (as defined in the lease) and is subordinate to the liens of the Notes (see Note 6). The lessor has an option to purchase the Company's leasehold interest and related operating assets of the Grand Lodge Casino, subject to assumption of applicable liabilities. The option price is an amount equal to the Grand Lodge Casino's positive working capital, plus Grand Lodge Casino's earnings before interest, income taxes, depreciation and amortization ("EBITDA") for the twelve-month period preceding the acquisition (or pro-rated if less than twelve months remain on the lease), plus the fair market value of the Grand Lodge Casino's personal property. The current monthly rent of $166,667 is applicable through the remaining lease term, which was subsequently extended through December 31, 2024 (see Note 12). We recognized $1.8 million of rent expense for each of 2022 and 2021.

**Corporate Office Lease through January 2025.** The Company leases 4,479 square feet of office space in Las Vegas, Nevada. Annual rent is approximately $0.2 million and the term of the office lease expires in January 2025.

***Finance Lease***

**Rising Star Casino Hotel Lease through October 2027 and Option to Purchase.** The Company's Indiana subsidiary, Gaming Entertainment (Indiana) LLC, leases a 104-room hotel at Rising Star Casino Resort. At any time during the lease term, the Company has the option to purchase the hotel, and approximately 3.01 acres of land on which it resides, at a price based upon the project's original cost of $7.7 million (see Note 3), reduced by the cumulative principal finance lease payments made by the Company during the lease term. At December 31, 2022, such net amount was $2.8 million. Upon expiration of the lease term in October 2027, (i) the Landlord has the right to sell the hotel to the Company, and (ii) the Company has the option to purchase the hotel. In either case, the purchase price is $1 plus closing costs.

Leases recorded on the balance sheet consist of the following:

***(In thousands)***

| | | December 31, | |
|---|---|---|---|
| **Leases** | **Balance Sheet Classification** | **2022** | **2021** |
| **Assets** | | | |
| Operating lease assets | Operating Lease Right-of-Use Assets, Net | $ 15,771 | $ 15,814 |
| Finance lease assets | Property and Equipment, Net[1] | 4,566 | 4,722 |
| Finance lease assets | Finance Lease Right-of-Use Assets, Net[2] | 3,808 | — |
| Total lease assets | | $ 24,145 | $ 20,536 |
| | | | |
| **Liabilities** | | | |
| Current | | | |
| Operating | Current Portion of Operating Lease Obligations | $ 2,485 | $ 3,542 |
| Finance | Current Portion of Finance Lease Obligation | 1,581 | 514 |
| Noncurrent | | | |
| Operating | Operating Lease Obligations, Net of Current Portion | 13,418 | 12,903 |
| Finance | Finance Lease Obligation, Net of Current Portion | 4,727 | 2,783 |
| Total lease liabilities | | $ 22,211 | $ 19,742 |

(1) Finance lease assets are recorded net of accumulated depreciation of $3.2 million and $3.0 million as of December 31, 2022 and 2021, respectively.

(2) These finance lease assets are recorded separately from Property and Equipment due to meeting qualifying classification criteria under ASC 842, but ownership of such assets is not expected to transfer to the Company upon term expiration. Additionally, amortization of these assets are expensed over the duration of the lease term or the assets' estimated useful lives, whichever is earlier.

The components of lease expense are as follows:

***(In thousands)***

| | | Year Ended December 31, | |
|---|---|---|---|
| **Lease Costs** | **Classification within Statement of Operations** | **2022** | **2021** |
| **Operating leases:** | | | |
| Fixed/base rent | Selling, General and Administrative Expenses | $ 4,833 | $ 4,680 |
| Short-term payments | Selling, General and Administrative Expenses | 136 | 72 |
| Variable payments | Selling, General and Administrative Expenses | 1,366 | 1,739 |
| **Finance leases:** | | | |
| Amortization of leased assets | Depreciation and Amortization | 266 | 157 |
| Interest on lease liabilities | Interest Expense, Net | 138 | 160 |
| Total lease costs | | $ 6,739 | $ 6,808 |

Maturities of lease liabilities are summarized as follows:

***(In thousands)***

| Years Ending December 31, | Operating Leases | Financing Leases |
|---|---|---|
| 2023 | $ 3,887 | $ 1,972 |
| 2024 | 2,014 | 1,972 |
| 2025 | 2,010 | 2,061 |
| 2026 | 1,405 | 652 |
| 2027 | 1,410 | 488 |
| Thereafter | 31,611 | — |
| Total future minimum lease payments | 42,337 | 7,145 |
| Less: Amount representing interest | (26,434) | (837) |
| Present value of lease liabilities | 15,903 | 6,308 |
| Less: Current lease obligations | (2,485) | (1,581) |
| Long-term lease obligations | $ 13,418 | $ 4,727 |

Other information related to lease term and discount rate is as follows:

| | December 31, | |
|---|---|---|
| **Lease Term and Discount Rate** | **2022** | **2021** |
| **Weighted-average remaining lease term** | | |
| Operating leases | 23.2 years | 21.5 years |
| Finance lease | 3.7 years | 5.8 years |
| **Weighted-average discount rate** | | |
| Operating leases | 9.73 % | 9.32 % |
| Finance leases | 7.08 % | 4.50 % |

Supplemental cash flow information related to leases is as follows:

***(In thousands)***

| | Year Ended December 31, | |
|---|---|---|
| **Supplemental Cash Flow Information:** | **2022** | **2021** |
| **Cash paid for amounts included in the measurement of lease liabilities:** | | |
| Operating cash flows for operating leases | $ 4,944 | $ 4,886 |
| Operating cash flows for finance lease | $ 138 | $ 160 |
| Financing cash flows for finance lease | $ 514 | $ 492 |

**8. INCOME TAXES**

The income tax (benefit) expense attributable to the Company's (loss) income before income taxes consisted of the following:

| *(In thousands)* | Year Ended December 31, | |
|---|---|---|
| | 2022 | 2021 |
| **Current Taxes** | | |
| Federal | $ — | $ — |
| State | — | — |
| | — | — |
| **Deferred Taxes** | | |
| Federal | (4,077) | 2,421 |
| State | (1,279) | (744) |
| Increase (decrease) in valuation allowance | 5,325 | (1,242) |
| | (31) | 435 |
| | $ (31) | $ 435 |

A reconciliation of the federal income tax statutory rate and the Company's effective tax rate is as follows:

| *(In thousands)* | Year Ended December 31, | | | |
|---|---|---|---|---|
| | 2022 | | 2021 | |
| **Tax Rate Reconciliation** | **Percent** | **Amount** | **Percent** | **Amount** |
| Federal income tax (benefit) expense at U.S. statutory rate | 21.0 % | $ (3,115) | 21.0 % | $ 2,550 |
| State taxes, net of federal benefit | 8.6 % | (1,279) | (4.8)% | (588) |
| Change in valuation allowance | (35.9)% | 5,325 | (10.2)% | (1,242) |
| Permanent differences | (0.5)% | 77 | (1.8)% | (217) |
| Credits | 0.7 % | (110) | (0.6)% | (73) |
| Other | 6.3 % | (929) | — % | 5 |
| | 0.2 % | $ (31) | 3.6 % | $ 435 |

The Company's deferred tax assets (liabilities) consisted of the following:

| *(In thousands)* | December 31, 2022 | December 31, 2021 |
|---|---|---|
| **Deferred tax assets:** | | |
| Deferred compensation | $ 1,673 | $ 1,568 |
| Intangible assets and amortization | 3,972 | 2,950 |
| Net operating loss carry-forwards | 8,364 | 7,325 |
| Accrued expenses | 603 | 702 |
| Credits | 916 | 761 |
| Loan Fees | 1,206 | 76 |
| Interest limitation | 1,668 | 186 |
| Lease liabilities | 4,718 | 4,111 |
| Deferred revenues | 789 | 1,287 |
| Valuation allowance | (15,191) | (9,866) |
| Other | 144 | 419 |
| | 8,862 | 9,519 |
| **Deferred tax liabilities:** | | |
| Depreciation of fixed assets | (423) | (671) |
| Amortization of indefinite-lived intangibles | (4,021) | (4,048) |
| Right-of-use assets | (4,739) | (3,960) |
| Other | (703) | (1,895) |
| | (9,886) | (10,574) |
| | $ (1,024) | $ (1,055) |

As of December 31, 2022, the Company had federal net operating loss carryforwards totaling $13.7 million and state tax carryforwards of $111.9 million. In general, our federal tax net operating loss carryforwards can be carried forward indefinitely and our state tax carryforwards can be carried forward 20 years. The Company also has general business credits of $0.9 million, which begin to expire in 2035.

In assessing the realizability of its deferred tax assets ("DTAs"), the Company considered whether it is more likely than not that some portion or all of the DTAs will not be realized. The ultimate realization of DTAs is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. The Company considered all of the available positive and negative evidence when determining the need for a valuation allowance, including, but not limited to, the scheduled reversal of existing deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment. As of December 31, 2022, the Company continues to provide a valuation allowance against its DTAs that cannot be offset by existing deferred tax liabilities. In accordance with ASC 740, this assessment has taken into consideration the jurisdictions in which these DTAs reside. The valuation allowance against DTAs has no effect on the actual taxes paid or owed by the Company. In the future, if it is determined that we meet the more likely than not threshold of utilizing our deferred tax assets as required under ASC 740, we may reverse some or all of our valuation allowance. We will continue to evaluate the need for the valuation allowance during each interim period in 2023. Should net income improve in the future, the valuation allowance could be reversed by the end of 2023, absent any unforeseen impact to our operations.

As of December 31, 2022 and 2021, the Company had $1.0 million and $1.1 million, respectively, of deferred tax liabilities relating to goodwill and other indefinite-lived intangibles net of the maximum benefit allowed under the statute after netting with the indefinite-lived DTAs.

The Company's utilization of net operating loss ("NOL") and the general business tax credit carryforwards may be subject to an annual limitation under Sections 382 and 383 of the Internal Revenue Code of 1986, and similar state provisions due to ownership changes that may have occurred or that could occur in the future. These ownership changes may limit the amount of NOL and tax credit carryforwards that can be utilized annually to offset future taxable income and tax, respectively. In general, an ownership change, as defined by IRC Sections 382 and 383, results from transactions increasing ownership of certain stockholders or public groups in the stock of the corporation by more than 50 percentage points over a three-year period. The Company has completed a preliminary Section 382 analysis as of the date of this report and determined it is more likely than not that there have not been any of such greater-than-50% ownership changes within a three-year period during the last five years that would require an analysis of any potential limitation.

Management has made an annual analysis of its federal and state tax returns and concluded that the Company has no recordable liability, as of December 31, 2022 or 2021, for unrecognized tax benefits as a result of uncertain tax positions taken.

The Company files income tax returns in the U.S. federal jurisdiction and various state jurisdictions. The Company is generally not subject to federal or state examination for periods prior to December 31, 2019. However, as the Company utilizes its NOLs, prior periods can be subject to examination.

On August 16, 2022, the United States enacted the Inflation Reduction Act of 2022 ("IR Act"), which, among other things, introduces a 15% minimum tax based on adjusted financial statement income of certain large corporations with a three-year average adjusted financial statement income in excess of $1 billion and a 1% excise tax on corporate stock buybacks. Interim guidance on the application of the minimum tax and excise tax was issued on December 27, 2022, but several aspects of the Inflation Reduction Act remain uncertain and the Treasury regulations implementing its provisions are forthcoming. We do not anticipate material impacts from the passage of this legislation, though we will continue to evaluate the IR Act and its potential impact on future periods.

## 9. COMMITMENTS AND CONTINGENCIES

***Litigation***

The Company is party to a number of pending legal proceedings related to matters that occurred in the normal course of business. Management does not expect that the outcome of any such proceedings, either individually or in the aggregate, will have a material effect on our financial position, results of operations and cash flows.

***Options to Lease Land***

**Option Agreement for Public Trust Tidelands Lease in Mississippi.** The Company has been evaluating the potential construction of an additional hotel tower and related amenities at Silver Slipper, a portion of which would extend out over the adjoining Gulf of Mexico. In contemplation for such potential future expansion, the Company paid $5,000 for an option agreement – entered into by the Company on June 8, 2021 and approved by the Governor of Mississippi on July 13, 2021 – for a 30-year lease of approximately a half-acre of tidelands, with a term extension for another 30 years, if exercised. This initial six-month option can be renewed for three additional six-month periods, with the payment of $5,000 for each extension. In October 2022, the Company paid an additional $5,000 and exercised its third and last six-month option extension through the end of May 2023.

If the option is exercised, for the first 18 months of the lease or until the beginning of the next six-month period after the opening of commercial operations on the leased premises, whichever occurs sooner, rent would be $10,000 for each six-month period ("Construction Rent"). Construction Rent would terminate no later than 18 months after the commencement of the lease. Thereafter, annual rent would be $105,300, with adjustments, based on the consumer price index on each anniversary. Before construction can commence, additional entitlements would be necessary, including certain environmental approvals. There can be no certainty that the tidelands lease option will be exercised or that the contemplated Silver Slipper expansion will be built.

***Contracted Sports Wagering***

**Illinois.** On May 4, 2022, the Company entered into an agreement with an affiliate of Circa Sports to jointly develop and manage on-site sportsbooks at both The Temporary and American Place casinos in Illinois. Circa Sports currently operates at Circa Resort & Casino in Las Vegas, and offers online sports wagering in several states. In addition to the on-site sportsbook, Circa Sports will utilize the Company's expected mobile sports skin to conduct Internet sports wagering throughout Illinois. In exchange for such rights, the Company received an upfront, non-refundable market access fee of $5 million in May 2022. The Company will also receive a percentage of revenues (as defined), subject to a minimum of $5 million per year, once Circa Sports launches operations in Illinois. Such launch is anticipated in Spring 2023, subject to customary regulatory approvals. The term of the agreement is for eight years, followed by two four-year extension opportunities at the option of Circa Sports.

**Colorado.** On December 5, 2022, the Company entered into a 10-year Sports Agreement for its available sports skin in Colorado. Such agreement began its contractual term in March 2023, though the third party awaits customary regulatory approvals. Similar to the Company's other sports wagering agreements, the Company will receive a percentage of revenues (as defined), with minimal expected expenses. The total annualized minimum amounts for all three of the Company's sports wagering agreements in Colorado is $3 million.

***Defined Contribution Plan***

The Company sponsors a defined contribution plan for all eligible employees providing voluntary contributions by eligible employees and matching contributions made by the Company. In October 2021, the Company reinstated its employer matching of contributions at 50% up to 4% of eligible compensation, which had been previously suspended upon the mandatory shutdown of all of the Company's properties in March 2020. Matching contributions made by the Company were $248,000 for 2022, and $47,000 for 2021, excluding nominal administrative expenses.

***Liquidity, Concentrations and Economic Risks and Uncertainties***

The Company carries cash on deposit with financial institutions that may be in excess of federally-insured limits. The extent of any loss that might be incurred as a result of uninsured deposits in the event of a future failure of a bank or other financial institution, if any, is not subject to estimation at this time.

**10. STOCK-BASED COMPENSATION**

**2015 Equity Incentive Plan.** The 2015 Equity Incentive Plan ("2015 Plan"), as approved by stockholders and further amended in May 2021, allows for the issuance of up to 4,500,000 shares of common stock. The 2015 Plan allows for stock-based awards to be granted to directors, employees and consultants and allows for a variety of forms of awards, including stock options, stock appreciation rights, restricted stock, restricted stock units, dividend equivalents and performance-based compensation. Stock option awards have maximum 10-year terms and no awards issued under the 2015 Plan vest on an accelerated basis if there is a change in control of the Company, unless the awards are not assumed by the successor, as defined.

**Performance-Based Shares.** The Company issued a total of 136,669 performance-based shares to its executives in 2022, of which 5,734 performance-based shares were canceled in April 2022. The vesting for these performance-based shares is based on the compounded annual growth rate of the Company's Adjusted EBITDA and Free Cash Flow Per Share, as defined, for the three-year periods ending December 31, 2022, December 31, 2023, and December 31, 2024. For the 2022 period, one-sixth of such performance-based shares either vested or will vest on the anniversary date of the awards and one-sixth were canceled, as only one of the Company's two growth-rate targets for such period was achieved. Vesting of the remaining performance-based shares requires satisfaction of similar conditions for the 2023 and 2024 periods.

**Restricted Stock Awards.** On May 19, 2022, the Company issued to non-executive members of its Board of Directors, as compensation for their annual service, a total of 51,849 restricted shares under the 2015 Plan, with a one-year vesting period.

As of December 31, 2022, the Company had 1,173,096 stock-based awards authorized by stockholders and available for grant from the 2015 Plan.

**Stock Options.** The following table summarizes information related to the Company's common stock options:

| | Number of Stock Options | Weighted Average Exercise Price | Weighted Average Remaining Contractual Term (in years) | Aggregate Intrinsic Value |
|---|---|---|---|---|
| Options outstanding at January 1, 2022 | 3,221,956 | $ 2.19 | | |
| Granted | 434,598 | 7.71 | | |
| Exercised | (103,319) | 1.81 | | |
| Canceled/Forfeited | (50,000) | 8.72 | | |
| Expired | — | — | | |
| Options outstanding at December 31, 2022 | 3,503,235 | $ 2.80 | 4.79 | $ 17,117,870 |
| Options exercisable at December 31, 2022 | 2,816,558 | $ 1.87 | 3.82 | $ 16,015,085 |

**Compensation Cost.** Compensation expense is as follows for the two years ended December 31, 2022:

| *(In thousands)* | Year Ended December 31, | |
|---|---|---|
| **Compensation Expense** | **2022** | **2021** |
| Stock options | $ 1,150 | $ 649 |
| Restricted and performance-based shares | 543 | 317 |
| | $ 1,693 | $ 966 |

As of December 31, 2022, there was approximately $2.0 million of unrecognized compensation cost related to unvested stock options granted by the Company, which is expected to be recognized over a weighted-average period of 1.9 years. As of such date, there was also $1.1 million of unrecognized compensation cost related to unvested restricted and performance shares, which is expected to be recognized over a weighted-average period of 1.4 years.

The Company estimates the fair value of each stock option award on the grant date using the Black-Scholes valuation model. Option valuation models require the input of highly subjective assumptions, and changes in assumptions used can materially affect the fair value estimate. Option valuation weighted-average assumptions were as follows:

| | Year Ended December 31, | |
|---|---|---|
| | **2022** | **2021** |
| Expected volatility | 68.38 % | 65.99 % |
| Expected dividend yield | — % | — % |
| Expected term (in years) | 6.00 | 6.00 |
| Weighted average risk-free rate | 2.56 % | 0.97 % |

Expected volatility is based on the historical volatility of our stock price. Dividend yield is based on the estimate of annual dividends expected to be paid at the time of the grant. The expected term considers the contractual term of the option as well as historical exercise and forfeiture behavior. The risk-free interest rate is based on the rates in effect on the grant date for U.S. Treasury instruments with maturities matching the relevant expected term of the award.

Therefore, the weighted-average grant date fair value of options granted is as follows for the two years ended December 31, 2022:

| | Year Ended December 31, | |
|---|---|---|
| | 2022 | 2021 |
| Weighted average grant date fair value | $ 4.39 | $ 5.68 |

**11. SEGMENT REPORTING AND DISAGGREGATED REVENUE**

The Company manages its reporting segments based on geographic regions within the United States and type of income. Thosefive segments, as of 2022, are: Mississippi, Indiana, Colorado, Nevada, and Contracted Sports Wagering. Operating segments are aggregated based on geography, economic characteristics, types of customers, types of services and products provided, the regulatory environments in which they operate, and their management and reporting structure.

The Company utilizes Adjusted Segment EBITDA as the measure of segment profitability in assessing performance and allocating resources at the reportable segment level. Adjusted Segment EBITDA is defined as earnings before interest and other non-operating income (expense), taxes, depreciation and amortization, preopening expenses, impairment charges, asset write-offs, recoveries, gain (loss) from asset disposals, project development and acquisition costs, non-cash share-based compensation expense, and corporate-related costs and expenses that are not allocated to each segment.

The following tables present the Company's segment information:

| *(In thousands)* | Year Ended December 31, 2022 | | | | | |
|---|---|---|---|---|---|---|
| | Mississippi | Indiana | Colorado | Nevada | Contracted Sports Wagering | Total |
| **Revenues** | | | | | | |
| Casino | $ 54,167 | $ 27,514 | $ 13,636 | $ 18,559 | $ — | $ 113,876 |
| Food and beverage | 19,774 | 3,943 | 1,734 | 1,043 | — | 26,494 |
| Hotel | 4,987 | 3,663 | 632 | — | — | 9,282 |
| Other operations, including contracted sports wagering | 1,932 | 3,970 | 183 | 348 | 7,196 | 13,629 |
| | $ 80,860 | $ 39,090 | $ 16,185 | $ 19,950 | $ 7,196 | $ 163,281 |
| | | | | | | |
| **Adjusted Segment EBITDA** | $ 19,488 | $ 6,888 | $ (688) | $ 4,908 | $ 7,127 | $ 37,723 |
| **Other operating costs and expenses:** | | | | | | |
| Depreciation and amortization | | | | | | (7,930) |
| Corporate expenses | | | | | | (5,589) |
| Project development costs, net | | | | | | (228) |
| Preopening costs | | | | | | (9,558) |
| Loss on disposal of assets, net | | | | | | (42) |
| Stock-based compensation | | | | | | (1,693) |
| **Operating income** | | | | | | 12,683 |
| **Other expenses:** | | | | | | |
| Interest expense, net | | | | | | (22,988) |
| Loss on modification of debt | | | | | | (4,530) |
| | | | | | | (27,518) |
| **Loss before income taxes** | | | | | | (14,835) |
| Income tax benefit | | | | | | (31) |
| **Net loss** | | | | | | $ (14,804) |

| *(In thousands)* | Year Ended December 31, 2021 | | | | | |
|---|---|---|---|---|---|---|
| | Mississippi | Indiana | Colorado | Nevada | Contracted Sports Wagering | Total |
| **Revenues** | | | | | | |
| Casino | $ 63,318 | $ 29,762 | $ 20,342 | $ 17,009 | $ — | $ 130,431 |
| Food and beverage | 20,296 | 3,522 | 2,362 | 1,167 | — | 27,347 |
| Hotel | 4,930 | 4,057 | 637 | — | — | 9,624 |
| Other operations, including contracted sports wagering | 2,084 | 4,094 | 319 | 340 | 5,920 | 12,757 |
| | $ 90,628 | $ 41,435 | $ 23,660 | $ 18,516 | $ 5,920 | $ 180,159 |
| | | | | | | |
| **Adjusted Segment EBITDA** | $ 29,843 | $ 8,736 | $ 5,545 | $ 4,933 | $ 5,890 | $ 54,947 |
| **Other operating costs and expenses:** | | | | | | |
| Depreciation and amortization | | | | | | (7,219) |
| Corporate expenses | | | | | | (7,733) |
| Project development costs | | | | | | (782) |
| Preopening costs | | | | | | (17) |
| Loss on disposal of assets, net | | | | | | (676) |
| Stock-based compensation | | | | | | (966) |
| **Operating income** | | | | | | 37,554 |
| **Other expenses:** | | | | | | |
| Interest expense, net | | | | | | (23,657) |
| Loss on extinguishment of debt, net | | | | | | (409) |
| Adjustment to fair value of warrants | | | | | | (1,347) |
| | | | | | | (25,413) |
| **Income before income taxes** | | | | | | 12,141 |
| Income tax expense | | | | | | 435 |
| **Net income** | | | | | | $ 11,706 |

| *(In thousands)* | December 31, | |
|---|---|---|
| | 2022 | 2021 |
| **Total Assets** | | |
| Mississippi | $ 83,670 | $ 85,838 |
| Indiana | 33,199 | 34,857 |
| Colorado | 339,944 | 258,436 |
| Nevada | 11,125 | 13,091 |
| Contracted Sports Wagering | 1,658 | 2,168 |
| Corporate and Other[1] | 125,733 | 79,452 |
| | $ 595,329 | $ 473,842 |

(1) Includes $77.2 million related to American Place in 2022, which subsequently opened in February 2023 (see Note 12).

| *(In thousands)* | December 31, 2022 | December 31, 2021 |
|---|---|---|
| **Property and Equipment, net** | | |
| Mississippi | $ 50,401 | $ 52,382 |
| Indiana | 27,437 | 28,705 |
| Colorado | 182,142 | 61,572 |
| Nevada | 6,307 | 6,105 |
| Contracted Sports Wagering | — | — |
| Corporate and Other[1] | 72,770 | 776 |
| | $ 339,057 | $ 149,540 |

(1) Includes $72.4 million related to American Place in 2022, which subsequently opened in February 2023 (see Note 12).

**12. SUBSEQUENT EVENTS**

**The Temporary Casino Opens in Waukegan, Illinois.** On February 17, 2023, the Company opened The Temporary to the public, marking the commencement of operations for its sixth reporting segment—Illinois.

Typical of many new casinos, The Temporary opened at less than full capacity. The Temporary continues to hire additional staff, which will allow it to augment the number of available games on The Temporary's casino floor and increase the hours of operation for its casino and its amenities. The Company also expects to open The Temporary's second restaurant in the next few weeks, followed by its fine-dining restaurant in the second quarter of 2023. When fully open, The Temporary will feature approximately 1,000 slot machines, 50 table games, a fine-dining restaurant, two additional restaurants, and a center bar.

***Waukegan Ground Lease Commences through January 2122 and Option to Purchase.*** On January 18, 2023, the Company's wholly-owned Illinois subsidiary, FHR Illinois, LLC, entered into a 99-year ground lease (the "Ground Lease") for approximately 31.70 acres of land (the "City-Owned Parcel") with the City of Waukegan in Illinois (the "City"). The City-Owned Parcel and an adjacent 9.95-acre parcel owned by the Company comprise the location of American Place, including The Temporary. The Ground Lease is a triple-net lease whereby the Company is required to pay all taxes, utilities, and expenses associated with the leased property. Annual rent under the Ground Lease is the greater of (i) $3.0 million (the "Annual Guaranteed Minimum Rent"), or (ii) 2.5% of Adjusted Gross Receipts (as defined) generated by either the Temporary or American Place. The Ground Lease is only terminable to the extent that the Development and Host Community Agreement (detailed below) with the City is terminated.

The Company has the right to purchase the City-Owned Parcel at any time during the term of the Ground Lease for $30 million, but if it does so prior to the opening of American Place, then it must continue to pay rent due to the City under the Ground Lease until the permanent casino is open. The Ground Lease contains customary terms with respect to taxes, leasehold mortgage, insurance, condemnation, and other terms and conditions typically found in long-term ground leases of similar nature.

***American Place Development Agreement.*** Concurrent with the Ground Lease, the Company entered into a Development and Host Community Agreement (the "Development Agreement") on January 18, 2023 with the City, as it relates to the development, construction and operation of The Temporary and American Place. The Development Agreement establishes terms and conditions related to the project, including project milestones requiring the completion of American Place's construction within 36 months of The Temporary's opening, with operations also commencing within three months of such completion. The Development Agreement also requires the Company to pay $150,000 for anticipated public works and public safety costs related to the opening of The Temporary and to make annual contributions to the City of at least $500,000 to support charitable programs and causes following the commencement of operations at American Place. Customary regulatory approvals were required to commence operations at The Temporary and will be required to commence operations at American Place. The Company has the right to terminate both the Development Agreement and the Ground Lease if it has complied with its obligations related to the application and pursuit of applicable regulatory approvals and either (i) such approvals are denied, materially delayed, or otherwise not approved; or (ii) the Company determines, in its reasonable judgment, that any necessary regulatory approvals cannot be obtained using its best efforts.

**Additional Notes Issuance, Indenture Supplement, and Amendment of Credit Agreement.** On February 21, 2023, the Company closed its private offering of $40.0 million of the Additional Notes. The Additional Notes were issued pursuant to the Amended Indenture, further amended as of February 21, 2023 (collectively, the "Indenture"), pursuant to which the Company had previously issued $410.0 million of Existing Notes. The Additional Notes are treated as a single series of senior secured debt securities with the Existing Notes and as a single class for all purposes under the Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase. Proceeds from the offering, net of related expenses and discounts, were approximately $34 million.

Also on February 21, 2023, the Company entered into a Second Amendment to Credit Agreement with Capital One, which, among other things, increased the amount of additional indebtedness permitted under the Company's First Amendment to Credit Agreement to allow for the sale and issuance of the Additional Notes.

**Grand Lodge Casino Lease extended through December 2024.** On February 13, 2023, we entered into a sixth amendment to the Hyatt lease that extended the term through December 31, 2024, after which time portions of the Hyatt Lake Tahoe are expected to undergo enhancement work. There were no changes in rent.

**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.**

None.

**Item 9A. Controls and Procedures.**

**Evaluation of Disclosure Controls and Procedures** — As of December 31, 2022, we completed an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in the Exchange Act Rule 13a-15(e) and 15d-15(e)). Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of December 31, 2022, our disclosure controls and procedures are effective at a reasonable assurance level.

We have established controls and procedures designed at the reasonable assurance level to ensure that information required to be disclosed in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms and is accumulated and communicated to management, including the principal executive officer and the principal financial officer, to allow timely decisions regarding required disclosure.

**Management's Annual Report on Internal Control Over Financial Reporting**— Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Our internal control system was designed to provide reasonable assurance to our management and board of directors regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Our internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures are being made only in accordance with authorizations of management and our directors; and (iii) provide reasonable assurance regarding prevention or timely detection of the unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management assessed the effectiveness of our internal control over financial reporting (as defined in Exchange Act Rule 13a-15(f) and 15d-15(f)) as of December 31, 2022. In making this assessment, it used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control-Integrated Framework (2013). Based on its assessment, management concluded that, as of December 31, 2022, our internal control over financial reporting is effective based on those criteria.

The Company's independent registered public accounting firm's report on the effectiveness of our internal control over financial reporting appears herein.

**Changes in Internal Control Over Financial Reporting**— There have been no changes during the quarter ended December 31, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Item 9B. Other Information.**

None.

**Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.**

Not applicable.

## PART III

**Item 10. Directors, Executive Officers and Corporate Governance.**

The information required by this Item will be set forth under the captions "Election of Directors" and "Section 16(a) Beneficial Ownership Reporting Compliance" and elsewhere in the definitive Proxy Statement for our 2023 Annual Meeting of Stockholders to be filed with the Securities and Exchange Commission within 120 days of December 31, 2022 (our "Proxy Statement") and is incorporated herein by this reference.

**Item 11. Executive Compensation.**

The information required by this Item will be set forth under the caption "Executive Compensation" and elsewhere in our Proxy Statement and is incorporated herein by this reference.

**Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**

The information required by this Item will be set forth under the captions "Security Ownership of Certain Beneficial Owners and Management" and "Executive Compensation — Equity Compensation Plan Information" and elsewhere in our Proxy Statement and is incorporated herein by this reference.

**Item 13. Certain Relationships and Related Transactions, and Director Independence.**

The information required by this Item will be set forth under the caption "Certain Relationships and Related Transactions" and "Independence of Directors" and elsewhere in our Proxy Statement and is incorporated herein by this reference.

**Item 14. Principal Accounting Fees and Services.**

The information required by this Item will be set forth under the caption "Ratification of Independent Registered Public Accounting Firm" and elsewhere in our Proxy Statement and is incorporated herein by this reference.

## PART IV

**Item 15. Exhibits, Financial Statement Schedules.**

(a) Financial statements of the Company (including related Notes to consolidated financial statements) included herein under Item 8 of Part II hereof are listed below:

- Reports of Independent Registered Public Accounting Firm
- Consolidated Balance Sheets as of December 31, 2022 and 2021
- For the Years Ended December 31, 2022 and 2021:
  - Consolidated Statements of Operations
  - Consolidated Statements of Stockholders' Equity
  - Consolidated Statements of Cash Flows
- Notes to Consolidated Financial Statements

(b) Exhibits

| Exhibit Number | Description |
|---|---|
| 3.1 | Amended and Restated Certificate of Incorporation as amended to date (Incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q (SEC File No. 1-32583) filed on May 9, 2011). |
| 3.2 | Second Amended and Restated Bylaws of Full House Resorts, Inc., effective July 1, 2020 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on July 2, 2020). |
| 4.1* | Description of the Registrant's Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934 "Registered Securities of Full House Resorts, Inc." |
| 4.2 | Specimen Certificate for Shares of Full House Resorts, Inc.'s Common Stock, par value $.0001 per share (Incorporated by reference to the Registrant's Registration Statement on Form S-3 (SEC file No. 333-213123) filed on August 15, 2016). |
| 4.3 | Indenture (including form of Notes), dated as of February 12, 2021, among Full House Resorts, Inc., the guarantors party thereto and Wilmington Trust, National Association, as trustee (Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 12, 2021). |
| 4.4 | Form of Senior Secured Note due 2028 (included in Exhibit 4.3) (Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 12, 2021). |
| 4.5 | First Supplemental Indenture, dated as of February 1, 2022, among the Company, the guarantors party thereto and Wilmington Trust, National Association, as trustee (Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 2, 2022). |
| 4.6 | Second Supplemental Indenture, dated as of February 7, 2022, among the Company, the guarantors party thereto and Wilmington Trust, National Association, as trustee (Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 8, 2022). |
| 4.7 | Third Supplemental Indenture, dated as of March 3, 2022, among Full House Resorts, Inc., the guarantors party thereto and Wilmington Trust, National Association, as trustee (Incorporated by reference to Exhibit 4.7 to the Registrant's Annual Report on Form 10-K (SEC File No. 1-32583) filed on March 15, 2022). |
| 4.8 | Fourth Supplemental Indenture, dated as of February 21, 2023, among Full House Resorts, Inc., the guarantors party thereto and Wilmington Trust, National Association, as trustee (Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 22, 2023). |
| 10.1 | Lease Agreement with Option to Purchase dated as of November 17, 2004, by and between Cure Land Company, LLC, as landlord, and Silver Slipper Casino Venture LLC, as tenant. (Incorporated by reference to Exhibit 10.11 to the Registrant's Annual Report on Form 10-K (SEC File No. 1-32583) filed on March 6, 2013). |

| | |
|---|---|
| 10.2 | First Amendment to Lease Agreement with Option to Purchase dated as of March 13, 2009, by and between Cure Land Company, LLC, as landlord, and Silver Slipper Casino Venture LLC, as tenant. (Incorporated by reference to Exhibit 10.12 to the Registrant's Annual Report on Form 10-K (SEC File No. 1-32583) filed on March 6, 2013). |
| 10.3 | Second Amendment to Lease Agreement with Option to Purchase dated as of September 26, 2012, by and between Cure Land Company, LLC, as landlord, and Silver Slipper Casino Venture LLC, as tenant. (Incorporated by reference to Exhibit 10.13 to the Registrant's Annual Report on Form 10-K (SEC File No. 1-32583) filed on March 6, 2013). |
| 10.4 | Third Amendment to Lease Agreement with Option to Purchase dated as of February 26, 2013, by and between Cure Land Company, LLC, as landlord, and Silver Slipper Casino Venture LLC, as tenant. (Incorporated by reference to Exhibit 10.14 to the Registrant's Annual Report on Form 10-K (SEC File No. 1-32583) filed on March 6, 2013). |
| 10.5 | Fourth Amendment to Lease Agreement with Option to Purchase dated as of March20, 2020, by and between Cure Land Company, LLC, as landlord, and Silver Slipper Casino Venture LLC, as tenant (Incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q (SEC File No. 1-32583) filed on May 13, 2020). |
| 10.6 | Casino Operations Lease dated June 28, 2011 by and between Hyatt Equities, L.L.C. and Gaming Entertainment (Nevada) LLC. (Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on June 30, 2011). |
| 10.7 | First Amendment to Casino Operations Lease dated April 8, 2013 by and between Hyatt Equities, L.L.C. and Gaming Entertainment (Nevada) LLC. (Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on April 11, 2013). |
| 10.8 | Second Amendment to Casino Operations Lease effective as of November 25, 2015, by and between Gaming Entertainment (Nevada) LLC, a Nevada limited liability company, and Hyatt Equities, L.L.C., a Delaware limited liability company (Incorporated by reference to Exhibit 10.1 to Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on December 17, 2015). |
| 10.9 | Third Amendment to Casino Operations Lease, effective August 29, 2016, between Hyatt Equities, L.L.C. and Gaming Entertainment (Nevada) LLC (Incorporated by reference to Exhibit 10.1 to Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on August 30, 2016). |
| 10.10 | Fourth Amendment to Casino Operations Lease dated November 13, 2019 by and between Hyatt Equities, L.L.C., as landlord, and Gaming Entertainment (Nevada) LLC, as tenant (Incorporated by reference to Exhibit 10.10 to the Registrant's Annual Report on Form 10-K (SEC File No. 1-32583) filed on March 12, 2021. |
| 10.11 | Fifth Amendment to Casino Operations Lease dated July 31, 2020 by and between Hyatt Equities, L.L.C., as landlord, and Gaming Entertainment (Nevada) LLC, as tenant (Incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q (SEC File No. 1-32583) filed on August 13, 2020). |
| 10.12 | Sixth Amendment to Casino Operations Lease dated February 13, 2023 by and between Incline Hotel LLC, as landlord, and Gaming Entertainment (Nevada) LLC, as tenant (Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 16, 2023). |
| 10.13 | Hotel Lease / Purchase Agreement dated August 15, 2013 by and between Rising Sun/Ohio County First, Inc. and Gaming Entertainment (Indiana) LLC. (Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K/A (SEC File No. 1-32583) filed on August 22, 2013). |
| 10.14 | First Amendment to Hotel Lease / Purchase Agreement dated March 16, 2016 by and between Rising Sun/Ohio County First, Inc. and Gaming Entertainment (Indiana) LLC. (Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on March 18, 2016). |
| 10.15 | Second Amendment to Hotel Lease/Purchase Agreement dated September 19, 2017, by and between Rising Sun/Ohio County First, Inc. and Gaming Entertainment (Indiana) LLC. (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on 8-K (SEC File No. 1-32583) filed on September 21, 2017 ). |
| 10.16+ | 2015 Equity Incentive Plan (as amended and restated by the Board effective April 6, 2021). (Incorporated by reference to Annex 2 to the Registrant's Proxy Statement on Schedule 14A (SEC File No. 1-32583) filed on April 14, 2021). |

| | |
|---|---|
| 10.17+ | Form of Award Agreement pursuant to the 2015 Equity Incentive Plan (Incorporated by reference to Exhibit 10.41 to the Registrant's Annual Report on Form 10-K (SEC File No. 1-32583) filed on March 8, 2018). |
| 10.18+ | Full House Resorts, Inc. Annual Incentive Plan for Executives (Incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K (SEC File No. 1-32583) filed on August 1, 2017). |
| 10.19+ | Employment Agreement, dated December 31, 2020, between Full House Resorts, Inc. and Daniel R. Lee (Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on January 7, 2021). |
| 10.20+ | Inducement Stock Option Agreement dated November 28, 2014 by and between Full House Resorts, Inc. and Daniel R. Lee (Incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on December 1, 2014). |
| 10.21+ | Award Agreement, dated May 24, 2017, between Full House Resorts, Inc. and Daniel R. Lee (Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on May 30, 2017). |
| 10.22+ | Employment Agreement, dated as of June 4, 2019 (and effective as of May 17, 2019), by and between Full House Resorts, Inc. and Lewis A. Fanger (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on June 4, 2019. |
| 10.23+ | Inducement Stock Option Agreement, dated as of January 30, 2015, by and between Full House Resorts, Inc. and Lewis A. Fanger (Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 4, 2015). |
| 10.24+ | Employment Agreement, dated as of February 4, 2022, by and between Full House Resorts, Inc. and Elaine L. Guidroz (Incorporated by reference to Exhibit 10.1 to Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 10, 2022). |
| 10.25+ | Employment Agreement, dated as of April 11, 2022, by and between Full House Resorts, Inc. and John Ferrucci (Incorporated by reference to Exhibit 10.1 to Registrant's Quarterly Report on Form 10-Q (SEC File No. 1-32583) filed on May 10, 2022). |
| 10.26 | Credit Agreement, dated as of March 31, 2021, among the Company, as borrower, the subsidiary guarantors party thereto, the lender parties thereto, and Capital One, National Association, as administrative agent (incorporated by referenced to Exhibit 10.1 to the Company's Current Report on Form 8-K (SEC File No. 1-32583) filed on March 31, 2021). |
| 10.27 | First Amendment to Credit Agreement, dated as of February 7, 2022, among the Company, the guarantors party thereto and Capital One, National Association, as administrative agent (Incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 8, 2022). |
| 10.28 | Second Amendment to Credit Agreement, dated as of February 21, 2023, among the Company, the guarantors party thereto and Capital One, National Association, as administrative agent (Incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K (SEC File No. 1-32583) filed on February 22, 2023). |
| 10.29*† | Development and Host Community Agreement, dated as of January 18, 2023, by and between the City of Waukegan, Illinois, and FHR-Illinois LLC, as developer. |
| 10.30*† | Ground Lease, dated as of January 18, 2023, by and between the City of Waukegan, as landlord, and FHR-Illinois LLC, as tenant. |
| 21.1* | List of Subsidiaries of Full House Resorts, Inc. |
| 23.1* | Consent of Deloitte & Touche LLP, Independent Registered Public Accounting Firm to the Company. |
| 31.1* | Certification of principal executive officer pursuant to Exchange Act Rule 13a-14(a)/15(d)-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 31.2* | Certification of principal financial officer pursuant to Exchange Act Rule 13a-14(a)/15(d)-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 32.1** | Certification of principal executive officer pursuant to 18 U.S.C. section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 32.2** | Certification of principal financial officer pursuant to 18 U.S.C. section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 99.1* | Description of Governmental Gaming Regulations. |

| | |
|---|---|
| 101.INS* | Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document. |
| 101.SCH* | Inline XBRL Taxonomy Extension Schema Document. |
| 101.CAL* | Inline XBRL Taxonomy Extension Calculation Linkbase Document. |
| 101.DEF* | Inline XBRL Taxonomy Extension Definition Linkbase Document. |
| 101.LAB* | Inline XBRL Taxonomy Extension Label Linkbase Document. |
| 101.PRE* | Inline XBRL Taxonomy Extension Presentation Linkbase Document. |
| 104 | Cover Page Inline XBRL File (included in Exhibit 101). |

_____

* Filed herewith.

** Furnished herewith.

+ Executive compensation plan or arrangement.

† Certain schedules and similar attachments have been omitted in reliance on Item 601(a)(5) of Regulation S-K. The Company agrees to furnish supplementally a copy of any omitted schedule or exhibit to the SEC upon request.

**Item 16. Form 10-K Summary.**

We have elected not to disclose the optional summary information.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

FULL HOUSE RESORTS, INC.

March 15, 2023

By: /s/ DANIEL R. LEE
Daniel R. Lee, Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

| Name and Capacity | Date |
|---|---|
| /s/ DANIEL R. LEE<br>Daniel R. Lee, Chief Executive Officer and Director<br>(Principal Executive Officer) | March 15, 2023 |
| /s/ LEWIS A. FANGER<br>Lewis A. Fanger, Chief Financial Officer and Director<br>(Principal Financial Officer and Principal Accounting Officer) | March 15, 2023 |
| /s/ KENNETH R. ADAMS<br>Kenneth R. Adams, Director | March 15, 2023 |
| /s/ CARL G. BRAUNLICH<br>Carl G. Braunlich, Director | March 15, 2023 |
| /s/ KATHLEEN MARSHALL<br>Kathleen Marshall, Director | March 15, 2023 |
| /s/ ERIC J. GREEN<br>Eric J. Green, Director | March 15, 2023 |
| /s/ MICHAEL P. SHAUNNESSY<br>Michael P. Shaunnessy, Director | March 15, 2023 |
| /s/ MICHAEL A. HARTMEIER<br>Michael A. Hartmeier, Director | March 15, 2023 |
| /s/ LYNN M. HANDLER<br>Lynn M. Handler, Director | March 15, 2023 |

# FULL HOUSE RESORTS, INC.
# DESCRIPTION OF THE REGISTRANT'S SECURITIES REGISTERED PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934

Full House Resorts, Inc., a Delaware corporation (the "Company," "we," "us" or "our") has one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended: our Common Stock (as defined below).

The following description of our Common Stock is a summary and does not purport to be complete. This summary is subject to and qualified in its entirety by reference to the full text of our amended and restated certificate of incorporation, as amended ("Certificate of Incorporation") and our amended and restated bylaws ("By-laws"), each of which is filed as an exhibit to the Annual Report on Form 10-K of which this Exhibit 4.1 is a part. We encourage you to read our Certificate of Incorporation, our By-laws, and the applicable provisions of the General Corporation law of the State of Delaware (the "DGCL") for additional information.

**Authorized Shares**

Our authorized capital consists of 100,000,000 shares of common stock, par value $0.0001 per share ("Common Stock"), and 5,000,000 shares of preferred stock, par value $0.0001 per share ("Preferred Stock"). All outstanding shares of our Common Stock are fully paid and non-assessable. As of December 31, 2022, we had 34,407,654 shares of Common Stock issued and outstanding and no shares of Preferred Stock issued or outstanding.

***Common Stock***

**Dividends**

Holders of our Common Stock are entitled to receive such dividends, if any, as may be declared from time to time by our board of directors out of legally available funds. The declaration and payment of dividends on our Common Stock is a business decision to be made by our board of directors from time to time based upon results of our operations and our financial condition and any other factors as our board of directors considers relevant. Under the DGCL, we can only pay dividends to the extent that we have surplus ― the extent by which the fair market value of our net assets exceeds the amount of our capital, or to the extent of our net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year. In addition, the payment of dividends may be restricted by loan agreements, indentures and other transactions entered into us from time to time.

**Voting Rights**

Holders of Common Stock have the exclusive power to vote on all matters presented to our stockholders, including the election of directors, except as otherwise provided by the DGCL or as provided with respect to any other class or series of stock, if any. Holders of Common Stock are entitled to one vote per share. An affirmative vote of a majority of the votes cast at a meeting of stockholders at which a quorum is present and entitled to vote thereon is sufficient for approval of all matters submitted to a vote of stockholders. There is no cumulative voting.

**Liquidation Rights**

In the event we are dissolved and our affairs our wound up, after we pay or make adequate provision for all of our debts and liabilities in accordance with applicable law, each holder of our Common Stock will receive dividends pro rata out of assets that we can legally use to pay distributions.

**Other Rights**

Subject to the preferential rights of any other class or series of stock, all shares of Common Stock have equal dividend, distribution, liquidation and other rights, and have no preference or appraisal rights, except for any appraisal rights provided by the DGCL. Furthermore, holders of our Common Stock have no conversion, sinking fund or redemption rights, or rights to subscribe for any of our securities, except that our Certificate of Incorporation imposes certain obligations on holders of our Common Stock relating to compliance with the gaming authorities and empowers the Company to redeem shares of Common Stock under certain limited circumstances. For additional information, see "Description of Governmental Gaming Regulations" in Exhibit 99.1 of our Annual Report on Form 10-K for the year ended December 31, 2022.

**Listing**

Our Common Stock is listed on the Nasdaq Capital Market under the symbol "FLL."

***Preferred Stock***

Prior to the issuance of any shares of our Preferred Stock, an amendment to our Certificate of Incorporation must be adopted by our board of directors and approved by our stockholders to designate one or more series of such Preferred Stock and to fix, for each series, the designations, powers and preferences and the relative, participating, optional or other special rights of the shares of each series and any qualifications, limitations and restrictions thereof, as are permitted by the DGCL. Our Certificate of Incorporation does not include a "blank check" provision that would otherwise authorize our board of directors to issue our Preferred Stock in any number or series and to determine the rights of each series without needing additional stockholder approval.

**Certain Anti-Takeover Effects of our Certificate of Incorporation and By-laws and Delaware Law**

*General.* Certain provisions of our Certificate of Incorporation and our By-laws, and certain provisions of the DGCL could make our acquisition by a third party, a change in our incumbent management, or a similar change of control more difficult. These provisions, which are summarized below, are likely to reduce our vulnerability to an unsolicited proposal for the restructuring or sale of all or substantially all of our assets or an unsolicited takeover attempt. The summary of the provisions set forth below does not purport to be complete and is qualified in its entirety by reference to our Certificate of Incorporation and our By-laws and the applicable provisions of the DGCL.

*Advance Notice Requirements.* Stockholders wishing to nominate persons for election to our board of directors at an annual meeting or to propose any business to be considered by our stockholders at an annual meeting must comply with certain advance notice and other requirements set forth in our By-laws. Likewise, if our board of directors has determined that directors shall be elected at a special meeting of stockholders, stockholders wishing to nominate or re-nominate persons for election to our board of directors at such special meeting must comply with certain advance notice and other requirements set forth in our By-laws.

*Special Meetings.* Our By-laws provide that special meetings of stockholders may only be called by our board of directors or at the request in writing of stockholders owning at least forty percent (40%) of the shares entitled to vote.

*Board Vacancies.* Any vacancy on our board of directors may be filled by a majority vote of the directors then in office, though less than a quorum, or by a sole remaining director. Any director elected to fill a vacancy shall hold office for a term expiring at the next annual meeting of stockholders and until their successors are elected and qualified. If one or more directors shall resign from our board of directors effective at a future date, a majority of directors then in office, including those who have so resigned, shall have the power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided for the filling of other vacancies.

*Exclusive Forum Bylaws Provision*. Our By-laws require that, to the fullest extent permitted by law, and unless the Company consents in writing to an alternative forum, the Court of Chancery of the State of Delaware or the Eighth Judicial District Court of Clark County, Nevada, will be the sole and exclusive forum for any internal corporate claims. "Internal corporate claims" means claims, including claims in the right of the corporation, (i) that are based upon a violation of a duty by a current or former director or officer or stockholder in such capacity, or (ii) any action arising pursuant to any provision of the DGCL.

Although we believe this provision benefits us by providing increased consistency in the consistent application of law in the type of lawsuits to which it applies, the provision may have the effect of discouraging lawsuits against our directors and officers.

*Authorized but Unissued Shares.* Our authorized but unissued shares of Common Stock are generally available for our board of directors to issue without stockholder approval. We may use these additional shares for a variety of corporate purposes, including future offerings to raise additional capital, corporate acquisitions and employee benefit plans. The existence of our authorized but unissued shares of Common Stock could render more difficult or discourage an attempt to obtain control of our company by means of a proxy contest, tender offer, merger or other transaction.

*Section 203 of the DGCL*. We are subject to the provisions of Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a Delaware corporation that is listed on a national securities exchange or held of record by more than 2,000 shareholders from engaging in a "business combination" with an "interested stockholder" for a three-year period following the time that such stockholder becomes an interested stockholder, unless the business combination is approved in a prescribed manner. A "business combination" includes, among other things, certain mergers, asset or stock sales or other transactions resulting in a financial benefit to the interested stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns, or did own within three years prior to the determination of interested stockholder status, 15% or more of the corporation's outstanding voting stock. Under Section 203, a business combination between a corporation and an interested stockholder is prohibited unless it satisfies one of the following conditions:

- before the stockholder became interested, the board of directors approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;

- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, shares owned by persons who are directors and also officers, and employee stock plans, in some instances; or

- at or after the time the stockholder became interested, the business combination was approved by the board of directors of the corporation and authorized at an annual or special meeting of the stockholders by the affirmative vote of at least 66 $^{2}/_{3}$% of the outstanding voting stock which is not owned by the interested stockholder.

**Exhibit 10.29**

**DEVELOPMENT AND HOST COMMUNITY AGREEMENT**
**BETWEEN**
**THE CITY OF WAUKEGAN AND**
**FHR-ILLINOIS, LLC**

**(THE TEMPORARY BY AMERICAN PLACE AND**
**THE AMERICAN PLACE CASINO)**

**DATED AS OF JANUARY 18, 2023**

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**DEVELOPMENT AND HOST COMMUNITY AGREEMENT**
**BETWEEN THE CITY OF WAUKEGAN AND FHR-ILLINOIS LLC**

**(THE TEMPORARY BY AMERICAN PLACE AND**
**THE AMERICAN PLACE CASINO)**

**THIS DEVELOPMENT AND HOST COMMUNITY AGREEMENT** ("***Agreement***") is dated as of January 18, 2023 ("***Effective Date***"), by and between the **CITY OF WAUKEGAN, ILLINOIS**, an Illinois home rule municipal corporation ("***City***"), and **FHR-ILLINOIS LLC** a Delaware limited liability company ("***Developer***").

**R E C I T A L S**

A. Developer seeks to develop the Temporary Facility and the Permanent Facility on an approximately 41-acre land assemblage consisting of three adjacent parcels of real property located within the City (the "***Development Property***") and conduct Casino Gaming Operations thereon.

B. The Development Property consists of: (i) the approximately 31.7 acre parcel of real property commonly known as 600 Lakehurst Road, depicted and legally described in ***Exhibit A*** attached hereto and made a part hereof ("***City-Owned Parcel***"); and (ii) two parcels owned by Developer commonly known as 4001-4011 Fountain Square Place consisting of approximately 10 acres, depicted and legally described in ***Exhibit B*** attached hereto and made a part hereof ("***10-Acre Parcel***").

C. As of the Effective Date, Developer is the fee owner of the 10-Acre Parcel and the City is the fee owner of the City-Owned Parcel. On or before the Closing Date, Developer and the City will execute a 99-year ground lease for the development, construction, operation, and maintenance of the Project (or portion thereof) on the City-Owned Parcel ("***Ground Lease***").

D. On June 28, 2019, the Governor of the State of Illinois ("***State***") signed into law Public Act 101-0031, which amended the Illinois Gambling Act, 230 ILCS 10/1 et seq. (the Illinois Gambling Act and all rules and regulations promulgated thereunder, each as amended from time to time, shall hereinafter be referred to as the "***Act***"), and authorized the Illinois Sports Wagering Act, 230 ILCS 45/25 et seq. (the Illinois Sports Wagering Act and all rules and regulations promulgated thereunder, each as amended from time to time, shall hereinafter be referred to as the "***Sports Wagering Act***"), to significantly expand gaming throughout the State.

E. The Act reflects the public policies of the State with regard to the operation and regulation of gaming as well as the public benefits to the State and its citizens that can result from a casino gaming project conducted in accordance with such policies by assisting economic development, promoting Illinois tourism, and increasing the amount of revenues available to the State to assist and support education and to defray State expenses.

F. The Act authorizes the issuance of an Owner's License to conduct casino gambling in the City of Waukegan.

G. On or about July 3, 2019, the City issued its Request for Qualifications and Proposals – Casino Development and Operator ("***RFQ/P***") seeking qualified casino developers/operators to construct and operate a casino to be located within the City. On or about August 5, 2019, the Parent Company submitted its response to the RFQ/P proposing its development of the Project.

H. Under Section 7(e-5) of the Act, 230 ILCS 10/7(e-5), for an application for a Waukegan-based Owner's License to be considered by the Illinois Gaming Board ("***IGB***"), the City was required to certify to the IGB that (collectively, the ***"(e-5) Requirements***"):

i. the applicant has negotiated with the City in good faith;

ii. the applicant and the City have mutually agreed on the permanent location of the casino;

iii. the applicant and the City have mutually agreed on the temporary location of the casino;

iv. the applicant and the City have mutually agreed on the percentage of revenues that will be shared with the City;

v. the applicant and the City have mutually agreed on any zoning, licensing, public health or other issues that are within the jurisdiction of the municipality or county; and

vi. the City Council has passed a resolution or ordinance in support of the casino in the City.

I. Following a public hearing regarding the Project, including the (e-5) Requirements, on or about October 19, 2019, the City Council adopted Resolution 2019-R-97 certifying that the Parent Company met the (e-5) Requirements (the "***Certification***").

J. On or about October 28, 2019, the Parent Company submitted the Application to the IGB for issuance of the Owner's License for the development and operation of the Project within the City.

K. On or about December 8, 2021, the IGB determined that the Parent Company is (i) the final applicant for the Owner's License designated for the City and (ii) preliminarily suitable to be issued the Owner's License designated for the City.

L. At its meeting held on January 27, 2022, the IGB unanimously granted approval for the Parent Company to (i) amend its Application pending before the IGB to change the applicant thereunder from the Parent Company to Developer, a wholly-owned subsidiary of the Parent Company, on the express condition that Developer assume all agreements, obligations and commitments made by the Parent Company to the IGB, State of Illinois and City in the Application; and (ii) allow all prior actions, approvals and findings (including the finding of preliminary suitability) made by the IGB with respect to the Parent Company to be applicable, binding and transferable to Developer.

M. Pursuant to that certain Assignment and Assumption Agreement dated January 27, 2022 by and between the Parent Company and Developer, the Parent Company assigned to, and Developer accepted from the Parent Company, all rights, title and interest in and to the Project so that Developer assumes the role of the Parent Company with respect to the Project and the Application, and Developer assumed all of the Parent Company's liabilities, duties, obligations and commitments with respect to the Application and Project.

N. The City has determined that the development, construction, operation, and maintenance of the Project by Developer on the Development Property will generate significant financial benefits for the City, its residents, and the greater Lake County region as a whole, including, without limitation, tax revenue, economic development, and increased employment opportunities.

O. The City Council has further concluded that the development and use of the Development Property pursuant to, and in accordance with, this Agreement would further enable the City to regulate the development of the Development Property for the benefit of the City and its residents.

P. Developer has agreed to execute this Agreement to provide for the development, construction, operation, and maintenance of the Project on the Development Property in compliance with this Agreement and the Approvals.

**NOW, THEREFORE,** in consideration of their mutual execution and delivery of this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the City's statutory and home rule powers, the Parties hereby agree as follows:

**1. Incorporation of Recitals.**

The Recitals set forth above are true and correct in all material respects, form a material part of this Agreement, and are hereby incorporated by reference.

**2. Definitions.**

The terms defined in this Section 2 have the meanings indicated for purposes of this Agreement. Capitalized terms which are used primarily in a single Section of this Agreement are defined in that Section.

a. "***Abandon***" and "***Abandonment***" means the stoppage of Work on the construction of a Phase of the Project for more than one hundred twenty (120) consecutive calendar days after construction of the Phase has commenced and prior to Work on the Phase being Complete for any reason other than Force Majeure.

b. "***Act***" is defined in Recital D.

c. "***Affiliate***" means a Person, or group of Persons, that, directly or indirectly, Controls or is Controlled by or is under common Control with another Person.

d. "***Agreement***" or "***DHCA***" means this "Development and Host Community Agreement," including all exhibits and schedules attached hereto, as the same may be amended, addended, or otherwise modified from time to time.

e. "***Application***" means an application for an Owner's License as required by the Act.

f. "***Approvals***" means all or any licenses, permits, approvals, consents and authorizations that Developer is required to obtain from any Governmental Authority to perform and carry out its obligations under this Agreement, including, but not limited to, an Owner's License issued to Developer, the Development Approvals, and such other permits and licenses necessary to complete the Work, and to develop, construct, operate, and maintain the Project on the Development Property.

g. "***Best Efforts***" means the efforts that a reasonable commercial enterprise in the business of developing and operating first-class, regional casino projects would use, consistent with good faith business judgment, in order to achieve completion of the construction of the applicable project in a timely manner.

h. "***Boutique Hotel***" means the approximately 20-room five-star hotel that will be included and constructed as part of Phase 1 of the Project.

i. "***Building Code***" means collectively, the 2021 International Building Code (IBC); 2020 National Electrical Code (NFPA 70) – NEC; Current State of Illinois Plumbing Code as amended, 2021 International Property Maintenance Code (IPMC); State of Illinois, Energy Efficient Building Act; 2021 International Fuel Gas Code (IFGC); 2021 International Mechanical Code (IMC); 2021 International Fire Code (IFC); 2021 International Residential Code (IRC), as well as any local amendments to each code adopted by reference as set forth in Chapter 6 of the City's Code of Ordinances, as the same may be amended from time to time.

j. "***Building Commissioner***" means the Building Commissioner for the City or their designee.

k. "***Business Day***" means all weekdays except Saturday and Sunday and those that are official legal holidays of the City, the State of Illinois, City of New York, NY, or the United States government. Unless specifically stated as "Business Days," a reference to "days" means calendar days.

l. "***Casino Gaming Operations***" means any Gaming operations permitted under the Act or the Sports Wagering Act and offered or conducted at the Project pursuant to an Owner's License, or permitted under any statutes that may be adopted in the future and offered or conducted at the Project pursuant to the Approvals by Governmental Authorities that may be required by such statutes.

m. "***Casualty***" means any damage or destruction (including any damage or destruction for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, affecting any or all of the Project.

n. "***Casualty Restoration***" means, upon a Casualty or Condemnation, the safeguarding, clearing, repair, restoration, alteration, replacement, rebuilding, and reconstruction of the damaged or remaining Project, substantially consistent with its condition before such Casualty or Condemnation, in compliance with this Agreement and, if applicable, the Ground Lease, subject to any changes in Requirements of Law that would limit the foregoing.

o. "***Certification***" is defined in Recital I.

p. "***City***" is defined in the first paragraph of this Agreement.

q. "***City Council***" means the corporate authorities of the City, consisting of the duly elected mayor and alderpersons.

r. "***City Engineer***" means the City Engineer for the City or their designee.

s. "***City's Property Tax Amount***" is defined in Section 8.2.

t. "***Closing Certificate***" means the certificate to be delivered by Developer in the form as attached hereto as ***Exhibit N***.

u. "***Closing Conditions***" is defined in Section 3.3.

v. "***Closing Date***" means the date on which the Closing Conditions have been satisfied.

w. "***Closing Deliveries***" is defined in Section 3.3.

x. "***Code of Ordinances***" means the City's Code of Ordinances, as the same may be amended from time to time.

y. "***Community Benefit Contribution***" is defined in Section 8.1.b.

z. " ***Compendium of Specifications***" means the City's "Compendium of Specifications for Development Within the City of Waukegan, Illinois" as the same may be amended or replaced from time to time.

aa. "***Complete***" or "***Completion***" means the substantial completion of the Work, as evidenced by the issuance of a temporary certificate of occupancy by the City for all Project Components within a Phase of the Project to which a certificate of occupancy would apply (and/or in the case of the retail and restaurant floor spaces, are completed as shells and available for leasing).

bb. "***Concurrent Approvals***" is defined in Section 4.4.

cc. "***Condemnation***" means a taking or damaging, including severance damage, of all or any part of the Development Property, the Project, or the right of possession thereof, by eminent domain, inverse condemnation, or for any public or quasi-public use under the law which may occur pursuant to the entry by a court of competent jurisdiction of a final judgment order, or by a voluntary sale of all or any part of the Development Property and/or the Project to the condemning authority, provided that, with respect to such voluntary sale, the Development Property or Project or such part thereof is then under the threat of condemnation or such sale occurs by way of settlement of a condemnation action.

dd. "***Construction Completion Date (Phase 0)***" means the date by which the Temporary Facility must attain Completion.

ee. "***Construction Completion Date (Phase 1)***" means the date by which the Permanent Facility must attain Completion.

ff. "***Control***" or "***Controlled***" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise. Includes, with correlative meanings, the terms "controlled by" and "under common control with."

gg. "***Corporation Counsel***" means the appointed corporation counsel for the City.

hh. "***Court***" is defined in Section 17.5.

ii. "***CSTM Plan***" is defined in Section 6.5(a).

jj. "***Damage Period***" is defined in Section 11.4.

kk. "***Default***" means any event or condition that, but for the giving of notice or the lapse of time, or both, would constitute an Event of Default under Section 11.1.

ll. "***Default Rate***" means a rate of interest at all times equal to the greater of (i) the rate of interest announced from time to time by Bank of America, N.A. ("***B of A***"), or its successors, as its prime, reference or corporate base rate of interest, or if B of A is no longer in business or no longer publishes a prime, reference or corporate base rate of interest, then the prime, reference or corporate base rate of interest announced from time to time by such local bank having from time to time the largest capital surplus, plus two percent (2%) per annum, or (ii) six percent (6%) per annum, provided, however, the Default Rate may not exceed the maximum rate allowed by applicable law.

mm. "***Developer***" is defined in the first paragraph of this Agreement.

nn. "***Developer Payments***" is defined in Section 8.5.

oo. "***Development Approvals***" means, collectively, the Prior Approvals, the Concurrent Approvals, and the Future Approvals.

pp. "***Development Escrow Agreement***" that certain agreement between the City and Developer dated as of February 28, 2022, regarding the payment of the City's Reimbursable Costs by Developer, as the same may be amended, addended, or otherwise modified from time to time.

qq. "***Development Property***" is defined in Recital A.

rr. "***Direct or Indirect Interest***" means an interest in an entity held directly or an interest held indirectly through interests in one or more intermediary entities connected through a chain of ownership to the entity in question, taking into account the dilutive effect of the interests of others in such intermediary entities.

ss. "***(e-5) Requirements***" is defined in Recital H.

tt. "***Effective Date***" means the date listed on the cover page and preambles to this Agreement.

uu. "***Entertainment Venue***" means the space within the Permanent Facility to be constructed, finished and fitted out for use as a venue to host live music, theater or other entertainment events capable of seating approximately 1,500 attendees.

vv. "***Escrow Agent***" is defined in Section 14.4.

ww. "***Event of Default***" is defined in Section 11.1.

xx. "***Fee Title Mortgage***" means any encumbrance by way of any mortgage, assignment of leases and rents, or other instruments intended to grant an interest in and to all or any part of Developer's fee ownership interest in the Project or the Development Property to any Person for the purpose of obtaining financing, including any extensions, modifications, amendments, replacements, supplements, renewals, refinancings, and consolidations thereof.

yy. "***Final Completion***" means when (i) Work related to all Project Components comprising a Phase of the Project is Complete; and (ii) 90% of the floor space for that Phase of the Project is ready to be open to the general public for its intended use or ready to be leased to tenants.

zz. "***Final Completion Date (Phase 0)***" means the date by which the Temporary Facility must attain Final Completion.

aaa. "***Final Completion Date (Phase 1)***" means the date by which the Permanent Facility must attain Final Completion.

bbb. "***Final Project Plan***" means, collectively, those plans and specifications for the Project described inSection 4.2.

ccc. "***Financing***" means the act, process or an instance of obtaining specifically designated funds for the Project or any Phase thereof, whether secured or unsecured, including (i) issuing securities; (ii) drawing upon any existing or new credit facility; or (iii) contributions to capital by any Person.

ddd. "***Finance Affiliate***" means any Affiliate of Developer created to effectuate all or any portion of a Financing.

eee. "***Finish Work***" refers to the finishes which create the internal and external appearance of the Project.

fff. "***First-Class Project Standards***" means the general standards of quality for construction, maintenance, operations and customer service utilized as of the Effective Date at the Rivers Casino in Des Plaines, Illinois, taken as a whole.

ggg. "***Force Majeure***" is defined in Section 16.1.

hhh. "***Future Approvals***" is defined in Section 4.5.a.

iii. "***GAAP***" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession for use in the United States, which are applicable to the circumstances as of the date of determination.

jjj. "***Gambling Game***" has the same definition as in the Act.

kkk. "***Gaming***" means the conduct of Gambling Games and/or Sports Wagering.

lll. "***Gaming Area***" means those spaces within the Project in which Gaming and Casino Gaming Operations occur.

mmm. "***Gaming Authority***" or "***Gaming Authorities***" means any agencies, authorities and instrumentalities of the City, State, or the United States, or any subdivision thereof, having jurisdiction over the Gaming or related activities and Casino Gaming Operations at the Project, including the IGB, or their respective successors.

nnn. "***Governmental Authority***" or "***Governmental Authorities***" means any federal, state, county or municipal governmental authority (including the City), including all executive, legislative, judicial and administrative departments and bodies thereof (including any Gaming Authority) having jurisdiction over Developer and/or the Project.

ooo. "***Ground Lease***" means that certain 99-year ground lease between the City and Developer for the City-Owned Parcel, as the same may be amended, addended, or otherwise modified from time to time.

ppp. "***IGB***" is defined in Recital H.

qqq. "***Improvement Guarantee***" is defined in Section 7.11.a.

rrr. "***including***" and any variant or other form of such term means "including but not limited to."

sss. "***Indemnitee***" is defined in Section 15.1.a.

ttt. "***Initial Temporary Facility Operation Period***" is defined in Section 5.2.d.

uuu. "***Late Opening Fee***" is defined in Section 4.1.c.

vvv. "***Leasehold Mortgage***" means any encumbrance by way of mortgages, deeds of trust or other documents or instruments intended to grant an interest in real property, in the form of leasehold security, in and to all or any part of Developer's right, title and interest in and to the Ground Lease and the leasehold estate created by the Ground Lease to any Person for the purpose of obtaining financing including any extensions, modifications, amendments, replacements, supplements, renewals, refinancings, and consolidations thereof.

www. "***Maintenance Guarantee***" is defined in Section 7.11.d.

xxx. "***Major Condemnation***" means a Condemnation either (i) of the entire Project or the entire Development Property, (ii) Developer's (or its successor's or assign's) entire leasehold estate in the City-Owned Parcel, or (iii) of a portion of the Project or the Development Property if, as a result of the Condemnation, it would be imprudent or financially impractical to continue to operate the remaining portion of the Project or Development Property even after making all reasonable repairs and restorations.

yyy. "***Material Adverse Effect***" means any event, change, effect, occurrence or circumstances that, individually or in the aggregate with other events, is or would reasonably be expected to be materially adverse to the condition (financial or otherwise), business, operations, prospects, properties, assets, cash flows or results of operations of Developer, taken as a whole, or the ability of Developer to perform its obligations hereunder in a timely manner; provided, however, that none of the following may be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur: (i) any event in the United States or global economy generally, including events relating to world financial or lending markets; (ii) any changes or proposed changes in GAAP; and (iii) any hostilities, act of war, sabotage, terrorism or military actions or any escalation or worsening of any such hostilities, act of war, sabotage, terrorism or military actions, except, in the case of clauses (i), (ii) or (iii) to the extent such event(s) affect Developer, taken as a whole, in a disproportionate manner as compared to similarly situated companies.

zzz. "***Material Change***" means a change in the Project that: (i) substantially affects or could reasonably be expected to substantially affect the Project whether in scope, size, design or otherwise, or other obligations of the Developer as provided in this Agreement; or (ii) results in or could reasonably be expected to result in reduction in Project cost, other than by virtue of value engineering or market changes of general applicability to the costs of material or labor. Without limiting the foregoing, the addition or deletion of a Project Component from a Phase shall be deemed a Material Change.

aaaa. "***Minor Condemnation***" means a Condemnation that is not a Major Condemnation.

bbbb. "***Mortgage***" means either a Leasehold Mortgage or a Fee Title Mortgage on all or part of the Project and/or Development Property.

cccc. "***Mortgagee***" means the holder or secured party from time to time of a Mortgage, including holders of Mortgages on Developer's leasehold interest in the City-Owned Parcel.

dddd. "***Non-Appeal Period***" is defined in Section 8.2.b.

eeee. "***Operations Commencement***" means when a Phase of the Project is Complete and opens for business to the general public.

ffff. "***Operations Commencement Date (Phase 0)***" means the date by which the Temporary Facility must attain Operations Commencement.

gggg. "***Operations Commencement Date (Phase 1)***" means the date by which the Permanent Facility must attain Operations Commencement.

hhhh. "***Owner's License***" means an owner's license (or, if an owner's license has not yet been issued, a temporary operating permit) issued by the IGB pursuant to the Act authorizing the conduct of Casino Gaming Operations in the City.

iiii. "***Parent Company***" means Full House Resorts, Inc., a Delaware corporation and parent company of the Developer, and its successors and assigns.

jjjj. "***Parties***" means the City and Developer.

kkkk. "***Passive Investor***" means any Person owning a Direct or Indirect Interest in Developer who acquired and holds such interest in the ordinary course of business for investment purposes only, and such interest was acquired and is held not for the purpose or effect of (i) causing the election or appointment of any management member of Developer, or (ii) controlling, influencing, affecting or being involved in the business activities of Developer.

lll. "***Permanent Facility***" means the approximately 325,000 square foot Structure in which Gaming and Casino Gaming Operations will be conducted on the Development Property after the Operations Commencement Date (Phase 1) and all Project Components, including the Boutique Hotel and the Entertainment Venue (but excluding Phase 2), located on the Development Property that are connected with, or operated in such an integral manner as to form a part of the same operations, all of which are more specifically described on ***Exhibit C***.

mmmm. "***Permitted Construction Work Hours***" means the hours between 7:00 a.m. and 8:00 p.m. local time daily, during which exterior construction, demolition, and repair work may be conducted.

nnnn. "***Permitted Transfer***" means those Transfers of any Direct or Indirect Interest in Developer to a Permitted Transferee.

oooo. "***Permitted Transferee***" means any Person who is a transferee of any Direct or Indirect Interest in Developer: (i) who, after giving effect to the Transfer, owns less than a ten percent (10%) Direct or Indirect Interest in Developer or, if the Person is a Passive Investor, after the Transfer, owns less than twenty-five percent (25%) in Developer; or (ii) resulting solely from such Person's ownership of a Direct or Indirect Interest in a Publicly Traded Corporation; or (iii) resulting from such Person's purchase of all or substantially all of the equity interests or assets of the Parent Company; or (iv) who is a lender to Parent Company or Developer and, in connection with providing financing to Parent Company or Developer, as applicable, for the Project takes, as collateral for any such financing, a pledge of the equity interests of Developer.

pppp. "***Person***" means any corporation, partnership, individual, joint venture, limited liability company, trust, estate, association, business, enterprise, proprietorship, governmental body or any bureau, department or agency thereof, or other legal entity of any kind, either public or private, and any legal successor, agent, representative, authorized assign, or fiduciary acting on behalf of any of the foregoing.

qqqq. "***Phase***" means a discrete portion of the Project with a defined operations commencement date.

rrrr. "***Phase 0***" means the Phase of the Project during which Developer will develop, construct, operate, and maintain the Temporary Facility.

ssss. "***Phase 0 Engineering Plan***" is defined in Section 4.3.e.

tttt. "***Phase 1***" means the Phase of the Project during which Developer will develop, construct, operate, and maintain the Permanent Facility.

uuuu. "***Phase 1 Engineering Plan***" is defined in Section 4.5.a.

vvvv. "***Phase 1 Site Plans***" is defined in Section 4.5.a.

wwww. "***Phase 2***" means the Phase of the Project that will occur after Phase 1, as further described in Section 5.4.

xxxx. "***Phase 2 Hotel***" means the approximately 150-key three-star hotel that may be constructed as part of Phase 2 of the Project.

yyyy. "***Prior Approvals***" is defined in Section 4.3.

zzzz. "***Proceeds***" means all amounts, compensation, sums or value paid, awarded or received for a Condemnation attributable to the Development Property or the Project, whether pursuant to judgment, the Ground Lease, this Agreement, settlement or otherwise to either City or Developer on account of a Condemnation, but excluding any compensation paid in connection with a temporary taking.

aaaaa. "***Project***" means, as the case may be, each of, or collectively, the Temporary Facility and the Permanent Facility, along with all appurtenant and accessory buildings and improvements for each Phase, as well as any subsequent Phases approved pursuant to this Agreement as the same may be amended or appended in the future.

bbbbb. "***Project Commencement Impact Payment***" is defined in Section 8.1.a.

ccccc. "***Project Component***" means any of the following included as part of each Phase of the Project: the Gaming Area; hotels; restaurants; bars and lounges; meeting and assembly spaces; retail spaces; back of house and central plant spaces; office spaces; entertainment, recreational facilities and spa; parking; private bus, limousine and taxi parking and staging areas; the other facilities described or depicted in the Project Description (***Exhibit C***) or the Project Concept Plan (***Exhibit D***); and such other major facilities that may be added as components by addendum or amendment to this Agreement.

ddddd. "***Project Concept Plan***" means the documents for the design of the Project attached to this Agreement as ***Exhibit D***, which such documents may be subject to change, alteration and/or modification as provided in Section 4.5.d.

eeeee. "***Project Description***" means the detailed description of the Project as set forth on ***Exhibit C***.

fffff. "***Project Milestones***" is defined in Section 4.1.b.

ggggg. "***Project Phasing Plan***" a component of the Project Concept Plan depicting the proposed Phases of the Project as of the Effective Date.

hhhhh. "***Public Improvements***" means those Site Improvements that will be dedicated to, and accepted by, the City.

iiiii. "***Publicly Traded Corporation***" means a Person, other than an individual, to which either of the following provisions applies: the Person has one (1) or more classes of voting securities registered under Section 12 of the Securities Exchange Act of 1934, 15 U.S.C. §781; or the Person issues securities and is subject to Section 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §780(d).

jjjjj. "***Qualified Lessor***" means a third party who, contemporaneously with the acquisition of all or a portion of the Development Property leases all or such portion of the Development Property to the Developer in a Qualified Sale and Leaseback Transaction.

kkkkk. "***Qualified Sale and Leaseback Transaction***" means an arrangement in which all or any portion of the Development Property is acquired by a Qualified Lessor who contemporaneously with such acquisition leases all or such portion of the Development Property to Developer on a triple net basis and Developer remains responsible for operating the Project and paying all property taxes, insurance, and maintenance costs under terms and conditions customary for similar arrangements in the casino industry.

llllll. "***Redemption Period***" is defined in Section 4.1.c.

mmmmm. "***Reimbursable Costs***" shall have the meaning ascribed to it in, and shall be paid by Developer pursuant to and in accordance with, the provisions of the Development Escrow Agreement.

nnnnn. "***Releases***" means the executed releases to be delivered as part of the Closing Deliveries by Developer, its Affiliates and its other direct and indirect equity owners in substantially the same form as ***Exhibit O*** attached hereto.

ooooo. "***Requirements of Law***" means the Act, Sports Wagering Act, the Development Approvals, the Code of Ordinances, the Building Code, the Subdivision Ordinance, the Zoning Ordinance, and all laws, ordinances, statutes, executive orders, rules, zoning requirements and agreements of any Governmental Authority that are applicable to the acquisition, remediation, renovation, demolition, development, construction, operation, and maintenance of the Project including all required permits, approvals and any rules, guidelines or restrictions enacted or imposed by Governmental Authorities, but only to the extent that such laws, ordinances, statutes, executive orders, zoning requirements, agreements, permits, approvals, rules, guidelines and restrictions are valid and binding on Developer.

ppppp. "***Restrictions***" is defined in Section 8.6.

qqqqq. "***RFQ/P***" is defined in Recital G.

rrrrr. "***Right-of-Way Improvements***" means those specific Site Improvements to be constructed on or within the public-owned rights-of-way that are adjacent to, or in the vicinity of, the Development Property, as specifically described in Section 7.9.

sssss. "***RoW Improvements Construction License***" is defined in Section 7.9.

ttttt. "***Shortfall Amount***" is defined in Section 8.2.

uuuuu. "***Site Improvements***" are the on-site and off-site improvements to be made in connection with the development and construction of the Project, as provided in Section 7, including, without limitation, the Public Improvements, but specifically excluding vertical construction of the Temporary Facility and the Permanent Facility.

vvvvv. "***Site Plan Approval Ordinance***" is defined in Section 4.3.b.

wwwww. "***Site Restoration***" means site restoration and modification activities to establish a park-like setting suitable for passive outdoor recreational activities, including without limitation, demolition of partially constructed improvements and Structures, regrading, erosion control, and installation of sod or seeding.

xxxxx. "***Sports Wagering***" has the meaning given to such term in the Sports Wagering Act.

yyyyy. "***Sports Wagering Act***" is defined in Recital D.

zzzzz. "***State***" is defined in Recital D.

aaaaaa. "***Stormwater Improvements***" means the following improvements depicted on the Final Project Plan for the particular Phase: public and private storm sewers, related equipment, appurtenances, Structures, swales, and storm drainage areas installed and maintained on, or in the vicinity of, the Development Property to ensure adequate stormwater drainage and management and to collect and direct stormwater into the City's storm sewer system.

bbbbbb. "***Structure***" means anything constructed or erected, the use of which requires more or less permanent location on the ground, or anything attached to something having a permanent location on the ground, but not including paving or surfacing of the ground. Structure will in all cases be deemed to include, without limitation, the Temporary Facility, the Permanent Facility, the Boutique Hotel, and the Phase 2 Hotel.

ccccc. "***Subdivision Ordinance***" means the Waukegan Subdivision Ordinance, codified as Appendix D to the City's Code of Ordinances, as the same may be amended from time to time.

dddddd. "***Substantial Casualty***" means a Casualty that: (a) renders thirty percent (30%) or more of the Project not capable of being used or occupied; (b) requires Casualty Restoration whose cost Developer reasonably estimates in writing would exceed One Hundred Fifty Million and No/100 Dollars ($150,000,000.00); or (c) pursuant to Requirements of Law, prevents Casualty Restoration of the Project from being Restored to the same bulk, and for the same use(s), as before the Casualty.

eeeeee. "***Temporary Construction Easement***" is defined in Section 4.3.d.

ffffff. "***Temporary Facility***" means the Structure in which Casino Gaming Operations will be conducted by Developer at the Development Property during Phase 0 for such period of time as permitted by Section 5.2 and all buildings and Project Components located on the Development Property that are physically connected with, or operated in such an integral manner as to form a part of the same operation as, that Structure, all of which are more specifically described in ***Exhibit C***.

gggggg. "***Temporary Facility Operation Period***" is defined in Section 5.2.d.

hhhhhh. "***Term***" is defined in Section 3.4.

iiiiii. "***Threshold Amount***" means (i) for the first property tax year occurring after the Non-Appeal Period, an amount equal to $1,200,000; and (ii) for each property tax year thereafter continuing through property tax year 2032 (taxes paid in 2033), an amount equal to the prior property tax year's Threshold Amount multiplied by 103%.

jjjjjj. "***Transfer***" means (i) any sale (including agreements to sell on an installment basis), lease, assignment, transfer, pledge, alienation, hypothecation, merger, consolidation, reorganization, liquidation, or any other disposition by operation of law or otherwise, and (ii) the creation or issuance of new or additional interests in the ownership of any entity.

kkkkkk. "***Transferee Assumption Agreement***" means the Transferee Assumption Agreement required to be executed by any Person, other than Developer, taking a legal or equitable interest in the fee title to the Development Property or Developer's leasehold interest under the Ground Lease, as set forth in Section 12.3 and in substantially the same form as ***Exhibit J***.

llllll. "***Work***" means demolition and site preparation work at the Development Property for each Phase of the Project, and construction of the Site Improvements and Structures constituting each Phase of the Project in accordance with the Final Project Plan for such Phase and includes labor, materials and equipment to be furnished by a contractor or subcontractor.

mmmmmm. "***Zoning Ordinance***" means the Waukegan Zoning Ordinance, codified as Appendix A to the City's Code of Ordinances, as the same may be amended from time to time.

## 3. General Provisions.

### 3.1 Findings.

The City hereby finds that the development, construction, operation, and maintenance of the Project will: (i) be in the best interest of the City; (ii) contribute to the objectives of providing and preserving gainful employment opportunities for residents of the City; (iii) support and contribute to the economic growth of the City including supporting and utilizing local and small businesses, minority, women and veteran business enterprises; (iv) attract commercial and industrial enterprises, promote the expansion of existing enterprises, combat community blight and deterioration, and improve the quality of life for residents of the City and the greater Lake County region; (v) support and promote tourism in the City and the State; and (vi) provide the City with additional revenue.

### 3.2 Legal Effect of Agreement.

This Agreement, along with the Ground Lease, replaces the Temporary Construction Easement and that certain "Memorandum of Key Terms," dated as of May 3, 2022 between the Parties, both of which are hereby terminated as of the Effective Date and shall have no further legal force or effect. This Agreement, along with the Ground Lease, as both documents may be amended, addended, supplemented, or otherwise modified from time to time, shall govern the relationship between the Parties and the development, construction, operation, and maintenance of the Project on the Development Property. The provisions of this Agreement, unless terminated pursuant to the terms of this Agreement, run with and bind the Development Property and inure to the benefit of, are enforceable by, and obligate the City, Developer, and any of their respective, grantees, successors, assigns, and transferees, including all permitted successor legal or beneficial owners of all or any portion of the Development Property. The City will not have any management or oversight rights over the Project or the Development Property except those voluntarily provided in this Agreement.

### 3.3 Closing Conditions.

The City's and Developer's obligations under this Agreement are subject to and contingent upon the satisfaction of the following conditions precedent, each in form and substance reasonably satisfactory to the City (collectively, the "***Closing Conditions***"):

a. Delivery of the following items (the "***Closing Deliveries***"):

i. From Developer:

A. An opinion of counsel from Developer to the City covering customary organizational, due authority, conflict with other obligations, enforceability and other matters reasonably requested by the City;

B. The Closing Certificate;

C. The Ground Lease and Memorandum of Ground Lease executed by Developer;

D. Evidence of payment of Developer's due and unpaid Reimbursable Costs incurred to date, if any;

E. Evidence of payment to the City's Water Department for any outstanding water fees incurred during the construction of Phase 0;

F. The Releases;

G. Resolutions of Developer, properly certified, approving this Agreement and the Ground Lease and authority to execute same; and

H. A certificate from Developer reasonably acceptable to City certifying that the representations and warranties of the Developer set forth in Section 9.1 are true and correct in all material respects at and as of the Closing Date as though then made.

ii. From the City:

A. The Ground Lease and Memorandum of Ground Lease executed by the City;

B. Resolutions and ordinances of the City, properly certified, approving the Concurrent Approvals;

C. Resolutions of the City, properly certified, approving this Agreement and authority to execute same;

D. A certificate from the City reasonably acceptable to Developer certifying that the representations and warranties of the City set forth in Section 9.2 are true and correct in all material respects at and as of the Closing Date as though then made;

E. An estoppel certificate, in form and substances reasonably satisfactory to Developer, from the "Declarant" under that certain First Amended Declaration of Protective Covenants, Conditions, Restrictions and Easement for Fountain Square of Waukegan dated as of August 27, 2005 and recorded with the Lake County Recorder on September 2, 2005 as Document Number 5853181;

F. Title clearance documents reasonably required by Fidelity National Title Insurance Company (or its agent) in connection with the issuance of an owner's policy of title insurance, together with the leasehold owner endorsement thereto, to Developer with respect to the Ground Lease and City-Owned Parcel; and

G. The letter of credit Developer previously provided to the City pursuant to the Temporary Construction Easement.

b. No Default or Event of Default has occurred or is continuing hereunder.

c. No Material Adverse Effect has occurred.

**3.4 Term.**

The term of this Agreement commences on the Effective Date and continues until the expiration of the Owner's License issued to Developer unless (i) sooner terminated as provided herein and except as to those provisions that by their terms survive or (ii) extended as provided in the next sentence. The term of this Agreement will automatically be extended upon any and each renewal of Developer's Owner's License; provided, that at the time of each extension Developer has received no written notice of an Event of Default for a Default which remains uncured or with respect to which Developer is not in the process of diligently pursuing a cure. The term of this Agreement, including any extensions thereof, is referred to as the ***"Term."***

**4. Project.**

**4.1 Overview of Project; Project Milestones.**

a. Overview of Project. Developer proposes to develop, construct, operate, and maintain the Project as described in the Project Description. To that end, Developer has prepared that certain Project Concept Plan for the Project. The Project Concept Plan includes a Project Phasing Plan which describes and depicts the projected Phases of the Project contemplated as of the Effective Date of this Agreement. As plans for subsequent phases of the Project are finalized and approved by the City, those plans shall be incorporated into the Final Project Plan and memorialized in addenda to this Agreement.

b. Project Milestones. As further described in Sections 5.2, 5.3, and 6.4, Developer shall achieve the following milestones, as they may be amended or extended pursuant to the provisions of this Agreement (collectively, the "***Project Milestones***"):

i. Phase 0 – Temporary Facility.

A. Construction Completion Date (Phase 0): This date will occur no later than January 31, 2023; provided, however, that upon written request of Developer to the City and upon Developer showing that it is diligently pursuing construction of the Temporary Facility, the City may consent to up to two (2) three-month extensions of the Construction Completion Date (Phase 0), the first of which shall be consented to automatically by the City and any subsequent consent not to be unreasonably withheld, conditioned or delayed.

B. Operations Commencement Date (Phase 0): This date will occur no later than three (3) months following the Construction Completion Date (Phase 0); provided, however, that upon a written showing by Developer that it is diligently pursuing Operations Commencement for Phase 0, the Operations Commencement Date (Phase 0) shall be automatically extended as is reasonably necessary for Developer to achieve Operations Commencement for Phase 0, but in no event by more than an additional one (1) month.

C. Final Completion Date (Phase 0): This date will occur no later than three (3) months following the Construction Completion Date (Phase 0); provided, however, that upon a written showing by Developer that it is diligently pursuing Final Completion of Phase 0, the Final Completion Date (Phase 0) shall be automatically extended as is reasonably necessary for Developer to attain Final Completion for Phase 0, but in no event by more than an additional three (3) months.

ii. Phase 1 – Permanent Facility.

A. Construction Completion Date (Phase 1): This date will occur no later than thirty-six (36) months following the Operations Commencement Date (Phase 0); provided, however, that upon written request of Developer to the City and upon Developer showing that it is diligently pursuing construction of Phase 1 of the Project, the City may consent to up to two (2) three-month extensions of the Construction Completion Date (Phase 1), followed by one (1) two-month extension of the Construction Completion Date (Phase 1), the first of which shall be consented to automatically by the City and any subsequent consent not to be unreasonably withheld, conditioned or delayed.

B. Operations Commencement Date (Phase 1): This date will occur no later than three (3) months following the Construction Completion Date (Phase 1); provided, however, that upon a written showing by Developer that it is diligently pursuing Operations Commencement for Phase 1, the Operations Commencement Date (Phase 1) shall be automatically extended as is reasonably necessary for Developer to achieve Operations Commencement for Phase 1, but in no event by more than an additional three (3) months.

C. Final Completion Date (Phase 1): This date will occur no later than five (5) months following the Construction Completion Date (Phase 1); provided, however, that upon a written showing by Developer that it is diligently pursuing Final Completion of Phase 1, the Final Completion Date (Phase 1) shall be automatically extended as is reasonably necessary for Developer to attain Final Completion for Phase 1, but in no event by more than an additional three (3) months.

The Parties agree and acknowledge that the above-described Project Milestones represent the outside dates upon which Developer must achieve each such Project Milestone and, if a particular Project Component is Complete and ready to be opened to the public prior to Completion of all Project Components for a particular Phase, Developer may open such Project Component prior to Completion and opening of all other Project Components for such Phase.

c. Phase 1 Project Component Exception. Developer intends for all Phase 1 Project Components, including the Boutique Hotel and Entertainment Venue, to open simultaneously. However, the Parties recognize that unplanned events may cause delays and require the Gaming Area of Permanent Facility to open to the public before the other Project Components of the Permanent Facility. For each day that the Gaming Area of the Permanent Facility is open for business to the general public prior to either the Boutique Hotel or the Entertainment Venue attaining Operations Commencement, a fee equal to $750 per day (the "***Late Opening Fee***") shall accrue. If the Boutique Hotel and Entertainment Venue attain Operations Commencement within 120 days of the Gaming Area of the Permanent Facility attaining Operations Commencement (the "***Redemption Period***"), then the accrued Late Opening Fee shall be fully waived and reduced to zero. If, however, the Boutique Hotel and Entertainment Venue have not attained Operations Commencement by the expiration of the Redemption Period, then the Late Opening Fee accrued for the Redemption Period shall be due and payable to the City on the Business Day immediately following expiration of the Redemption Period and, further, the Late Opening Fee shall continue to accrue for each day thereafter until the Boutique Hotel and Entertainment Venue have both attained Operations Commencement and such accrued Late Opening Fees shall be payable, in arrears, within five Business Days after the end of each calendar month until paid in full. The Redemption Period will be extended day-for-day for any period of time Developer is awaiting permits from the City, County, or other municipal jurisdictions after timely submitting all necessary applications, plans, and fees.

**4.2 Final Project Plan.**

The Final Project Plan will be comprised collectively, of those plans and specifications for the Project and each of its Phases to be approved by the City Council or City staff pursuant to the Development Approvals, in accordance with Section 4 and the Requirements of Law.

a. Phase 0. The plans and related documents approved by the City Council through the adoption of the Prior Approvals constitute the Final Project Plan for Phase 0.

b. Phase 1. After adoption by the City Council of the Future Approvals, the plans and related documents approved by the City through the adoption of the Future Approvals will be the Final Project Plan for Phase 1. Upon the date that the Future Approvals for Phase 1 and all plans and specifications for any subsequent Phase of the Project are approved, those plans and specifications will, automatically and without further action by the City Council and the Parties, be deemed to be incorporated into, and made a part of, the Final Project Plan and will replace the Project Concept Plan for that Phase.

**4.3 Prior Approvals.**

As of the Effective Date of this Agreement, the City has granted Developer the following Development Approvals (collectively, the "***Prior Approvals***"):

a. Certification Resolution. On October 19, 2019, the City Council adopted Resolution No. 19-R-97 "Certifying Full House Resort's Proposal for a Riverboat Gaming Operation to the Illinois Gaming Board." This Resolution confirmed Parent Company's compliance with the IGB's (e-5) Requirements and authorized Full House Resort's Application for the Owner's License to be submitted and considered by the IGB.

b. Temporary Facility (Phase 0) Site Plan Approval. On March 21, 2022, the City Council adopted Ordinance No. 22-O-29 "Granting Site Plan Approval to FHR-Illinois, LLC for the Construction and Operation of a Temporary Casino" ("***Site Plan Approval Ordinance***"), which granted Developer final site plan approval for the Temporary Facility and other Phase 0 Project Components subject to certain conditions and restrictions. A copy of the Site Plan Approval Ordinance is attached hereto as ***Exhibit E***.

c. Extended Hours Authorization Resolution. On May 2, 2022, the City Council adopted Resolution No. 22-R-58, "Authorizing FHR-Illinois LLC to Operate a Temporary Casino Facility with Extended Operating Hours." This Resolution authorizes Developer to operate the Temporary Facility 24-hours a day.

d. Temporary Construction Easement. On March 22, 2022, the City and Developer entered into that certain "Temporary Construction Easement Agreement," recorded in the Office of the Lake County Recorder as Document No. 7893327 on April 1, 2022 ("***Temporary Construction Easement***"), to allow Developer to enter on the City-Owned Parcel and commence construction of the Temporary Facility, including site preparation, foundation construction, utility installation, and transportation and storage of certain construction equipment, tools, and materials.

e. Temporary Facility (Phase 0) Engineering Plan Approval. The City Engineer approved those certain Engineering Plans for the Temporary Facility and other Phase 0 Project Components, prepared by Gewalt Hamilton Associates, Inc. consisting of 21 sheets, with a latest revision date of September 20, 2022 a copy of which is attached hereto as ***Exhibit F*** (the "***Phase 0 Engineering Plan***").

f. Foundation Construction Permit for Temporary Facility. The Building Commissioner, pursuant to the rights granted Developer by the Temporary Construction Easement, issued Foundation and Footing building permits for the Temporary Facility on May 10, 2022.

g. Zoning Ordinance Amendments. On October 3, 2022, the City Council adopted Ordinance No. 22-O-174, amending Sections 8.3-9(6)(a)(6), 8.3-9(6)(b)(4), and 8.3-9(6)(b)(9) of the Waukegan Zoning Ordinance, regarding the Western Gateway Overlay District in the B2 Community Shopping District, to add "casinos" as permitted uses and adding definitions for "casino" and "helipad" to Section 13.2 of the Ordinance.

h. Code of Ordinance Amendments. On November 21, 2022, the City Council approved Ordinance Nos. 22-O-219 and 22-O-220 amending the City's Code of Ordinances to enact, among other changes, the following:

i. create a new "Class Q - Casino" liquor license classification for casino gaming facilities;

ii. exclude casino gaming facilities from local regulations and taxes applicable to free-standing video gaming terminals (VGTs) authorized and operated pursuant to the Illinois Video Gaming Act (230 ILCS 40/1 et seq.);

iii. permit Casino Gambling Operations to be conducted at a licensed facility located in the City; and

iv. amend the City's Sign Ordinance to accommodate Developer's proposed electronic display sign and light projections.

**4.4 Concurrent Approvals.**

Concurrently with the consideration of approval and execution of this Agreement, the City will consider adoption of the following Development Approvals (collectively, the "***Concurrent Approvals***"):

a. Ground Lease. The City Council will consider an ordinance authorizing the City to enter into the Ground Lease with Developer for the City-Owned Parcel. This ordinance will acknowledge Developer's option to purchase the City-Owned Parcel in accordance with the terms of the Ground Lease.

b. Liquor License Authorization. The City Council will consider one or more ordinances authorizing the creation of a Class Q - Casino liquor license and multiple Class E- Restaurant licenses to be available for issuance to Developer for the Temporary Facility.

**4.5 Future Approvals.**

a. Necessary City Approvals. The Parties acknowledge and agree that: (i) the Permanent Facility is a permitted use on the Development Property under the City's Zoning Ordinance, requiring only: (A) approval by the City Council pursuant to Section 3.12 of the City's Zoning Ordinance of the site plans for the Permanent Facility (the "***Phase 1 Site Plans***"); (B) approval by the City Engineer pursuant to Section 11.2 of the City's Subdivision Ordinance of the engineering plans depicting the Site Improvements that will be constructed in connection with the Permanent Facility (the "***Phase 1 Engineering Plan***"); and (C) approval by the Building Commissioner of the City's Building Code of building permits necessary for the construction of the Permanent Facility (collectively, the Phase 1 Site Plans, the Phase 1 Engineering Plan, and such building permits are the ***"Future Approvals"***); and (ii) as of the Effective Date, the City Council, the City Engineer, and the Building Commissioner have not yet considered, and have not granted, approval of the Phase 1 Site Plan, the Phase 1 Engineering Plan, and the building permits necessary for the construction of the Permanent Facility, respectively.

b. Permanent Facility (Phase 1) Site Plan Approval. Developer will submit and provide to the City all necessary applications, plans, reports, and documents required by Section 3.12 of the City's Zoning Ordinance to request and obtain site plan approval of the Phase 1 Site Plans. The City will consider such applications, plans, reports, and documents submitted by Developer to request and obtain approval of the Phase 1 Site Plans in accordance with Section 4.6.b.

c. Permanent Facility (Phase 1) Engineering Plan Approval. Developer will submit and provide to the City all necessary applications, plans, reports, and documents required by Section 11.2 of the City's Subdivision Ordinance to request and obtain approval of the Phase 1 Engineering Plan. The City Engineer will consider such applications, plans, reports, and documents submitted by Developer to request and obtain approval of the Phase 1 Engineering Plan in accordance with Section 4.6.b.

d. Permanent Facility (Phase 1) Building Permit Approval. Developer will submit and provide to the City all necessary applications, plans, reports, and documents required by the City's Building Code to request and obtain approval of building permits necessary to construct the Permanent Facility. The Building Commissioner will consider such applications, plans, reports, and documents submitted by Developer to request and obtain approval of such building permits in accordance with Section 4.6.b.

**4.6 Other Matters Related to Approvals.**

a. Developer's Obligations. As soon as practicable following the Operations Commencement Date (Phase 0), but, in any event within a reasonable time that will permit Developer to achieve the Project Milestones related to Phase 1 of the Project, Developer will use its Best Efforts to promptly apply for and pursue the Future Approvals and any other Approvals necessary to design, develop, construct, and maintain the Permanent Facility. Developer is required to promptly furnish the City with all studies required by applicable provisions of the Code of Ordinances in connection with the Future Approvals. Until all applications for the Future Approvals have been submitted to the City, Developer is required to provide the City, from time to time upon its request, but not more often than once each calendar month following the Effective Date, a written update of the status of such applications. If any Approvals by Governmental Authorities other than the City are denied or delayed, Developer must provide prompt written notice thereof to the City, together with Developer's written explanation as to the circumstances causing such delay or resulting in such denial and Developer's plan to cause such Approvals to be issued promptly. Upon obtaining all necessary Approvals, Developer must develop and construct the Project in material compliance with the Development Approvals, the Final Project Plan, and this Agreement as the same may be amended or addended from time to time.

b. City's Obligations. In every case for which an Approval by the City is required or contemplated under this Agreement or any Requirement of Law, the City shall: (i) review and consider such Approval in good faith, expeditiously, diligently, and in accordance with all processes and procedures required by applicable Requirements of Law; and (ii) in the case of non-discretionary ministerial Approvals that, pursuant to Requirements of Law, are to be granted by City officials and employees other than the City Council after certain standards, criteria, and/or other conditions precedent have been satisfied, grant such Approvals only after Developer has reasonably demonstrated that Developer has satisfied all such standards, criteria, and/or other conditions precedent. In the event that the City denies or does not grant any Approval, or Developer reasonably determines that the City will not grant such Approval, Developer has the right to terminate this Agreement by providing written notice to the City. In the event that the City breaches its obligations pursuant to Section 4.6.b.(i) and Section 4.6.b.(ii), Developer's sole remedy shall be termination of this Agreement or, in the case of breaches of Section 4.6.b.(ii), the filing of a mandamus action in the 19th Judicial Circuit Court of Lake County. In no event shall breach of Section 4.6.b.(i) and Section 4.6.b.(ii) by the City be grounds for the award of monetary damages.

c. Addenda for Material Changes. The City acknowledges and agrees that, notwithstanding specific elements of the Project Description and the Project Concept Plan, the Developer may alter the Project Description, the Project Concept Plan, the Final Project Plan, the Project and the Project Components of any Phase without approval of the City, provided, however, that any Material Change shall require the approval of the City Council in the form of a written addendum to this Agreement, which approval shall not be unreasonably withheld. Addenda for subsequent Phases of the Project will incorporate approved site plan ordinances and engineering plans for that Phase as Exhibits to the addenda. All plans for subsequent Phases adopted by addenda to this Agreement will be incorporated into the Final Project Plan.

d. Owner's License. Developer has submitted its Application for, and is actively pursuing, an Owner's License issued by the IGB to authorize Casino Gaming Operations in the City. As of the Effective Date, Developer has received a determination of "Preliminary Suitability" from the IGB. Developer will diligently take all necessary and commercially reasonable steps to obtain the temporary operating permit (and Owner's License) as necessary under the Act to conduct Casino Gaming Operations.

e. Sports Wagering License. If Developer desires to conduct (or cause to be conducted) Sports Wagering at the Development Property and/or through an internet or mobile application available to Developer as a result of Developer holding an Owner's License, Developer shall apply to IGB for issuance of a master sports wagering license under the Sports Wagering Act to authorize the conduct of Sports Wagering at the Casino and over the internet or through a mobile application as permitted by the Sports Wagering Act and diligently pursue such license.

**4.7 2004 Redevelopment Agreement.**

Notwithstanding anything contained in this Agreement or the Ground Lease to the contrary, as between the City and Developer and Developer's successors and assigns, the City shall have no right to enforce the obligations of that certain Redevelopment Agreement entered into by the City and SDC Waukegan Venture, LLC dated as of August 1, 2003 as amended by that certain Amendatory and Supplemental Agreement dated as of August 27, 2005. This Section 4.7 does not limit or waive Developer's obligations to pay the Impositions set forth in Section 5.1(B) of the Ground Lease.

## 5. Use, Operations, and Maintenance of the Development Property.

### 5.1 General Project Restrictions.

a. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Code of Ordinances or the Zoning Ordinance or any other rights Developer may have, during the term of this Agreement, the Development Property may be developed, used, operated, and maintained only pursuant to, and in accordance with, the terms and provisions of this Agreement and its exhibits, including, without limitation, the development conditions set forth in Sections 5.1.b. through 5.1.d as well as in the Approvals. The development, use, maintenance or operation of the Development Property in a manner deviating from these conditions will be deemed a violation of this Agreement and Developer's obligations hereunder.

b. So long as Gaming is permitted by law to be conducted at the Project, the principal business to be operated at the Project shall be Gaming; although accessory business activities, including, without limitation, food and beverage service, entertainment, hospitality, and retail sales will be permitted.

c. If Developer desires to conduct (or cause to be conducted) Sports Wagering at the Project and/or through an internet or mobile application available to Developer as a result of Developer holding an Owner's License, Developer must apply to IGB for issuance of a master sports wagering license under the Sports Wagering Act to authorize the conduct of Sports Wagering at the Casino and over the internet or through a mobile application as permitted by the Sports Wagering Act and use its commercially reasonable efforts to obtain and maintain such license for so long as Sports Wagering is conducted. If Developer obtains such license, Developer must operate all Sports Wagering in accordance with the Sports Wagering Act.

d. The development, construction, operation, and maintenance of the Project on the Development Property, must, except for minor alterations to final engineering and site work approved by the City Engineer, the Building Commissioner, or the City's Director of Planning and Zoning, as appropriate, comply and be in accordance with the following:

i. this Agreement;

ii. the Development Approvals applicable to the relevant Phase;

iii. the Final Project Plan for each Phase of the Project, and all individual plans and documents of which it is comprised;

iv. the Zoning Ordinance;

v. the Building Code;

vi. the Subdivision Ordinance;

vii. the Compendium of Specifications; and

viii. the Requirements of Law.

Unless otherwise provided in this Agreement, either specifically or in context, in the event of a conflict between or among any of the plans or documents listed as or within items (i) through (viii) of this Section 5.1, the plans or documents shall control in the priority order set forth above in items (i) through (viii) of this Section 5.1.

**5.2 Operations of Temporary Facility (Phase 0).**

a. [Reserved].

b. Standards of Operation. Beginning on the Operations Commencement Date (Phase 0) and continuing to Operations Commencement Date (Phase 1), Developer agrees to diligently operate and maintain the Temporary Facility in full compliance with all material Requirements of Law, First-Class Project Standards, and the terms of this Agreement.

c. Operating Hours. Developer covenants that, at all times following the Operations Commencement Date (Phase 0), it will, directly or indirectly: (i) continuously operate and keep open to the public for the maximum hours permitted under Requirements of Law the Gaming Area of the Temporary Facility; and (ii) continuously operate and keep open to the public during commercially reasonable hours the Project Components of the Temporary Facility other than the Gaming Area. Notwithstanding the foregoing, Developer has the right, from time to time in the ordinary course of business and without advance notice to the City, to close portions of any Project Component of the Temporary Facility: (x) for such reasonable periods of time as may be required for repairs, alterations, maintenance, remodeling, or for any reconstruction required because of Casualty, Condemnation, or Force Majeure; or (y) to respond to then-existing market conditions but only for so long as reasonable commercial practices would so require; or (z) such periods of time as may be directed by a Governmental Authority. Notwithstanding Developer's covenants as set forth in this Section 5.2.c., Developer has the right to alter the operations of the Temporary Facility in accordance with any changes to the Act or the Sports Wagering Act.

d. Temporary Facility Operation Period. So long as Developer is diligently pursuing Approvals for, and construction of, the Permanent Facility, Developer may conduct Casino Gaming Operations at the Temporary Facility for a period of up to twenty-four (24) months after the Operations Commencement Date (Phase 0) (such 24-month period, the "***Initial Temporary Facility Operation Period***"). If, pursuant to Section 7(l) of the Act, Developer shall petition the IGB to extend the Initial Temporary Facility Operation Period for a period of up to twelve (12) additional months and the IGB grants Developer's petition, then Developer shall be permitted to conduct Casino Gaming Operations at the Temporary Facility for such extended period (the Initial Temporary Facility Operation Period, as may be extended as provided herein, the "***Temporary Facility Operation Period***"). In no event, however, shall Developer be permitted to conduct Casino Gaming Operations at the Temporary Facility for a period of greater than thirty-six (36) months after the Operations Commencement Date (Phase 0) unless otherwise approved by the IGB.

**5.3 Operations of Permanent Facility (Phase 1).**

a. [Reserved].

b. Standards of Operation. Beginning on the Operations Commencement Date (Phase 1) and continuing during the Term, Developer agrees to diligently operate and maintain the Permanent Facility in full compliance with all material Requirements of Law, First-Class Project Standards, and the terms of this Agreement.

c. Operating Hours. Developer covenants that, at all times following the Operations Commencement Date (Phase 1), it will, directly or indirectly: (i) continuously operate and keep open to the public for the maximum hours permitted under Requirements of Law the Gaming Area of the Permanent Facility; (ii) when Complete, continuously operate and keep open for business to the general public for the maximum hours permitted under Requirements of Law, the Boutique Hotel and the parking Project Component; and (iii) operate and keep open for business to the general public all Project Components (other than the Gaming Area, the Boutique Hotel, and the parking Project Component) in accordance with commercially reasonable hours of operation. Notwithstanding the foregoing, Developer has the right from time to time in the ordinary course of business and without advance notice to City, to close portions of any Project Component of the Permanent Facility for: (x) such reasonable periods of time as may be required for repairs, alterations, maintenance, remodeling, or for any reconstruction required because of Casualty, Condemnation, or Force Majeure, or (y) to respond to then- existing market conditions but only for so long as reasonable commercial practices would so require; or (z) such periods of time as may be directed by a Governmental Authority. Notwithstanding Developer's covenants as set forth in this Section 5.3.c., Developer has the right to alter the operations of the Permanent Facility in accordance with any changes to the Act or the Sports Wagering Act.

**5.4 Construction and Operations of Subsequent Phases (Phase 2 and Beyond).**

The Parties acknowledge the Project Concept Plan and Project Description include a description of Phase 2. As of the Effective Date, Phase 2 consists of Developer's construction of the Phase 2 Hotel on the Development Property. The Parties agree, however, that if the Developer, in consultation with the City, determines that market conditions do not warrant construction of the Phase 2 Hotel, then Developer, in consultation with the City, will consider other casino-related amenities (in lieu of the Phase 2 Hotel) to be constructed on the Development Property as Phase 2. In any event, Developer's investment in Phase 2 will be no less than $50 million, and Developer will commence construction of Phase 2 no later than five (5) years of the Operations Commencement Date (Phase 1). Pursuant to Section 4.6.d., before the construction of Phase 2, Developer shall seek and the City shall consider (in accordance with their respective obligations set forth in Section 4.6.a. and Section 4.6.b.) approval of a Phase 2 site plan by the City Council and approval of a Phase 2 engineering plan by the City Engineer, which approvals and plans shall be incorporated into this Agreement through the execution of an addendum to this Agreement.

## 6. Demolition and Construction of Project.

### 6.1 General Construction and Contracting Requirements.

a. Compliance with Plans and Approvals. Each Phase of the Project must be designed and constructed pursuant to and in accordance with this Agreement, the Final Project Plan, and the Development Approvals. All Work must be conducted promptly and in a good and diligent manner and in compliance with First Class Project Standards. All materials used for construction on the Development Property will be in accordance with the specifications for the Work to be performed. Without limiting the generality of the foregoing sentence, Developer must ensure that all materials used in the construction of the Project are of first-class quality and that the quality of the Finish Work meets or exceeds First-Class Project Standards.

b. Contracts for Work on Development Property. For contracts entered into by Developer following the Effective Date, Developer will include in every contract for Work on the Development Property terms requiring the contractor and its subcontractors to prosecute the Work diligently, and in full compliance with, and as required by or pursuant to this Agreement, the Development Approvals, and all material Requirements of Law, until the Work is properly completed, and terms providing that Developer may take over and prosecute the Work if the contractor fails to do so in a timely and proper manner.

c. City Inspections and Approvals. All Work on the Development Property will be subject to inspection and approval by City representatives at all times to the same extent as any other development project located in the City, subject to safety rules applicable to the Project and the Development Property.

d. Construction of Temporary Facility. The Parties acknowledge and agree that the following actions occurred before the Effective Date of this Agreement: (i) the Parties entered into the Temporary Construction Easement; (ii) the City adopted the Prior Approvals and approved the Final Project Plan for Phase 0; and (iii) Developer commenced Work on the Temporary Facility pursuant to, and in accordance with, the Prior Approvals, the Final Project Plan for Phase 0, and the provisions of the Temporary Construction Easement. As of the Effective Date, significant portions of the Work on the Temporary Facility have been completed. Certain provisions of this Agreement related to the construction of the Project, therefore, apply only prospectively to the construction of the Permanent Facility.

### 6.2 Demolition of Structures.

Developer will use commercially reasonable efforts to deconstruct and remove the Phase 0 Project Components (to the extent that they are not incorporated into Phase 1) no later than one hundred eighty (180) days after the Operations Commencement Date (Phase 1). Developer will conduct all demolition Work on the Development Property in full compliance with the demolition regulations of the City and Lake County and Permitted Construction Work Hours. Developer will remove and dispose of all debris resulting from demolition activities on the Development Property in compliance with all material Requirements of Law.

**6.3 Limits on Vertical Construction.**

In addition to any other applicable provision of this Agreement and the Requirements of Law, after the Final Completion of the Temporary Facility, Developer may not commence any vertical construction for a particular Phase unless the City Engineer has determined that the construction of the following Site Improvements for that Phase are complete as required by this Agreement and Requirements of Law, except as may be authorized in writing by the City Engineer:

a. the Stormwater Improvements;

b. a functional water system that can deliver water to all proposed fire hydrants in the manner required by the City, as depicted on the Final Project Plan; and

c. sufficient paving and circulation Site Improvements to allow fire/EMS vehicles and personnel to access the Development Property.

**6.4 Diligent Pursuit of Construction.**

After commencement of construction for a Phase of the Project is authorized pursuant to this Agreement, Developer must pursue, or cause to be pursued, all required development, demolition, construction, and installation of Structures, buildings, Project Components and Site Improvements on the Development Property for that Phase in a diligent and expeditious manner, and in compliance with the applicable Development Approvals, the Final Project Plans, and material Requirements of Law. Developer will conduct all exterior construction Work on the Development Property in full compliance with the City's Permitted Construction Work Hours.

a. Developer must Complete construction of the Temporary Facility not later than the Construction Completion Date (Phase 0), commence operation of the Temporary Facility not later than the Operations Commencement Date (Phase 0), and attain Final Completion for the Temporary Facility not later than the Final Completion Date (Phase 0). Upon the occurrence of an event of Force Majeure, the Construction Completion Date (Phase 0), Final Completion Date (Phase 0), and the Operations Commencement Date (Phase 0), shall each be extended on a day-for-day basis but only for so long as the event of Force Majeure is in effect.

b. Developer shall Complete construction of the Permanent Facility not later than the Construction Completion Date (Phase 1), commence operation of the Permanent Facility not later than the Operations Commencement Date (Phase 1) and attain Final Completion of the Permanent Facility not later than the Final Completion Date (Phase 1). Upon the occurrence of an event of Force Majeure, the Construction Completion Date (Phase 1), the Operations Commencement Date (Phase 1), and Final Completion Date (Phase 1) shall each be extended on a day-for-day basis but only for so long as the event of Force Majeure is in effect. The Permanent Facility may not commence operations until all Site Improvements for Phase 1 have been completed in accordance with Final Project Plans for Phase 1 and the Compendium of Specifications as verified by the City Engineer, with the exception of landscaping improvements unable to be installed due to weather or seasonality.

**6.5 Construction Site and Traffic Management.**

a. Required Plans. Before commencement of construction of the Permanent Facility, Developer must prepare and submit, for review and approval by the Building Commissioner and the City Engineer the following plans applicable to Work related to the construction of the Permanent Facility:

(i) A construction site and traffic management plan ("***CSTM Plan***") that addresses site issues, including, but not limited to: (A) sequencing of construction events; (B) construction milestones; (C) light, noise, dust and traffic mitigation measures; (D) rodent and waste controls; (E) contact information for the Project's general contractor's site manager; (F) the location, storage, and traffic routes for construction equipment and construction vehicles; and (G) the location of alternative off-street parking during construction if construction activity is expected to materially reduce the amount of off-street parking available on the Development Property. The CSTM Plan must include, without limitation, the following:

(a) The schedule and traffic routes for construction traffic accessing the Development Property;

(b) The designation of machinery and construction material storage areas on the Development Property;

(c) Provisions for the screening of construction areas within the Development Property;

(d) The hours of operation and schedule for construction on the Development Property;

(e) The location of areas on the Development Property for the parking of construction vehicles and vehicles operated by construction employees;

(f) The location of alternative off-street parking to replace any parking temporarily lost due to construction; and

(g) The location of temporary and durable off-street parking on the Development Property for construction employees.

The City has no obligation to issue a building permit for any Structure or Site Improvement related to the Permanent Facility or any subsequent Phase of the Project, and no construction may be commenced with respect to those Structures or Improvements, unless and until the Building Commissioner and the City Engineer have approved, in writing, the CSTM Plan, which approval shall not be unreasonably withheld. The City agrees to cause the CSTM Plan to be promptly and expeditiously reviewed by the Building Commissioner and the City Engineer in accordance with the City's obligations under Section 4.6.b.

b. Designated Routes of Access. The City reserves the right to designate certain prescribed routes of access to the Development Property for construction traffic to provide for the protection of pedestrians and to minimize disruption of traffic and damage to paved street surfaces, to the extent practicable; provided, however, that the designated routes must not: (i) be unreasonably or unduly circuitous; nor (ii) unreasonably or unduly hinder or obstruct direct and efficient access to the Development Property for construction traffic.

c. Maintenance of Routes of Access. At all times during the construction of the Structures and Site Improvements, Developer must: (i) keep all routes used for construction traffic free and clear of debris, obstructions, and hazards; and (ii) repair any damage to public rights-of-way caused by construction traffic.

**6.6 Parking, Stormwater Management, and Erosion Control During Construction.**

During construction of any of the Structures or Site Improvements related to the Permanent Facility on the Development Property, Developer must:

a. Install temporary and durable surface off-street parking on the Development Property for the parking of construction worker vehicles, as necessary, which off-street parking will be constructed in accordance with the approved CSTM Plan.

b. Install and implement commercially reasonable measures to temporarily divert or control any heavy accumulation of stormwater away from or through the Development Property in a manner approved in advance by the City Engineer, which method of diversion should include early installation of storm drains to collect water and convey it to a safe discharge point; and

c. Install erosion control devices to mitigate silt, dirt and other materials from leaving the site and traveling onto other properties.

All installations made pursuant to this Section 6.6 must be maintained by Developer until Work on the Permanent Facility or any subsequent Phase of the Project is Complete.

**6.7 Issuance of Permits and Certificates.**

a. General Right to Withhold Permits and Certificates. In addition to every other remedy permitted by law for the enforcement of this Agreement, the City has the absolute right to withhold the issuance of any building permit or certificate of occupancy for the Permanent Facility during the existence of an Event of Default or a violation of the Approvals.

b. Pre-Conditions to Issuance of Building Permit. The City will have the right, but not the obligation, to refuse to issue a building permit for any Structure that will be part of the Permanent Facility or a subsequent Phase of the Project prior to the installation by Developer, and approval by the City Engineer, of all Site Improvements required by the Final Project Plan.

c. Completion of Public Roads, Private Driveways, and Parking Areas. No temporary certificate of occupancy or final certificate of occupancy associated with any new Structure to be located on the Development Property will be issued until the final grading, application of final surface course, and where applicable striping of parking space for the roads, private driveways, and parking areas serving the uses within such Structure has been completed.

d. Building Permit Fees for Phases 0 and 1. The Parties acknowledge and agree that Developer submitted the initial Project Concept Plans for Phases 0 and 1 in January of 2022, prior to the City's adoption of revisions to its Building Code and permit fees on March 7, 2022 pursuant to Ordinance 22-O-17. Except as provided in the subsequent sentence, Developer agrees to comply with all requirements and standards of the Building Code as of the Effective Date of this Agreement. However, notwithstanding the provisions of Ordinance 22-O-17 or any other provisions of the Code of Ordinances in effect as of the Effective Date or as of the date that Developer submits building permit applications for Work related to the construction of the Temporary Facility and the Permanent Facility, the City will charge Developer building permit fees for such Work in an amount equal to 2.5% of construction cost. For all Work after the Final Completion Date (Phase 1), the City will assess and charge permit fees to the Developer and their contractors at the rates set forth in the Code of Ordinances as of the date of the permit application submittal.

**6.8 Completion of Construction; Site Restoration.**

a. Removal of Partially Constructed Structures and Improvements. If Developer Abandons construction of the Project, Developer must, within 60 days after receipt by Developer of written notice from the City, either recommence Work on the Project or: (i) remove any partially constructed or partially completed Structures or Site Improvements associated with that Phase from the Development Property; and (ii) perform Site Restoration on that portion of the Development Property on which Developer has failed to perform Work necessary to achieve the applicable Project Milestone or related to the expired building permit, all in accordance with plans approved by the City.

b. Removal and Restoration by City. In the event Developer fails or refuses to remove any partially completed buildings, Structures, and Improvements, or to perform Site Restoration, as required pursuant to Section 6.8.a., the City will have, and is hereby granted, the right, at its option, to: (i) demolish and/or remove any of the partially completed Structures and Improvements from any and all portions of the Development Property; (ii) perform Site Restoration; and/or (iii) cause the Structures or Improvements to be completed in accordance with the plans submitted. Developer must fully reimburse the City for all costs and expenses, including legal and administrative costs, incurred by the City for such work. If Developer does not so fully reimburse the City, the City will have the right to draw from the Improvement Guarantee or the Maintenance Guarantee, as described in and provided pursuant to Section 7.11, an amount of money sufficient to defray the entire cost of the work, including legal fees and administrative expenses. If Developer does not so fully reimburse the City, and the Improvement Guarantee and Maintenance Guarantee have no funds remaining in them or are otherwise unavailable to finance such work, then the City will have the right to place a lien on the Development Property for all such costs and expenses in the manner provided by law. The rights and remedies provided in this Section 6.8 are in addition to, and not in limitation of, any other rights and remedies otherwise available to the City in this Agreement, at law, and/or in equity.

**6.9 Landscaping and Tree Preservation; Lighting.**

a. Landscaping. Prior to the issuance by the City of a final certificate of occupancy for the Permanent Facility or any subsequent Phase of the Project, Developer must install all landscaping on the Development Property, as depicted on the Final Project Plan for Phase 1, which landscaping must be installed and maintained and in accordance with the following:

(i) The Final Project Plan for Phase 1; and

(ii) All applicable landscaping tree preservation regulations set forth in Article IV of Chapter 22 of the City's Code of Ordinances, entitled "Tree Preservation and Landscaping," as the same may be amended from time to time.

b. Lighting. All exterior lighting on the Development Property must comply at all times with and lighting requirements set forth in the Final Project Plan applicable to the particular Phase.

**7. Design and Construction of Site Improvements; Performance of Work.**

**7.1 Project Site Improvements.**

In connection with construction of each Phase of the Project, Developer will construct the on and off-site improvements depicted on the Final Project Plan applicable to such Phase (***"Site Improvements"***), including water, sanitary sewer, the Right-of-Way Improvements, and the Stormwater Improvements.

a. Phase 0 Site Improvements. The Site Improvements related to the Temporary Facility are depicted and described on the Phase 0 Engineering Plan and include:

(i) The Stormwater Improvements;

(ii) Sanitary sewer mains and service lines;

(iii) Water mains and service lines;

(iv) Right-of-Way Improvements pertaining to Phase 0, if any;

(v) All landscaping depicted on the Final Project Plan for Phase 0; and

(vi) Parking areas, curbs, site circulation, and parking lot lighting.

b. Phase 1 Site Improvements. The Site Improvements related to the Permanent Facility will be depicted and described on the Phase 1 Engineering Plan. The Parties anticipate that such Site Improvements will include:

(i) Any Phase 1 Stormwater Improvements not completed in Phase 0.

(ii) Sanitary sewer mains and service lines;

(iii) Water mains and service lines;

(iv) Right-of-Way Improvements pertaining to Phase 1, including all public way and intersection improvements necessary to accommodate traffic generated by the Permanent Facility;

(v) Landscaping, as depicted in the site plan approval ordinance for Phase 1.

(vi) Parking areas, curbs, site circulation, and parking lot lighting;

(vii) Any other Site Improvement determined to be necessary by the City in accordance with the provisions of the Zoning Ordinance and the Subdivision Ordinance in connection with the City's consideration of the Future Approvals.

c. Improvements for Future Phases. All Site Improvements for future Phases of the Project will be depicted and described in addenda to this Agreement and future Development Approvals, as the same will be incorporated into the Final Project Plan for the particular Phase.

d. Off-Site Stormwater Retention Facility. The Parties acknowledge that the Development Property discharges stormwater to an approximately seven-acre retention pond (***"Lakehurst Pond"***) situated on privately-owned parcels located to the southwest of the Development Property commonly known as 1100 Lakehurst Drive, pursuant to easements granted by that certain Total Site Agreement dated March 20, 1970, as amended (***"Total Site Agreement"***). The Lakehurst Pond provides stormwater detention and stormwater capacity to the Development Property for the development and operation of the Project and also for the benefit of the other adjacent parcels that previously comprised the site of the former Lakehurst Mall. With respect to the Lakehurst Pond, the Parties shall undertake the following:

(i) The City shall bid out, contract for, and engage third parties to conduct bathymetric surveying and dredging of the Lakehurst Pond to restore the pond to a retention capacity of at least 40 acre/feet, which was the originally intended capacity of the pond set forth in the Total Site Agreement (***"Pond Restoration"***). The City shall cause the Pond Restoration to be completed as promptly as possible but in any event within 18 months of the date of this Agreement.

(ii) The City shall pay the costs of the Pond Restoration. With respect to such costs, for the initial $350,000 of costs, the City shall designate and utilize accrued TIF increment currently available in the City's Tax Increment Fund #11 in an amount up to $350,000.

(iii) For costs of the Pond Restoration in excess of $350,000, Developer will reimburse the City for costs above the $350,000 of available TIF increment that are actually incurred by the City to complete the Pond Restoration. For any costs of the Pond Restoration reimbursed by Developer, Developer will be permitted to deduct any amounts paid to the City for the Pond Restoration from Developer's payments to the City of the Annual Minimum Rent under the Ground Lease.

(iv) After the Pond Restoration is complete, Developer will communicate and collaborate with the owners of the other benefitting properties to the drainage and retention easements set forth in the Total Site Agreement to establish a long-term maintenance schedule and cost sharing agreement for the maintenance of the Lakehurst Pond to maintain its retention capacity and operation. Other than the City's obligations provided in this Section 7.1.d, the City hereby disclaims and assigns to Developer all further responsibilities of the City for maintenance of the Lakehurst Pond after the execution of the Ground Lease.

**7.2 General Standards.**

All Site Improvements must be designed and constructed pursuant to and in accordance with the Final Project Plan and Development Approvals applicable to the particular Phase, and will be subject to the reasonable written satisfaction of the City Engineer in accordance with the Article 11 of the Subdivision Ordinance. All Work performed on the Site Improvements must be conducted in a good and workmanlike manner, and in compliance with the construction and completion requirements for each Phase of the Project, as well as all permits issued by the City for construction of the Site Improvements, and in accordance with all material Requirements of Law and First-Class Project Standards. The Site Improvements will be constructed in accordance with the demolition and construction standards set forth in Section 6.1 and Section 6.2 as well as the specific provisions of this Section 7.

**7.3 Construction Schedule; Phasing.**

Prior to commencing any construction of any Public Improvement, or of any part of any Phase of the Project that will affect existing utilities or roadways, Developer must meet with the City Engineer, or their designee, to develop a mutually-agreeable schedule for all such construction. The meeting must take place not less than one week prior to the commencement of any such construction. After the meeting, Developer must prepare and submit minutes of the meeting to the City Engineer. No such construction may occur prior to the approval by the City Engineer of the agreed-upon schedule, which approval shall not be unreasonably withheld.

**7.4 [Reserved]**

**7.5 Engineering Services.**

Developer must provide, at its sole cost and expense, all engineering services for the design and construction of the Site Improvements, by a professional engineer responsible for overseeing the construction of the Site Improvements. Developer must promptly provide the City with the name of a local owner's representative and a telephone number or numbers at which the owner's representative can be reached at all times.

**7.6 City Inspections and Approvals.**

All Work on the Site Improvements is subject to inspection and approval by City representatives at all times to the extent and in the same manner as any other development project in the City. Developer will provide immediate access to the Development Property for the purpose of conducting these inspections during regular operating hours and within 12 hours outside of regular operating hours upon notice by the City. Access to portions of the Development Property or Project regulated by the IGB and subject to regulatory restrictions on public access will be provided by Developer in a manner compliant with the Requirements of Law.

**7.7 [Reserved]**

**7.8 Utilities.**

a. Burial and Removal of Utilities. In connection with the Permanent Facility, Developer must, at its sole cost and expense, remove all existing electric poles and cause to be buried all future electric facilities on the Development Property and on rights-of-way immediately adjacent to the Development Property, and as depicted on the Final Project Plan for Phase 1. In performing its obligations under this Section 7.8, Developer shall use its commercially reasonable efforts to coordinate and cooperate with all utility companies and owners of neighboring properties in an effort to mitigate the disruption of utility services to neighboring properties.

b. Connection of Utilities. No utilities located on the Development Property may be connected to the sewer and water utilities belonging to the City except in accordance with the applicable provisions of the Code of Ordinances and upon payment all fees required pursuant to the Code of Ordinances. Developer must open one or more water utility accounts with the City prior to issuance of a Temporary Certificate of Occupancy for the Temporary Facility or any subsequent Phase of the Project. Developer will be responsible for payment of all utilities used on the Development Property commencing from and after the effective date of the Temporary Construction Easement, including any water usage billed through a hydrant meter during the construction of Phase 0.

**7.9 Right-of-Way Improvements.**

a. Grant of Temporary Construction License. Subject to the terms and conditions set forth in this Agreement, the City hereby grants to Developer, and Developer accepts, a non-exclusive revocable license, for the construction, installation, and completion, at the sole cost and expense of Developer, of any Site Improvements within City-owned rights-of-way and, as necessary, within adjacent City-owned property (such rights-of-way and City-owned property are, collectively, the ***"Licensed Premises"***), as such Right-of-Way Improvements are or will be depicted in the Final Project Plan for the respective Phase of the Project, and pursuant to and in strict accordance with the terms and provisions of this Section 7.9 and the other provisions of this Agreement (the license granted by this Section 7.9 is the ***"RoW Improvements Construction License"***). Such Right-of-Way Improvements may include sidewalks, pedestrian crossing improvements, traffic signal improvements, and appurtenant landscaping on public rights-of-way adjacent to the Development Property.

b. Limitation of Interest. Except for the RoW Improvements Construction License granted pursuant to this Section 7.9.a., Developer does not and will not have any legal, beneficial, or equitable interest, whether by adverse possession or prescription or otherwise, in any portion of the Licensed Premises, or any City-owned rights-of-way, or any other City-owned property. Specifically, and without limitation of the foregoing, Developer acknowledges and agrees that nothing in this Agreement is to be interpreted to provide a license to Developer to alter any City-owned right-of-way in any way other than for the installation of the Right-of-Way Improvements.

c. Construction of the Right-of-Way Improvements. Developer must construct the Right-of-Way Improvements in accordance with and pursuant to the Final Project Plan, the Development Approvals, the Requirements of Law, and this Agreement, in a good and workmanlike manner, all at the sole expense of Developer and subject to inspection and approval by the City. Specifically, and without limitation of the foregoing, during the period of installation, Developer must maintain the Licensed Premises and all streets, sidewalks, and other public property in and adjacent to the Licensed Premises in a safe, good and clean condition without hazard to public use at all times, and in accordance with the standards set forth in Sections 6 and 7.

d. City Reservation of Rights Over Licensed Premises. The City hereby reserves the right to use the Licensed Premises in any manner that will not prevent, impede, or interfere in any way with the exercise by Developer of the rights granted pursuant to this Section 7.9 and the performance of Developer's obligations under this Agreement, including the City's reserved right to grant other non-exclusive licenses or easements, including, without limitation, licenses or easements for utility purposes, over, along, upon, or across the Licensed Premises and the right of access to the Licensed Premises for the maintenance of any existing or future utility located thereon.

e. Liens. Developer must, at its sole cost and expense, take all necessary action to keep all portions of the Licensed Premises free and clear of all liens, claims, and demands, including without limitation mechanic's liens, in connection with any Work performed by Developer or its agents. If any lien, claim, or demand is filed purporting to be for Work within the Licensed Premises, Developer may contest the lien, claim, or demand pursuant to all applicable Requirements of Law. If Developer's efforts to contest the lien are unsuccessful, Developer shall cause the lien to be discharged and released at no cost to the City.

f. [Reserved.]

g. Term. The RoW Improvements Construction License granted pursuant to this Section 7.9 will expire upon the acceptance by the City of all Right-of-Way Improvements pursuant to Section 7.10. The City shall use its commercially reasonable efforts to accept the Right-of-Way Improvements as promptly as practical following their completion.

**7.10 Dedication and Maintenance of the Site Improvements.**

a. Final Inspection and Approval of the Site Improvements. Developer must notify the City when it believes that any or all of the Site Improvements for a particular Phase of a Project are Complete in accordance with the Final Project Plan and applicable Requirements of Law and must request final inspection and approval of the Site Improvements by the City. The notice and request must be given as soon as practicable, but in no event with less than one week's advance notice, to allow the City time to inspect the Site Improvements and to prepare a written punch list of items, if any, requiring repair or correction to bring the Site Improvements into compliance with the Final Project Plan and applicable Requirements of Law and to allow Developer time to make such required repairs and corrections in compliance with the Project Milestones. Developer must promptly commence, and thereafter diligently pursue to completion, all necessary repairs and corrections as specified on the punch list. The City is not required to approve any portion of the Site Improvements until all of the Site Improvements for a particular Phase of the Project, including all punch list items, have been completed in accordance with the Final Project Plan and applicable Requirements of Law, as determined by the City Engineer in accordance with the City's customary practices.

b. Dedication and Acceptance of Public Improvements. Neither the execution of this Agreement, nor the approval of the Development Approvals for any Phase of the Project constitutes acceptance by the City of any Site Improvements that are depicted as "dedicated" on the Final Project Plan, if any. The acceptance of ownership of, and responsibility for, a specific approved Site Improvement as a Public Improvement may be made only by resolution of the City Council duly adopted, and only in compliance with the requirements of Article 11 of the Subdivision Ordinance.

c. Transfer of Ownership of the Public Improvements and Easements to the City. Upon the approval of, and prior to acceptance of, the Public Improvements to be accepted by the City pursuant to Section 7.10.b., Developer must execute, or cause to be executed, all customary documents as the City may reasonably request to transfer ownership of the Public Improvements to, and to evidence ownership of the Public Improvements by, the City, free and clear of all liens, claims, encumbrances, and restrictions, unless otherwise approved by the City in writing. Developer must, at the same time: (i) grant, or cause to be granted, to the City all easements or other property rights as the City may reasonably require to access, install, operate, maintain, service, repair, and replace the Public Improvements that have not previously been granted to the City, free and clear of all liens, claims, encumbrances, and restrictions, unless otherwise approved by the City in writing; (ii) provide a written estimate of the monetary value of each Public Improvement to be accepted by the City; and (iii) provide the City with a Bill of Sale for each Public Improvement evidencing the transfer of the Public Improvement.

d. Maintenance of Public Improvements. Developer hereby guarantees the prompt and satisfactory correction of all defects in materials or workmanship of any of the Public Improvements located on or off of the Development Property that occur or become evident within two (2) years after acceptance of the Public Improvement by the City pursuant to this Agreement. In the event the City Engineer determines, that Developer has not corrected any such defect, Developer must, within ten (10) days after receipt of written notice from the City (subject to Force Majeure), correct it or cause it to be corrected; provided, however, that if any such defect cannot reasonably be corrected within such ten (10)-day period, but Developer commences and diligently pursues completion of correction of the defect within such ten (10)-day period, the Developer shall complete correction of the defect within such longer period of time as is reasonably necessary to complete correction of the defect. If Developer fails to correct the defect, commence the correction of the defect, or diligently pursue correction of the defect to completion as set forth in the preceding sentence, the City, after 10 days' prior written notice to Developer, may, but will not be obligated to, enter upon any or all of the Development Property for the purpose of correcting the defect. In the event that the City causes to be performed any work to correct a defect pursuant to this Section 7.10.d. Developer must, upon demand by the City, pay the costs of the work to the City. If Developer fails to pay the costs, the City will have the right to draw from the Maintenance Guarantee required pursuant to Section 7.11.d., based on costs actually incurred, an amount of money sufficient to defray the entire cost of the work, including reasonable legal fees and all out-of-pocket expenses for design, labor, and materials.

e. Public Improvements Costs. The City shall not be responsible for payment of any permit fee, design, development or construction costs for any Public Improvements (including roads, signals, parking, drive aisles, curb cuts, sewer, electricity and other utilities, stormwater management facilities and other improvements) necessary for the Project.

**7.11 Improvement and Maintenance Guarantees.**

a. General Requirements. As security to the City for the performance by Developer of its obligations to construct and complete the Site Improvements, both private improvements and Public Improvements, before the construction of each Phase of the Project, Developer shall provide the City performance and payment security for the Site Improvements (***"Improvement Guarantee"***) in the form of one or more letters of credit in an amount equal to one hundred ten percent (110%) of Developer's engineer's estimated cost or one hundred percent (100%) of the amount of executed construction contracts for the construction of the Site Improvements to be constructed in that Phase, and otherwise in accordance with the terms set forth in Section 11.1 of the Subdivision Ordinance. Any letter of credit provided by Developer must be in form and substance substantially conforming in all material respects with ***Exhibit G*** to this Agreement and reasonably satisfactory to the City's Corporation Counsel. The Improvement Guarantee must be provided to the City prior to the issuance of any permits for the applicable Phase of the Project, and must be maintained at all times until all Site Improvements for that Phase have been approved and, as appropriate, accepted. All Improvement Guarantees will be administered pursuant to Section 11.1 of the Subdivision Ordinance.

b. Use of Improvement Guarantee Funds. If Developer fails or refuses to complete the Site Improvements required for a particular Phase of the Project in accordance with the Project Milestones, and such failure or refusal constitutes a Developer Event of Default, then the City in its reasonable discretion may draw on the funds remaining in the Improvement Guarantee for that Phase in an amount necessary to remedy such failure or refusal. The City thereafter will have the right, if Developer fails to commence correction of such failure within an additional 30 days after receipt by Developer of written notice from the City, to cause such Site Improvements to be completed or corrected, and subject to the terms of the immediately preceding sentence, to reimburse itself from the proceeds of the Improvement Guarantee for all of its actual costs and expenses, including legal fees and out-of-pocket expenses, resulting from or incurred as a result of Developer's failure or refusal. If the funds remaining in the Improvement Guarantee are insufficient to repay fully the City for all such costs and expenses, then Developer must upon demand of the City therefor deposit with the City any additional funds as the City reasonably determines are necessary, within 30 days of a request therefor, to fully repay such costs and expenses.

c. Reductions in Improvement Guarantee. Concurrent with the approval and/or acceptance of Site Improvements in the manner provided in Section 7.10, the Improvement Guarantee shall be reduced by the amount of the cost of constructing the approved and/or accepted Site Improvements; provided, however, that the Improvement Guarantee for a particular Phase of the Project may not be reduced below 20% of the original Improvement Guarantee amount before final approval and acceptance of all Site Improvements for that Phase.

d. Maintenance Guarantee. Immediately after any approval and, where appropriate, acceptance, by the City of the Public Improvements for a particular Phase of the Project pursuant to this Agreement, Developer must post a new guarantee in the amount of ten percent (10%) of the actual total cost of the Public Improvements constructed for that Phase in the form of a letter of credit, as security for Developer's obligations under Section 7.10.d. (each a ***"Maintenance Guarantee"***). The Maintenance Guarantee will be held by the City until the date that is two years after acceptance by the City of the Public Improvements secured by the Maintenance Guarantee. If the City is required to draw on any Maintenance Guarantee by reason of Developer's failure to fulfill its obligations under Section 7.10.d., then Developer must within 10 days thereafter cause the Maintenance Guarantee to be replenished to its full original amount.

**7.12 Submission of As-Built Plans.**

After completion of Site Improvements for any Phase of the Project, Developer must submit to the City Engineer and the Building Commissioner final "as-built" plans: (a) related to drainage, grading, storm sewer, sanitary sewer and water mains, and associated Structures; and (b) for other final construction documents (in paper and, for Improvements, electronic format) as required and approved by the City Engineer and the Building Commissioner. The as-built plans must indicate, without limitation, the amount, in square feet, of impervious surface area on the Development Property. A licensed Professional Engineer (PE) and Professional Land Surveyor (PLS) registered in the State of Illinois must stamp the as-built site construction plans. The PE and/or PLS must stamp and sign the final engineering pages of the site construction plans, and the PLS must stamp and sign the final site survey.

**8. Other Developer Obligations.**

**8.1 Developer Contributions and Payments.**

a. Project Commencement Impact Payment. The City expects that the operation of the Project will result in certain costs that should not be borne by the City's taxpayers. No less than 15 days before the opening of the Temporary Facility, Developer will pay to the City an amount equal to $150,000 (the ***"Project Commencement Impact Payment"***) to be used by the City to defray costs of additional public safety and public works services, including police, fire, EMS, and traffic management that the City may incur addressing concerns resulting from the anticipated surge of activity and influx of patrons to the Temporary Facility during the initial weeks of operation. The City may deposit the Project Commencement Impact Payment in its General Fund and apply payment to costs in its sole and absolute discretion.

b. Community Benefit Contribution. Developer will make one or more contributions with an aggregate amount of not less than $500,000 to charitable programs and causes (***"Community Benefit Contribution"***) benefitting the Waukegan community over the course of each annual period following the Operations Commencement Date (Phase 1) and continuing each annual period thereafter during the term of this Agreement. For clarity, the first annual period commences on the Operations Commencement Date (Phase 1) and ends on the one-year anniversary of such date. In making the Community Benefit Contribution, Developer will strongly consider the City's input regarding recipients of such contributions, provided that Developer will make the final determination regarding which local charitable programs and causes will receive contributions as part of the Community Benefit Contribution.

**8.2 Payment of Taxes.**

a. Developer's Obligation. Developer must pay all real estate and personal property taxes that Developer is obligated to pay pursuant to the Ground Lease.

b. Appeals of Assessments Barred During Phase 0. During the period commencing on the Effective Date and continuing through the end of operations of the Temporary Facility (the ***"Non-Appeal Period"***), Developer agrees that it will not appeal or otherwise challenge any property tax assessment of the Development Property or the Project.

c. Appeals of Assessments After Expiration of Non-Appeal Period. After expiration of the Non-Appeal Period, if Developer determines in its good faith analysis that the Development Property or Project has been assessed for property tax purposes by the Lake County Assessor at an amount that exceeds Developer's reasonable estimate of assessed value, then Developer may appeal or otherwise challenge any such property tax assessment of the Development Property or the Project. If, as a result of any such property tax appeal or challenge, the property taxes actually paid by Developer in a given year to Lake County and thereafter transferred to the City (such transferred taxes, the ***"City's Property Tax Amount"***) equals less than that year's Threshold Amount, then Developer shall pay to the City an amount equal to the difference between the Threshold Amount (or, if a partial year, a proportionate amount of the Threshold Amount) for that year and the City's Property Tax Amount for that same tax year (such difference, the ***"Shortfall Amount"***). If the Shortfall Amount is less than zero, Developer is not required make any payment to the City. If the Shortfall Amount is greater than zero, Developer shall pay to the City the Shortfall Amount. For tax year 2033 (taxes paid in 2034) and each year thereafter, Developer may appeal or challenge any property tax assessments in the ordinary course and will have no obligation for payment of any Shortfall Amount.

**8.3 Developer's Additional Commitments.**

Developer will at all times during the development, construction, operation, and maintenance of the Project, comply with the following additional commitments:

a. Adhere to the highest level of ethical and responsible gaming practices, consistent with requirements of the Act, the Sports Wagering Act, rules and regulations of the IGB, including but not limited to, the following:

(i) Use qualified trainers to train all of its employees on responsible gaming including tiered training in accordance with the employee's exposure to gaming in their job duties;
(ii) Post signage in English and Spanish with the toll-free Problem Gamblers Help Line number and a local help line number in employer and customer-facing areas in the Project;
(iii) Adhere to the IGB's voluntary self-limit or exclusion laws, regulations and policies;

(iv) Provide an on-site location for guests to privately receive information on problem gambling, together with information of available resources for treatment, counseling and prevention for compulsive gaming behaviors; and

(v) Have its employees participate annually in "Responsible Gaming Education Week" sponsored annually by the American Gaming Association or any successor or equivalent program.

b. Train its employees who have responsibility for verifying the age of patrons, no less frequently than annually, to request and verify the identification of any patron that appears to be underage in accordance with industry standards or otherwise provided in the Act and Sports Wagering Act.

c. Pay, when due, the City's permit and license fees applicable to the Project, and maintain up-to-date City licenses and required inspections throughout the operation of the Project. Certain permit costs will be reduced by amounts drawn by the City pursuant to, and in accordance with, the Development Escrow Agreement to cover third-party inspection, plan review, and other costs normally reimbursable from permit fees.

d. In the design, construction and operation of the Project, Developer will comply with all material Requirements of Law including, without limitation, the Americans with Disabilities Act. Additionally, during the Term, Developer must provide within the Project gaming tables and electronic gaming machines accessible to persons with disabilities.

e. Upon the Operations Commencement Date (Phase I), Developer will endeavor to meet employment goals of no fewer than 1,800 persons, of which Developer will endeavor that no fewer than approximately 1,080 persons shall be employed on a full-time basis with benefits.

f. Use its Best Efforts to satisfy Developer's commitments to the IGB with regard to historically disadvantaged business entity participation in both construction and operation of the Project, as well as commitments regarding employment of local residents and use of local businesses as vendors, all as more fully set forth in the American Place Diversity and Inclusion Plan attached hereto as **Exhibit H**.

g. Allow the City, without cost, to showcase community activities, entertainment, and promotions on kiosks and other advertising displays located within the Project as may be reasonably agreed upon by the Parties.

h. Operate and maintain the Development Property and all improvements on the Development Property in a unified manner and solely for the operation of the Project.

i. Establish and maintain communication with the Genessee Theatre and use its good faith efforts to coordinate entertainment bookings in an effort to avoid conflicts and minimize competition between the Genesee Theatre and the Entertainment Venue.

**8.4 Payment of Reimbursable Costs.**

The Parties have entered into that certain Development Escrow Agreement dated as of February 28, 2022 (***"Development Escrow Agreement"***). Reimbursable Costs will be paid by Developer to the City in accordance with the procedures set forth in the Development Escrow Agreement.

**8.5 Statutory Basis for Fees; Default Rate.**

Developer recognizes and acknowledges that the payments to be made by Developer under this Agreement and the Ground Lease (collectively, ***"Casino Agreements"***, and such payments being referred to collectively as the ***"Developer Payments"***) are: (a) being charged to Developer in exchange for particular governmental services which benefit Developer in a manner not shared by other members of society; (b) paid by Developer by choice in that Developer has voluntarily requested that the City serve as its host community and would not be obligated to pay such amounts but for such request; and (c) paid not to provide additional revenue to the City but to compensate the City for providing Developer with the services required to allow Developer to construct and operate the Project and to mitigate the impact of Developer's activities on the City and its residents.

All amounts payable by Developer hereunder, including Developer Payments, shall bear interest at the Default Rate from the due date (but if no due date is specified, then fifteen (15) Business Days from demand for payment) until paid.

**8.6 Covenants Running with the Land.**

The restrictions imposed by and under Sections 8.7 (Financing), 12 (Transfers of Obligations) and 12.2 (Transfer of Ownership Interests) (collectively, the ***"Restrictions"***) will be construed and interpreted by the Parties as covenants running with the land. Developer agrees for itself, its successors and assigns to be bound by each of the Restrictions. The City shall have the right to enforce such Restrictions against Developer, its successors and assigns to or of the Project or any part thereof or any interest therein.

**8.7 Financing.**

a. If any interest of Developer in the Project or the Development Property is Transferred by reason of any foreclosure, deed in lieu of foreclosure, trustee's deed or any other proceeding for enforcement of a Mortgage, then the Mortgagee thereunder (or any Nominee of such Mortgagee) shall agree to assume the obligations of Developer hereunder without the necessity of entering into a Transferee Assumption Agreement, except as otherwise provided in this Section 8.7. As used in this Agreement, the term ***"Nominee"*** shall mean a Person who is designated by a Mortgagee to act in place of such Mortgagee solely for the purpose of holding title to the Project and/or Development Property and performing the obligations of Developer hereunder. Notwithstanding the foregoing, the City shall not have the right to terminate this Agreement as a result of any Mortgagee failing to assume the obligations of Developer hereunder unless such Mortgagee or its Nominee fails to do so within three months following such Mortgagee's acquisition of the Project; it being acknowledged that such Mortgagee may intend to Transfer its interest in the Project and/or the Development Property to a Nominee and such Nominee shall assume the obligations of Developer hereunder.

b. In no event may Developer or any Finance Affiliate represent that the City is or in any way may be liable for the obligations of Developer or any Finance Affiliate in connection with (i) any financing agreement or (ii) any public or private offering of securities. Developer agrees to indemnify, defend or hold the City and its respective officers, directors, agents and employees free and harmless from, any and all liabilities, costs, damages, claims or expenses arising out of or related to the breach of its obligations under this Section 8.7.

c. Neither entering into this Agreement nor any breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage on the Project or the Development Property made in good faith and for value.

d. Provided Developer has provided the City with written notice of the existence of a Mortgage, together with Mortgagee's address and a contact party, simultaneously with the giving to Developer of any notice of default under this Agreement, the City shall give a duplicate copy thereof to such Mortgagee by registered mail, return receipt requested, and no such notice to Developer shall be effective unless a copy of the same has been so sent to each such Mortgagee. Any Mortgagee shall have the right (but not the obligation) to cure any default by Developer under this Agreement within the same period by which Developer is required to effectuate any such cure plus (a) an additional thirty (30) days for any monetary default hereunder and (b) an additional ninety (90) days for any non-monetary default hereunder; provided that any such ninety (90) day period shall be extended to the extent that the default is of the nature that it cannot reasonably be expected to be cured within such ninety (90) day period and Mortgagee is diligently prosecuting such cure to completion or otherwise has commenced action to enforce its rights and remedies under any Mortgage to recover possession of the Project and/or Development Property. In all cases, the City agrees to accept any performance by any Mortgagee of any obligations hereunder as if the same had been performed by Developer, and shall not terminate the Agreement until the requisite time periods for cure by each Mortgagee have been exhausted pursuant to the terms hereof; provided, however, that no Mortgagee shall be obligated to cure any default by Developer or any other matter. Upon the written request of any Mortgagee or prospective Mortgagee, and for the exclusive benefit of said Mortgagee, the City will promptly deliver to said Mortgagee such form of the City's consent and waiver as may be reasonably required to assure such Mortgagee that the City will comply with this Section 8.7.

e. In the event of a non-monetary default which cannot be cured without obtaining possession of the Project and/or the Development Property or that is otherwise personal to Developer and not susceptible of being cured, the City will not terminate this Agreement without first giving each Mortgagee (or its designee) reasonable time within which to obtain possession of the Project and/or Development Property, including possession by a receiver, or to institute and complete foreclosure proceedings. Upon acquisition of Developer's interest in the Project and performance by Mortgagee of all covenants and agreements of Developer, except those which by their nature cannot be performed or cured by any Person other than Developer, the City's right to terminate this Agreement shall be waived with respect to the matters which have been cured by any Mortgagee.

**8.8 Closing Deliveries.**

Within 10 Business Days of the Effective Date or such other date as agreed upon between Developer and the City's Mayor, Developer and the City will deliver or cause to be delivered all of the Closing Deliveries, as the same may be waived or the time for delivery extended by the City and Developer. All costs associated with or arising from the production of the Closing Deliveries will the sole and exclusive responsibility of the Party responsible for the Closing Delivery.

## 9. Representations and Warranties.

### 9.1 Representations and Warranties of Developer.

As a material inducement to the City to enter into this Agreement, Developer represents and warrants to the City that each of the following statements are true and accurate as of the Effective Date:

a. Developer is duly organized, validly existing, and in good standing under the Requirements of Law of the State of Delaware, and is registered to do business in the State of Illinois. Developer has all requisite organizational power and authority to own and operate its properties, carry on its business, and enter into, execute, deliver, and perform its obligations under this Agreement and all other agreements and undertakings to be entered into by Developer in connection herewith.

b. The execution, delivery and performance by Developer of this Agreement has been duly authorized by all necessary corporate action, and does not violate its organizational documents, as amended and supplemented, any of the applicable Requirements of Law, or constitute a breach of or default under, or require any consent under, any agreement, instrument, or document to which Developer is now a party or by which Developer is now or may become bound including any mortgages, secured loans, or instruments granting another party a superior interest the Development Property or the Project.

c. Each document, report, certificate, written statement and description delivered by Developer hereunder was, when delivered, complete and correct in all material respects.

d. The applications, plans, materials, and other submissions Developer has provided to the City in connection with the Temporary Facility accurately and truthfully represent Developer's intentions for the construction of the Project on the Development Property as of the Effective Date.

e. Developer is not a party to any agreement, document or instrument that has a Material Adverse Effect on the ability of Developer to carry out its obligations under this Agreement.

f. There are no actions or proceedings pending against Developer before any court, governmental commission, board, bureau or any other administrative agency pending, and, to Developer's knowledge, threatened in writing against Developer, which, if adversely determined, would materially impair its ability to perform under this Agreement.

g. Developer is in material compliance with all Requirements of Law, its organizational documents and all agreements to which it is a party which relate to the Project. Neither execution of this Agreement nor discharge by Developer of any of its obligations hereunder shall cause Developer to be in violation of any Governmental Requirement, its organizational documents or any agreement to which it is a party relating to the Project.

h. This Agreement and Developer's Release when duly executed and delivered by Developer will, subject to Force Majeure, constitute, legal, valid and binding obligations of Developer, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and subject to general equitable principles which may limit the right to obtain equitable remedies.

i. Developer has control over, and good, marketable and insurable title to the 10-Acre Parcel.

j. Attached hereto as ***Exhibit I*** is a true and complete organizational chart of Developer showing each equity owner of Developer, as applicable, and the respective percentage ownership in Developer, as applicable, that exceeds five (5%) percent.

k. Developer has sufficient financial resources to implement and complete its obligations under this Agreement.

l. Developer has no knowledge of any liabilities, contingent or otherwise, of Developer which might be reasonably expected to have a Material Adverse Effect upon its ability to perform its obligations under this Agreement.

**9.2 Representations and Warranties of the City.**

The City represents and warrants to Developer that each of the following statements is true and accurate as of the Effective Date:

a. The City is a validly existing home rule municipal corporation and has all requisite power and authority to enter into and perform its obligations under this Agreement, and all other agreements and undertakings to be entered into by the City in connection herewith.

b. The City Council has taken all necessary legislative actions to authorize the execution of this Agreement and all ancillary and necessary documents or instruments to accomplish the purposes set forth herein.

c. This Agreement is binding on the City and is enforceable against the City in accordance with its terms, subject to applicable principles of equity and insolvency laws.

d. There are no actions or proceedings pending against City before any court, governmental commission, board, bureau or any other administrative agency pending, and, to Developer's knowledge, threatened in writing against City, which, if adversely determined, would materially impair its ability to perform under this Agreement.

e. All of the (e-5) Requirements have been satisfied.

**10. Covenants.**

**10.1 Affirmative Covenants of Developer.**

Developer covenants that throughout the Term of this Agreement, Developer shall:

a. Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence.

b. Keep all Approvals in effect that are necessary to conduct, and comply with all Requirements of Law applicable to the operation of, its business and other activities, in all material respects, whether now in effect or hereafter enacted.

c. Furnish to the City:

(i) No later than ninety (90) days after the end of each fiscal year of Developer, commencing with the calendar year in which the Operations Commencement Date (Phase 0) occurs, a copy of the non-confidential consolidated balance sheet of the Parent Company and its subsidiaries (including Developer) filed with the United States Securities and Exchange Commission as of the close of such period and the non-confidential consolidated statements of income, retained earnings, and cash flows of the Parent Company and its subsidiaries (including Developer) filed with the United States Securities and Exchange Commission for such period, and accompanying notes thereto, all of the foregoing consolidated financial statements to be audited by a firm of independent certified public accountants of recognized national standing acceptable to the IGB and accompanied by an opinion of such accountants without material exceptions or qualifications.

(ii) No later than forty-five (45) days after the end of each fiscal quarter of Developer, commencing with the fiscal quarter in which the Operations Commencement Date (Phase 0) occurs, a copy of the non-confidential consolidated balance sheet of the Parent Company and its subsidiaries (including Developer) filed with the United States Securities and Exchange Commission as of the last day of such period and the non-confidential consolidated statements of income, retained earnings, and cash flows of the Parent Company and its subsidiaries (including Developer) filed with the United States Securities and Exchange Commission for the quarter and for the then elapsed portion of the current fiscal year.

(iii) [Reserved].

(iv) Within five (5) Business Days after submission to the IGB, accurate and complete copies of all non-confidential financial records submitted to the IGB.

(v) To the extent not otherwise covered by reports delivered under Section 10.1.c.iv., no later than one hundred twenty (120) days after the end of each fiscal year of Developer, commencing with the calendar year in which the Operations Commencement Date (Phase 0) occurs, a detailed statistical report covering Developer's diversity and inclusion efforts set forth on ***Exhibit H*** for the then-completed fiscal year.

(vi) From time to time, such other information regarding the compliance by Developer with the terms of this Agreement as the City may reasonably request in writing.

(vii) No later than ninety (90) days after the end of each fiscal year of Developer commencing with the fiscal year in which the Closing Date occurs, Developer shall deliver to the City:

A. a detailed report on Developer's compliance with its commitments described in Section 8.3, in such form as may reasonably be requested by the City from time to time; and

B. a written description of any administrative determination, binding arbitration decision, or judgment rendered by a court of competent jurisdiction finding both a willful and material violation by Developer of any federal, state or local laws governing employment and labor, including those related to wages, hours, collective bargaining, labor relations, immigration, classification of workers and employees, workers safety and equal employment opportunity during such fiscal year.

d. Deliver to the City prompt written notice of the following (but in no event later than ten (10) Business Days following the actual knowledge thereof by Developer):

(i) The issuance by any Governmental Authority (other than the City) of any injunction, order, decision, notice of any violation or deficiency, asserting a material violation of Requirements of Law applicable to Developer or the Project, together with copies of all relevant documentation with respect thereto.

(ii) The filing of any action, suit or proceeding by or against Developer whether at law or in equity or by or before any court or any Governmental Authority other than the City and that: (A) if adversely determined against Developer could result in (i) uninsured net liability in excess of Ten Million Dollars ($10,000,000) in the aggregate or (ii) a Material Adverse Effect on the Project or (B) seeks to enjoin or otherwise prevent the consummation of the transactions contemplated by this Agreement or the City's ability to recover any damages or obtain relief under this Agreement or the issuance of any license (including the Owner's License) to Developer by the IGB.

(iii) To the knowledge of Developer, any Default or Event of Default, specifying the nature and extent thereof and the action (if any) that is proposed to be taken with respect thereto.

(iv) Any Transfer under Section 12 specifying the nature thereof and the action (if any) that is proposed to be taken with respect thereto.

(v) To the knowledge of Developer, any development in the business or affairs of Developer that could reasonably be expected to have a Material Adverse Effect.

(vi) Receipt by Developer of any written notice of default from any lender to Developer that is reasonably expected to have a Material Adverse Effect.

e. Maintain financial records in accordance with GAAP and permit any authorized representative designated by the City to discuss the affairs, finances and conditions of Developer with any executive officer or other manager or officer of Developer as such representative shall reasonably deem appropriate, and Developer's independent public accountants.

**10.2 Owner's License Application.**

Developer shall:

a. Promptly and accurately complete and timely submit to the IGB any information as the IGB may, from time to time, require from Developer in connection with its Owner's License Application, and make all payments required under the Act to be made by an applicant for an Owner's License and use its best efforts to satisfy all criteria necessary to be issued an Owner's License by the IGB.

b. Deliver to the City copies of materials submitted to the IGB related to its Application, including, without limitation, amendments to or requests for amendments to its Application, simultaneous with or immediately following its submission to the IGB, excluding, however, personal disclosure forms (including attachments or exhibits related thereto) that are included as a part of the Application.

c. Prior to the IGB issuing an Owner's License to Developer, keep the City informed as to all material contacts and communications between the IGB and its staff and Developer so as to enable the City to evaluate the likelihood and timing of the IGB issuing an Owner's License to Developer.

**10.3 Negative Covenants of Developer.**

Developer covenants that throughout the Term, Developer shall not:

a. Upon the occurrence of a Default or an Event of Default and continuing until such Default or Event of Default is cured, declare or pay any dividends or distributions except dividends or distributions to be paid to (x) Parent Company or an intermediary company to the extent necessary to pay debt service or (y) any Person owning less than a ten percent (10%) Direct or Indirect Interest in Developer.

b. During the term of the Ground Lease, engage in or permit any Transfer of all or any portion of Developer's fee interest in the 10-Acre Parcel and/or Developer's leasehold interest in the City-Owned Parcel under the Ground Lease except for a Qualified Sale and Leaseback Transaction or a Transfer to an Affiliate of Developer who has entered into a Transferee Assumption Agreement.

**10.4 Confidential Deliveries.**

To the extent Developer determines, in its reasonable judgment, that items Developer is obligated to furnish to the City under this Agreement contains material, non-public information of Developer or its Affiliates ( ***"Developer's Confidential Items"***), then the Developer may deliver such information to Developer's legal counsel (or other designee), provide notice to the City of such delivery, and allow the City's representative(s) the opportunity to inspect such information, during commercially reasonable hours and at a time that is mutually convenient for the Parties. The City shall not remove any original versions or copies of Developer's Confidential Items from the offices of Developer's counsel (or other designee), it being understood that Developer's Confidential Items must remain in the possession of Developer's counsel (or other designee) at all times.

**11. Default.**

**11.1. Events of Default.**

The following constitute an ***"Event of Default"*** under this Agreement:

a. If Developer materially defaults in the performance of any (i) Requirement; of Law or (ii) commitment, agreement, covenant, term or condition (other than those specifically described in any other subparagraph of this Section 11.1) of this Agreement, and in such event if Developer fails to remedy any such Default within thirty (30) days after receipt of written notice of default with respect thereto; provided, however, that such default will not constitute an Event of Default if such default cannot be cured within said thirty (30) days and Developer, within said thirty (30) days, initiates and diligently pursues appropriate measures to remedy the default, then Developer shall not during such period of diligently curing be in default hereunder as long as such default is completely cured within sixty (60) days of Developer's receipt of the notice of default with respect thereto.

b. Default by Developer for a period of thirty (30) days after written notice thereof in the performance or breach of any covenant contained in this Agreement concerning the legal existence of Developer; provided, however, that such default or breach will not constitute an Event of Default if such default cannot be cured within said thirty (30) days and Developer, within said thirty (30) days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice;

c. [Reserved]

d. Violation of Section 10.3.b. by Developer and failure to cure such violation for a period of thirty (30) days after receipt by Developer of written notice thereof.

e. [Reserved]

f. Developer Abandons the construction of the Project. The failure of Developer to secure any Development Approvals required for the development or construction of the Project will not be a valid defense to abandonment.

g. If Developer makes a general assignment for the benefit of creditors or admits in writing its inability to pay its debts as they become due.

h. If Developer files a voluntary petition under any title of the United States Bankruptcy Code, as amended from time to time, or if such petition is filed against Developer and an order for relief is entered, or if Developer files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or any future federal bankruptcy code or any other present or future applicable federal, state or similar statute or law, or seeks or consents to or acquiesces to or suffers the appointment of any trustee, receiver, custodian, assignee, liquidator or similar official of Developer, or of all or any substantial part of its properties, the Development Property, or of the Project or any interest therein of Developer; provided, however, that Developer shall have the right, within one hundred eight (180) days after filing or receiving notice of any such petition or similar action or proceeding described in this paragraph, to cause such petition or similar action or proceeding to be dismissed, in which case such petition or similar action or proceeding shall not be an Event of Default.

i. If within one hundred eighty (180) days after the commencement of any proceeding against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or similar statute or law, such proceeding has not been dismissed; or if within one hundred eighty (180) days after the appointment, without the consent or acquiescence of Developer of any trustee, receiver, custodian, assignee, liquidator or other similar official of Developer or of all or any substantial part of its properties, the Development Property, or of the Project or any interest therein of Developer, such appointment has not been vacated or stayed on appeal or otherwise, or if within one hundred eighty (180) days after the expiration of any such stay, such appointment has not been vacated.

j. If any material representation or warranty made by Developer in this Agreement, or in any certificate, notice, demand or request made by Developer in writing and delivered to the City pursuant to or in connection with this Agreement or the Ground Lease, proves to be untrue, incorrect, false or misleading in any material respect as of the date made or furnished; provided, however, to the extent a representation or warranty is untrue, incorrect, false or misleading for reasons other than an intentional, material misrepresentation by Developer, such untrue, incorrect, false or misleading representation or warranty shall not cause an Event of Default if (i) it is susceptible to cure (i.e., Developer's actions can cause the facts or circumstances relative to the applicable circumstance to change such that the representation or warranty as originally made will become correct), and (ii) such cure is made by Developer within thirty (30) days after written notice to Developer is provided by the City of the same.

k. If Developer fails to maintain in full force and effect policies of insurance meeting the requirements of Section 13 and in such event, Developer fails to remedy such default within ten (10) Business Days after Developer's receipt of written notice of default with respect thereto from the City.

l. Subject to an event of Force Majeure, if the Temporary Facility has not attained Operations Commencement by the Operations Commencement Date (Phase 0); or if the Permanent Facility has not attained Operations Commencement by the Operations Commencement Date (Phase 1); or

m. If Developer fails to make any Developer Payments or any other payments required to be made by Developer hereunder or under the Ground Lease as and when due, and fails to make any such payment within fifteen (15) Business Days after receiving written notice of default from the City.

**11.2. Remedies.**

a. Upon an Event of Default and during the continuance thereof, the City may: (i) exercise any and all remedies available at law or in equity; (ii) terminate this Agreement; (iii) receive liquidated damages under the circumstances set forth in Section 11.4; and/or (iv) institute and prosecute proceedings to enforce in whole or in part the specific performance of this Agreement by Developer, and/or to enjoin or restrain Developer from commencing or continuing said breach, and/or to cause by injunction Developer to correct and cure said breach or threatened breach, and otherwise. None of the remedies enumerated herein are exclusive, except the City's rights to receive liquidated damages under such circumstances in Section 11.4, which shall be the exclusive remedy under such circumstances, and nothing herein shall be construed as prohibiting the City from pursuing any other remedies at law, in equity or otherwise available to it under the Agreement.

b. Pursuant to and in accordance with Section 6.8, the City may, without prejudice to any other rights and remedies available to the City, require: (a) the demolition and removal of any partially constructed or partially completed Structures or Site Improvements associated with a Phase of the Project from the Development Property; and (b) the performance of Site Restoration.

c. Except as expressly stated otherwise, the rights and remedies of the City whether provided by law or by this Agreement, are cumulative, except as set forth in Section 11.4, and the exercise by the City of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach, to the extent permitted by law. No waiver made by the City or Developer shall apply to obligations beyond those expressly waived in writing.

d. Upon a breach of this Agreement by the City, Developer shall have all remedies at law, in equity or otherwise available to it under this Agreement; provided, however, that Developer may not seek, and does not have the right to seek, to recover monetary damages:

i. from any officer, official, or employee of the City in their individual capacity for actions taken by such officer, official or employee in their capacity as an officer, official or employee of the City; or

ii. for consequential or special damages;

arising under or from the terms and conditions of this Agreement, the Ground Lease, or the granting or denial of the Development Approvals to be granted by the City.

e. In case either Party has proceeded to enforce its rights under this Agreement and such proceedings have been discontinued or abandoned for any reason, then, and in every such case, Developer and the City will be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of Developer and the City will continue as though no such proceedings had been taken.

f. In the event of a judicial proceeding brought by one Party against the other Party, the prevailing Party in the judicial proceeding will be entitled to reimbursement from the unsuccessful Party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with the judicial proceeding. If Developer is the prevailing Party in any judicial proceeding, the City's costs and expenses, including reasonable attorneys' fees, incurred in connection with the judicial proceeding shall not be deemed to be Reimbursable Costs under the Development Escrow Agreement and Developer shall not be required to pay such costs and expenses incurred by the City in connection with the judicial proceeding.

**11.3. Termination.**

a. Automatic Termination. Except for the provisions that by their terms survive, this Agreement shall terminate immediately upon the occurrence of any of the following, or as otherwise provided in this Agreement:

i. the Closing Date does not occur prior to June 30, 2023;

ii. the IGB rejects or denies Developer's Application for the Owner's License, and such rejection or denial is final and non-appealable;

iii. Developer's Owner's License (i) is revoked by a final, non-appealable order; (ii) expires and is not renewed by the IGB and Developer has exhausted any rights it may have to appeal such expiration or non-renewal; or (iii) imposes conditions which are not satisfied within the time periods specified therein, subject to any cure periods or extension rights;

iv. Gaming becomes illegal in the State or the United States; or

v. the Ground Lease is terminated for any reason other than by exercise of the option to purchase the City-Owned Parcel in accordance with the terms of the Ground Lease.

The termination events set forth above are in addition to any other rights the City or Developer may have to terminate this Agreement whether specified herein or otherwise available to the City under law.

b. Termination Right by Developer. The Parties acknowledge and agree that Developer's ability to lawfully construct and operate the Project is contingent upon Developer obtaining all applicable Approvals from Governmental Authorities that are necessary pursuant to the Requirements of Law to construct and operate the Project. Developer will seek to obtain all necessary Approvals from Governmental Authorities in accordance with Developer's obligations set forth in Section 4.6.a. If Developer performs its obligations under Section 4.6.a. but: (i) any necessary Approvals are denied, materially delayed, or otherwise not approved; or (ii) Developer determines, in its reasonable judgment, that any necessary Approvals cannot be obtained using Developer's Best Efforts, then Developer shall have the right in its sole discretion to terminate this Agreement and the Ground Lease by providing written notice to the City.

**11.4. Liquidated Damages.**

The City and Developer covenant and agree that because of the difficulty and/or impossibility of determining the City's damages upon the: (i) occurrence of an Event of Default pursuant to Section 11.1.l.; or (ii) suspension of Developer's Owner's License that results in the Gaming Area to be closed for business, by way of detriment to the public benefit and welfare of the City through lost employment opportunities, lost tourism, degradation of the economic health of the City and loss of revenue, both directly and indirectly, Developer shall pay to the City, during the Damage Period, as hereinafter defined, and the City shall accept as an exclusive remedy, as liquidated damages and as a reasonable forecast of such potential damages, and not as penalties, Two Thousand Five Hundred Dollars ($2,500) per calendar day. Developer agrees to waive any and all affirmative defenses that the amount of liquidated damages provided herein constitutes a penalty. For purposes of this Section 11.4, the ***"Damage Period"*** shall commence on the date the City delivers written notice to Developer of its election to receive liquidated damages pursuant to this Section 11.4 and shall continue until the date that such default is cured, the date such suspension expires, or the Gaming Area reopens for business, even if Developer's Owner's License remains suspended.

**12. Transfers of Obligation s .**

**12.1. [Reserved]**

**12.2. Transfer of Direct or Indirect Interests in Developer.**

The covenants that Developer must perform under this Agreement for the City's benefit are personal in nature. The City is relying upon Developer in the exercise of its skill, judgment, reputation and discretion with respect to the Project. Developer shall notify the City as promptly as practicable upon Developer becoming aware of any Transfer of any Direct or Indirect Interest in Developer other than such Transfers resulting solely from ownership of a Direct or Indirect Interest in a Publicly Traded Corporation. Any Transfer of a Direct or Indirect Interest in Developer other than a Permitted Transfer to a Permitted Transferee shall require the consent of the City, which consent shall not be unreasonably withheld, provided that the proposed transferee is qualified and approved by the IGB as suitable to be an owner of an Owner's Licensee and Developer continues to be bound by the terms of this Agreement.

**12.3. Transfer of Real Property.**

To assure that all grantees, successors, assigns, and transferees of Developer and all successor owners of all or any portion of Developer's fee interest in the 10-Acre Parcel and leasehold interest in the City-Owned Parcel under the Ground Lease have notice of this Agreement and the obligations created by it, Developer must, from and after the Effective Date:

a. Deposit with the City Clerk, concurrent with the City's approval of this Agreement, any consents or other documents necessary to authorize the City to record this Agreement in the office of the Lake County Recorder of Deeds;

b. Notify the City in writing at least 30 days prior to any date on which Developer Transfers all or any portion of Developer's fee interest in the 10-Acre Parcel and/or leasehold interest in the City-Owned Parcel under the Ground Lease to a third party;

c. Other than in the case of a Qualified Sale and Leaseback Transaction, require, prior to the transfer of all or any portion of Developer's fee interest in the 10-Acre Parcel and/or either its leasehold interest in the City-Owned Parcel under the Ground Lease or, if the Ground Lease is no longer in effect, its fee interest in the City-Owned Parcel to any third party (including any Affiliate of Developer), the transferee of Developer's fee interest in the 10-Acre Parcel and/or leasehold interest in the City-Owned Parcel under the Ground Lease to execute an enforceable written agreement, in substantially the form of ***Exhibit J***, agreeing to be bound by the provisions of this Agreement (**"*Transferee Assumption Agreement*"**) and to provide the City, upon request, with such reasonable assurance of the financial ability of the transferee to meet those obligations as the City may require. The City agrees that upon a successor becoming bound to the obligation created in the manner provided in this Agreement and providing the financial assurances required pursuant to this Agreement, the liability of Developer for its obligations under this Agreement will be released to the extent of the transferee's assumption of liability for such obligations. The failure of Developer to require a transferee to execute a Transferee Assumption Agreement and, if requested by the City, with assurances of the transferee's financial capability before completing any Transfer of all or any portion of Developer's fee interest in the 10-Acre Parcel and/or leasehold interest in the City-Owned Parcel under the Ground Lease, will result in Developer remaining fully liable for all of its obligations under this Agreement, but will not relieve the transferee of its liability for all such obligations as a successor to Developer.

**13. Insurance .**

**13.1. Maintain Insurance.**

Developer shall maintain in full force and effect the types and amounts of insurance as set forth on***Exhibit K.***

**13.2. Form of Insurance and Insurers.**

Whenever, under the terms of this Agreement, Developer is required to maintain insurance, the City shall be named as an additional insured in all such insurance policies to the extent of its insurable interest. All policies of insurance provided for in this Agreement shall be effected under valid and enforceable policies, in commercially reasonable form issued by responsible insurers meeting the requirements set forth in **Exhibit K**. As promptly as practicable prior to the expiration of each such policy, Developer shall deliver to the City an Accord certificate, together with proof reasonably satisfactory to the City that the full premiums have been paid or provided for at least the renewal term of such policies and as promptly as practicable, a copy of each renewal policy.

**13.3. Insurance Notice.**

Each such policy of insurance to be provided hereunder shall contain, to the extent obtainable on a commercially reasonable basis, an agreement by the insurer that such policy shall not be canceled or modified without at least thirty (30) days prior written notice to the City.

**13.4. Keep in Good Standing.**

Developer shall observe and comply with the requirements of all policies of public liability, fire and other policies of insurance at any time in force with respect to the Project and Developer shall so perform and satisfy the requirements of the companies writing such policies.

**13.5. Blanket Policies.**

Any insurance provided for in this Section 13 may be provided by blanket and/or umbrella policies issued to Developer covering the Project and other properties owned or leased by Developer; provided, however, that the amount of the total insurance allocated to the Project shall be such as to furnish in protection the equivalent of separate policies in the amounts herein required without possibility of reduction or coinsurance by reason of, or damage to, any other premises covered therein, and provided further that in all other respects, any such policy or policies shall comply with the other specific insurance provisions set forth herein and Developer shall make such policy or policies or a copy thereof available for review by the City.

**14. Damage and Destructi on.**

**14.1. Damage or Destruction.**

In the event of damage to or destruction of Structures or Site Improvements that are components of the Project or any part thereof by fire, Casualty or otherwise, Developer, at its sole expense, shall promptly perform Casualty Restoration of the improvements, as nearly as possible to the same condition that existed prior to such damage or destruction using materials of an equal or superior quality to those existing in the improvements prior to such Casualty. Developer shall obtain a temporary certificate of occupancy as soon as practicable after the completion of such Casualty Restoration. If neither Developer nor any Mortgagee commences the Casualty Restoration of the improvements or the portion thereof damaged or destroyed promptly following such damage or destruction and adjustment of its insurance proceeds, or, having so commenced such Casualty Restoration, fails to proceed to complete the same with reasonable diligence in accordance with the terms of this Agreement, the City may, but will have no obligation to, complete such Casualty Restoration at Developer's expense. Upon the City's election to so complete the Casualty Restoration, Developer immediately shall permit the City to utilize all insurance proceeds which shall have been received by Developer, minus those amounts, if any, which Developer shall have applied to the Casualty Restoration, and if such sums are insufficient to complete the Casualty Restoration, Developer, on demand, shall pay the deficiency to the City. Each Casualty Restoration shall be done subject to the provisions of this Agreement.

**14.2. Use of Insurance Proceeds.**

(a) Subject to the conditions set forth below, all proceeds of casualty insurance on the Project shall be made available to pay for the cost of Casualty Restoration if any part of the Project are damaged or destroyed in whole or in part by fire or other Casualty.

(b) Promptly following any damage or destruction to the Project by fire, Casualty or otherwise, Developer shall:

(i) give written notice of such damage or destruction to the City and each Mortgagee; and

(ii) deliver a written notice of Developer's intent to complete the Casualty Restoration in a reasonable amount of time plus periods of time as performance by Developer is prevented by Force Majeure events (other than financial inability) after occurrence of the fire or Casualty.

(c) Developer agrees to provide monthly written updates to the City summarizing the progress of any Casualty Restoration, including but not limited, anticipated dates for the opening of the damaged areas to the public, to the extent applicable.

(d) Developer shall have no notification requirements to the City for any Casualty Restoration having a value less than Thirty Million Dollars ($30,000,000) in the aggregate.

**14.3. No Termination; Substantial Casualty.**

Except as otherwise expressly provided in this Section 14.3, no destruction of or damage to the Project, or any portion thereof or property therein by fire, flood or other Casualty, whether such damage or destruction be partial or total, shall permit Developer to terminate this Agreement or relieve Developer from its obligations hereunder. Notwithstanding anything to the contrary in this Agreement, if any Casualty is a Substantial Casualty, Developer may, by notice to the City, given within six (6) months after the Casualty, terminate this Agreement effective sixty (60) days after such notice.

**14.4. Condemnation.**

If a Major Condemnation of the Project or the Development Property occurs, this Agreement will terminate, and no Party will have any claims, rights, obligations, or liabilities towards any other Party arising after termination, other than as provided for herein. If a Minor Condemnation occurs or the use or occupancy of the Project or any part thereof is temporarily requisitioned by a civil or military governmental authority for not more than thirty (30) days, then (a) this Agreement shall continue in full force and effect; (b) Developer shall promptly perform all Casualty Restoration required in order to repair any physical damage to the Project caused by the Condemnation, and to restore the Project, to the extent reasonably practicable and feasible, to its condition immediately before the Condemnation; provided, however, that if the Ground Lease is in effect, the foregoing shall not limit Tenant's right to terminate the Ground Lease in accordance with the terms and conditions of Section 12.7 of the Ground Lease, in which case this Agreement shall terminate pursuant to Section 11.3(a)(v).

Notwithstanding anything in this Agreement to the contrary, if the Ground Lease is in effect, then the following provisions of this Section 14.4 shall apply only to the 10-Acre Parcel and the portion of the Project located on the 10-Acre Parcel. After the termination of the Ground Lease or the exercise of the Purchase Option, the provisions of Section 14.4 shall apply to the entire Development Parcel.

If a Minor Condemnation occurs, any Proceeds in excess of Twelve Million Five Hundred Thousand Dollars ($12,500,000) will be and are hereby, to the extent permitted by applicable law and agreed to by the condemnor, assigned to and shall be withdrawn and paid into an escrow account to be created by an escrow agent (***"Escrow Agent"***) selected by (i) the first Mortgagee if the Project is encumbered by a first Mortgage; or (ii) Developer and the City in the event there is no first Mortgagee, within ten (10) days of when the Proceeds are to be made available. If Developer or the City for whatever reason cannot or will not participate in the selection of the Escrow Agent, then the other party shall select the Escrow Agent. Nothing herein shall prohibit the first Mortgagee from acting as the Escrow Agent. This transfer of the Proceeds, to the extent permitted by applicable law and agreed to by the condemnor, shall be self-operative and shall occur automatically upon the availability of the Proceeds from the Condemnation and such Proceeds shall be payable into the escrow account on the naming of the Escrow Agent to be applied as provided in this Section 14.4.

The Escrow Agent shall deposit the Proceeds in an interest-bearing escrow account and any after tax interest earned thereon shall be added to the Proceeds. The Escrow Agent shall disburse funds from the Escrow Account to pay the cost of the Casualty Restoration in accordance with the procedure described in Section 14.2(b), (c) and (d). If the cost of the Casualty Restoration exceeds the total amount of the Proceeds, Developer shall be responsible for paying the excess cost. If the Proceeds exceed the cost of the Casualty Restoration, the Escrow Agent shall distribute the excess Proceeds, subject to the rights of the Mortgagees. Nothing contained in this Section 14.4 shall impair or abrogate any rights of Developer against the condemning authority in connection with any Condemnation. All fees and expenses of the Escrow Agent shall be paid by Developer.

## 15. Indemnification .

### 15.1. Indemnification by Developer.

(a) Developer shall defend, indemnify and hold harmless the City and each of its officers, whether appointed or elected, agents, employees, contractors, subcontractors, attorneys, consultants (collectively the ***"Indemnitees"*** and individually an ***"Indemnitee"***) from and against any and all liabilities, losses, damages, costs, expenses, claims, obligations, penalties and causes of action (including reasonable fees and expenses for attorneys, paralegals, expert witnesses, environmental consultants and other consultants at the prevailing market rate for such services) whether based upon negligence, strict liability, statutory liability, absolute liability, product liability, common law, misrepresentation, contract, implied or express warranty or any other principle of law, and whether or not arising from third party claims, that are imposed upon, incurred by or asserted against Indemnitees or which Indemnitees may suffer or be required to pay to the extent they arise out of or relate in any manner to any of the following: (1) Developer's development, construction, ownership, maintenance, possession, use, condition, occupancy or Abandonment of the Project, of the Development Property, or any part thereof; (2) Developer's operation or management of the Project, the Development Property or any part thereof; (3) the performance of any labor or services or the furnishing of any material for or at the Project or any part thereof by or on behalf of Developer or enforcement of any liens with respect thereto; (4) any personal injury, death or property damage suffered or alleged to have been suffered by Developer (including Developer's employees, agents or servants), or any third person as a result of any action or inaction of Developer; (5) any Work or things whatsoever done in, or at the Project or any portion thereof, or off-site pursuant to the terms of this Agreement by or on behalf of Developer; (6) the condition of any building, facilities or improvements on the Development Property or any non-public street, curb or sidewalk at the Project, or any vaults, tunnels, passageways or space therein; (7) any breach or default on the part of Developer for the payment, performance or observance of any of its obligations under all agreements entered into by Developer or any of its Affiliates relating to the performance of services or supplying of materials to the Project or any part thereof; (8) [Reserved]; (9) any failure of Developer to comply with Requirements of Law or any Development Approval; (10) any breach of any warranty or the inaccuracy of any representation made by Developer contained or referred to in this Agreement or in any certificate or other writing delivered by or on behalf of Developer pursuant to the terms of this Agreement; (11) the environmental condition of the Development Property (including the presence of any hazardous or regulated substance in, on, under or adjacent to such property) on which the Project is located except for those existing on the City-Owned Parcel prior to the Effective Date of this Agreement; (12) the release of any hazardous or regulated substance to the environment arising or resulting from any Work or things whatsoever done in or at the Project or any portion thereof, or in or at off-site improvements or facilities used or constructed in connection with the Project pursuant to the terms of this Agreement by or on behalf of Developer; (13) the operation or use of the Project, whether or not intended, in violation of any law addressing the protection of the environment or public health; (14) any breach or failure by Developer to perform any of its covenants or obligations under this Agreement; and (15) any legal challenge brought by any Person relating in any way to the effectiveness of this Agreement, the process by which this Agreement was entered into or approved, the request for proposals for the proposed casino development in the City, the Certification process, the Development Approval, the authority of the City to enter into this Agreement, the compliance of this Agreement with the provisions of the Act or the Sports Wagering Act, or the implementation of any provision of this Agreement, in each case, brought after the Effective Date of this Agreement.

(b) In case any action or proceeding shall be brought against any Indemnitee based upon any claim in respect of which Developer has agreed to indemnify any Indemnitee, Developer will upon notice from Indemnitee defend such action or proceeding on behalf of any Indemnitee at Developer's sole cost and expense and will keep Indemnitee fully informed of all developments and proceedings in connection therewith and will furnish Indemnitee with copies of all papers served or filed therein, irrespective of by whom served or filed. Developer shall defend such action with legal counsel it selects provided that such legal counsel is reasonably satisfactory to Indemnitee. Such legal counsel shall not be deemed reasonably satisfactory to Indemnitee if legal counsel has: (i) a legally cognizable conflict of interest with respect to the City; (ii) within the five (5) years immediately preceding such selection performed legal work for the City which in its respective reasonable judgment was inadequate; or (iii) frequently represented parties opposing the City in prior litigation. Each Indemnitee shall have the right, but not the obligation, at its own cost, to be represented in any such action by legal counsel of its own choosing.

(c) Notwithstanding anything to the contrary contained in Section 15.1.a.1., Developer shall not indemnify and shall have no responsibility to any Indemnity for any matter to the extent directly caused by the gross negligence or willful misconduct of such Indemnitee.

## 16. Force Majeur e.

### 16.1. Definition of Force Majeure.

An event of ***"Force Majeure"*** shall mean the following events or circumstances, to the extent that they delay or otherwise adversely affect the performance beyond the reasonable control of Developer, or its agents and contractors, of their duties and obligations under this Agreement or the Ground Lease:

(a) Strikes, lockouts, labor disputes, disputes arising from a failure to enter into a union or collective bargaining agreement, failure of utilities, or explosions;

(b) Acts of God, tornadoes, hurricanes, floods, sinkholes, fires and other casualties, landslides, earthquakes, and/or abnormal or highly inclement weather

(c) Actual or threatened health emergencies (including pandemics, epidemics, quarantine, COVID-19, famine, pestilence, and other health risks);

(d) Acts of a public enemy, acts of war, terrorism, effects of nuclear radiation, blockades, insurrections, riots, civil disturbances, or national or international calamities;

(e) Rioting, looting, arson and like violent or destructive acts of civil commotion of a scale which is materially adversely impactful on the City and its businesses, taken as a whole;

(f) Concealed and unknown conditions of an unusual nature that are encountered below ground but only to the extent that such conditions could not have been discovered by Developer's exercise of reasonable diligence;

(g) Any temporary restraining order, preliminary injunction or permanent injunction, or mandamus or similar order, or any litigation or administrative delay which impedes the ability of Developer to complete the Project or perform any obligations of Developer under this Agreement, unless based in whole or in part on the actions or failure to act of Developer;

(h) The failure by, or unreasonable delay of, the City, the State or another Governmental Authority to issue any permits or Approvals necessary for Developer to develop, construct, open or operate the Project unless such failure or delay is based materially in whole or in part on the actions or failure to act of Developer or its Affiliates, agents, representatives or contractors;

(i) Any impacts to major modes of transportation to the Development Property, whether private or public, which adversely and materially impact access to the Development Property, including but not limited to, sustained and material closure of airports or sustained and material closure of highways servicing the Development Property;

(j) The enactment after the date hereof of any City ordinance that has the effect of unreasonably delaying Developer's obligations under this Agreement;

(k) The U.S. capital markets shut down making debt or equity financing unavailable to companies in the gaming industry that are of a similar size and stature as Parent Company on customary terms and conditions; or

(l) The inability to procure or obtain on a timely basis or at a reasonable cost labor or materials needed by Developer to construct, furnish, outfit and finish the Project attributable to supply chain disruptions, delays, or limitations; shortages of available labor, materials, and supplies; and other market conditions that are beyond the reasonable control of Developer.

**16.2. Notice of Force Majeure.**

Developer shall promptly notify the City in writing of the occurrence of an event of Force Majeure, of which it has knowledge, describe in reasonable detail the nature of the event and provide a good faith estimate of the duration of any delay expected in Developer's performance obligations.

**16.3. Excuse of Performance.**

Notwithstanding any other provision of this Agreement to the contrary, Developer shall be entitled to an adjustment in the time for or excuse of the performance of any duty or obligation of Developer under this Agreement for Force Majeure events, but only for the number of days due to and/or resulting as a consequence of such causes and only to the extent that such occurrences actually prevent or delay the performance of such duty or obligation or cause such performance to be commercially unreasonable.

**17. Miscellaneous.**

**17.1. Notices.**

Any notice required to be given under this Agreement must be in writing and must be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, or (iv) by electronic mail. Electronic mail notices will be deemed valid and received by the addressee when delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise expressly provided in this Agreement, notices will be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section 17.1, each party will have the right to change the address or the addressee, or both, for all future notices to the other party, but no notice of a change of addressee or address will be effective until actually received.

If to the City:

Hon. Ann Taylor
Mayor, City of Waukegan
100 North Martin Luther King Jr. Avenue
Waukegan, Illinois 60085
mayor.taylor@waukeganil.gov

with copies to:

Noelle Kischer-Lepper
Director of Development and Planning
City of Waukegan
100 North Martin Luther King Jr. Avenue
Waukegan, Illinois 60085
Noelle.Kischer-Lepper@waukeganIL.gov

and

Stewart Weiss
Hart Passman
Elrod Friedman LLP
325 North LaSalle Street, Ste. 450
Chicago, Illinois 60654
Stewart.Weiss@elrodfriedman.com
Hart.Passman@elrodfriedman.com

If to Developer:

Jeff Babinski
General Manager
FHR-Illinois LLC
600 Lakehurst Road
Waukegan, IL 60085
jbabinski@americanplace.com

with copies to:

Alex J. Stolyar
Chief Development Officer
FHR-Illinois LLC
c/o Full House Resorts Inc.
1980 Festival Plaza Dr., Suite 680
Las Vegas, NV 89135
astolyar@fullhouseresorts.com

and

Elaine Guidroz
General Counsel
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Las Vegas, NV 89135
eguidroz@fullhouseresorts.com

and

Kimberly M. Copp, Esq.
Cezar M. Froelich, Esq.
Taft Stettinius & Hollister LLP
111 E. Wacker Drive, Suite 2800
Chicago, Illinois 60601
cfroelich@taftlaw.com
kcopp@taftlaw.com

Additionally, if notice is required to be delivered to a Mortgagee pursuant to Section 8.7.e, then it shall be delivered to Mortgagee at the address provided in the mortgage.

**17.2. Waiver; Non-Action or Failure to Observe Provisions of this Agreement**

The failure of either Party to promptly insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any exhibit hereto, or any other agreement contemplated hereby, shall not be deemed a waiver of any right or remedy that such Party may have, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

Additionally, no waiver of any provision of this Agreement will be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor will any waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

**17.3. Consents.**

Unless otherwise provided in this Agreement, whenever the permission, authorization, approval, acknowledgement, or similar indication of assent of any Party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent must be in writing. For the purpose of this Section 17.3, email shall be deemed to be "writing."

**17.4. Construction.**

In construing this Agreement, plural terms are to be substituted for singular and singular for plural, in any place in which the context so requires. This Agreement has been negotiated by the City and Developer, and the Agreement, including the exhibits and schedules attached hereto, shall not be deemed to have been negotiated and prepared by the City or Developer, but by each of them. This Agreement will be construed without regard to the identity of the Party who drafted the various provisions of this Agreement. Every provision of this Agreement will be construed as though all Parties to this Agreement participated equally in the drafting of this Agreement. Any rule or construction that a document is to be construed against the drafting party will not be applicable to this Agreement.

**17.5. Governing Law; Venue; Submission to Jurisdiction; Service of Process.**

This Agreement will be interpreted according to the internal laws, but not the conflicts of laws rules, of the State of Illinois. The Parties expressly agree that the sole and exclusive place, status and forum of this Agreement shall be the City of Waukegan, Illinois. All actions and legal proceedings which in any way relate to this Agreement shall be solely and exclusively brought, heard, conducted, prosecuted, tried and determined within the City. It is the express intention of the Parties that the exclusive venue of all legal actions and procedures of any nature whatsoever which relate in any way to this Agreement shall be the 19th Judicial Circuit Court of Lake County, Illinois or the United States District Court for the Northern District of Illinois, Eastern Division (***"Court"***). The Parties waive their respective right to transfer or change the venue of any litigation filed in the 19th Judicial Circuit Court of Lake County, Illinois or the Northern District of Illinois, Eastern Division.

If, at any time during the Term, Developer is not a resident of the State or has no officer, director, employee, or agent thereof available for service of process as a resident of the State, or if any permitted assignee thereof shall be a foreign corporation, partnership or other entity or shall have no officer, director, employee, or agent available for service of process in the State, Developer or its assignee hereby designates the Secretary of the State, as its agent for the service of process in any court action between it and the City or arising out of or relating to this Agreement and such service shall be made as provided by the laws of the State for service upon a non-resident.

**17.6. Complete Agreement.**

This Agreement, and all the documents and agreements described or referred to herein, including the exhibits and schedules attached hereto, constitute the full and complete agreement between the Parties with respect to the subject matter hereof, and supersedes and controls in its entirety over any and all prior agreements, understandings, representations and statements whether written or oral by each of the Parties, including the Memorandum of Key Terms and the Temporary Construction Easement.

**17.7. Calendar Days; Calculation of Time Periods.**

It is hereby agreed and declared that whenever a notice or performance under the terms of this Agreement is to be made or given on a day other than a Business Day, it shall be postponed to the next following Business Day. Unless otherwise specified in this Agreement, any reference to days in this Agreement will be construed to be calendar days. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event on which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless the last day is not a Business Day, in which event the period shall run until the end of the next day which is neither a Business Day. The final day of any period will be deemed to end at 5:00 p.m., Central prevailing time.

**17.8. Exhibits.**

**Exhibits A** through **O**, referred to and attached to this Agreement, are each an essential part of this Agreement.

**17.9. No Joint Venture.**

The Parties agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the City and Developer as joint venturers or partners.

**17.10. Severability.**

If this Agreement contains any unlawful provisions not an essential part of this Agreement and which shall not appear to have a controlling or material inducement to the making thereof, such provisions shall be deemed of no effect and shall be deemed stricken from this Agreement without affecting the binding force of the remainder. In the event any provision of this Agreement is capable of more than one interpretation, one which would render the provision invalid and one which would render the provision valid, the provision shall be interpreted so as to render it valid.

**17.11. No Liability for Approvals and Inspections.**

No approval to be made by the City under this Agreement or any inspection of the Work by the City shall render the City liable for failure to discover any defects or non-conformance with this Agreement, or a violation of or noncompliance with any federal, State or local statute, regulation, ordinance or code.

**17.12. Time of the Essence.**

Subject to Section 17.7, time is of the essence in the performance of this Agreement.

**17.13. Headings; Captions.**

The table of contents, headings, titles, and captions in this Agreement are for convenience of reference only and in no way define, limit, extend, or describe the scope or intent of this Agreement or in any way affect this Agreement.

**17.14. Amendments and Addenda.**

This Agreement may not be amended, addended, supplemented, or otherwise modified except by a written instrument signed by the Parties.

The Parties acknowledge that the IGB may, subsequent to the Effective Date, promulgate regulations under or issue interpretations of or policies or evaluation criteria concerning the Act which regulations, interpretations, policies or criteria may conflict with, or may not have been contemplated by, the express terms of this Agreement. In addition, the Parties acknowledge that environmental permits and approvals may necessitate changes to this Agreement. In such event, the Parties agree to negotiate in good faith any amendment to this Agreement necessary to comply with the foregoing two sentences, whether such changes increase or decrease either of the Parties' respective rights or obligations hereunder.

**17.15. Changes in Laws.**

Unless otherwise explicitly provided in this Agreement, any reference to any Requirements of Law will be deemed to include any modifications of, or amendments to the Requirements of Law as may, from time to time, hereinafter occur.

**17.16. Table of Contents.**

The table of contents is for the purpose of convenience only and is not to be deemed or construed in any way as part of this Agreement or as supplemental thereto or amendatory thereof.

**17.17. No Third-Party Beneficiaries.**

Except as expressly provided in the Releases and Section 15 (Indemnification), the provisions of this Agreement are and will be for the benefit of Developer and City only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement.

**17.18. Cost of IGB Licensing, Approval, or Investigation.**

If, as a result of the Agreement, the City, the City Council, or any employee, agent, or representative of the City is required to be licensed or approved by the IGB, the reasonable costs of such licensing, approval or investigation shall be paid by Developer no later than ten (10) Business Days following receipt of a written request from the City.

**17.19. Further Assurances.**

The City and Developer will cooperate and work together in good faith to the extent reasonably necessary and commercially reasonable to accomplish the mutual intent of the Parties that the Project be successfully completed as expeditiously as is reasonably possible and operated and maintained in good standing.

**17.20. Estoppel Certificates.**

The City shall, at any time and from time to time, upon not less than ten (10) Business Days prior written notice from any lender of Developer, execute and deliver to any lender of Developer an estoppel certificate in the form attached hereto as ***Exhibit L*** or as may be reasonably required by any such lender.

**17.21. Counterparts.**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original document and together shall constitute one instrument.

**17.22. Recording.**

The City will record this Agreement against the Development Property, at the sole cost and expense of Developer, with the Office of the Lake County Recorder of Deeds promptly following the full execution of this Agreement by the Parties.

**17.23. Deliveries to the City.**

Any reports or other items to be delivered or furnished to the City hereunder (other than notices, demands or communications under Section 17.1 (Notices)) shall be delivered or furnished to the attention of the Director of Planning & Zoning and/or Corporation Counsel of the City.

**17.24. City Actions, Consents, and Approvals.**

Any action, consent, or approval needed to be taken or given under this Agreement by the City may only be performed by the Mayor or his/her designee, to the extent provided for by the Code of Ordinances and any other Ordinance or Resolution duly adopted by the City subsequent to the Effective Date of this Agreement.

***[SIGNATURE PAGE FOLLOWS]***

**IN WITNESS WHEREOF,** the Parties hereto have caused this Agreement to be executed by their duly authorized officers on the date first set forth above at Waukegan, Illinois.

**CITY:**

**CITY OF WAUKEGAN, ILLINOIS,**
a municipal corporation

By: /s/ Ann B. Taylor
Name: Honorable Mayor Ann B. Taylor
Title: Mayor

Attest:

/s/ Janet E. Kilkelly
Name: Janet E. Kilkelly
Title: City Clerk

[Signature Page – Development and Host Community Agreement]

**DEVELOPER:**

**FHR-ILLINOIS LLC,** a Delaware limited liability company

By: /s/ Elaine Guidroz
Name: Elaine Guidroz
Title: Vice President and Secretary

[Signature Page – Development and Host Community Agreement]

**INDEX OF EXHIBITS**

**Exhibit 10.30**

# GROUND LEASE

between

CITY OF WAUKEGAN,
an Illinois home rule municipality
("*Landlord*")

and

FHR-ILLINOIS LLC,
a Delaware limited liability company
("*Tenant*")

For the Premises Located At:

600 Lakehurst Road
Waukegan, Illinois

Date of Lease: January 18, 2023

Table of Contents

**GROUND LEASE FOR CITY-OWNED PARCEL**
**600 LAKEHURST ROAD, WAUKEGAN, ILLINOIS**

**THIS GROUND LEASE** ("*Ground Lease*"), made and entered into as of the 18th day of January, 2023 (the "*Effective Date*"), by and between the **CITY OF WAUKEGAN**, an Illinois home rule municipality ("*Landlord*"), and **FHR-ILLINOIS LLC**, a Delaware limited liability company ("*Tenant*"). Landlord and Tenant are hereinafter sometimes referred to individually as a "*Party*" and collectively as the "*Parties*."

WITNESSETH:

A. Landlord is the owner of the approximately 31.7-acre parcel of real property commonly known as 600 Lakehurst Road, Waukegan, Illinois ("*Land*").

B. Landlord and Tenant are parties to that certain Development and Host Community Agreement (as may be amended from time to time, the "*DHCA*") of even date herewith and to be recorded in the Lake County Recorder's Office on or about the Effective Date, which contemplates, among other things, for the execution and delivery by the Parties, upon or prior to the satisfaction of conditions precedent set forth therein, of a ground lease for the Premises by Landlord and Tenant, and the development thereon by Tenant of temporary and permanent casino facilities and related improvements on the Land and certain other parcel(s) of land owned by Developer.

C. The Project and the terms and conditions under which Tenant shall design, develop, construct and operate the Project are more particularly described in the DHCA

D. This Ground Lease is being made in conformance with and pursuant to the authority given to Landlord by resolution adopted by the Waukegan City Council on January 3, 2023 as Resolution No. 23-R-03.

E. Landlord and Tenant desire to enter into this Ground Lease to set forth the terms and conditions upon which Tenant will occupy and possess the Premises.

For and in consideration of the rent hereinafter provided, and for and in consideration of the mutual agreements herein set forth and for other good and valuable consideration, Landlord and Tenant hereby agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions. All defined terms shall have the meanings set forth within the text of this Ground Lease with certain other terms being defined in this Article 1 and each such defined term shall be inclusive, to be interpreted in its broadest sense. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the DHCA.

*AAA* will have the meaning ascribed thereto in Section 12.10 below.

*Access Easement* means that certain Site Development, Easement and Amendatory Agreement dated September 6, 2007 and recorded with the Lake County Recorder on September 14, 2007 as document 6242149.

*Adjusted Gross Receipts*. The term "Adjusted Gross Receipts" has the same meaning given to such term in Section 4 of the Illinois Gambling Act, as amended (230 ILCS 10/1 *et seq*.) (or any successor Act thereto). Adjusted Gross Receipts generated by the Temporary Facility and the Permanent Facility shall be calculated in the same manner as it is calculated for the State of Illinois' assessment of the privilege taxes pursuant to Section 13 of the Illinois Gambling Act, as amended (230 ILCS 10/1 *et seq*.) (or any successor Act thereto) and, if such manner of calculation is modified at any time during the Term, the same shall be deemed to be Adjusted Gross Receipts for purposes of this Ground Lease.

*Adjustment Date* will have the meaning ascribed thereto in Section 4.2(A) below.

*Affiliate* means a Person, or group of Persons, that, directly or indirectly, controls or is controlled by or is under common control with another Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person or group of Persons shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

*Annual Minimum Rent* means the net base rental to be paid by Tenant to Landlord, defined as such and set forth in Article 4.

*Annual Percentage Minimum Rent* will have the meaning ascribed thereto in Section 4.2 below.

*Application(s) and Filings* (or *Application(s) or Filings* or other variations on such term) shall mean any instrument, document, agreement, certificate, application, or filing (or amendment of any of the foregoing): (a) necessary or appropriate for any alteration, addition, development, redevelopment, modification, expansion, demolition, restoration, or other construction or reconstruction work affecting any or all improvements from time to time constituting part of the Premises and/or the Improvements, or the construction or reconstruction of any new improvements, or repair of any existing improvements, located on or at the Premises, that this Ground Lease or the DHCA requires or allows (collectively, "*Construction Work*"), including any application for any building permit, certificate of

occupancy, utility service or hookup, easement, covenant, condition, restriction, subdivision plat, or such other instrument as Tenant may from time to time request in connection with the same; (b) to enable Tenant to obtain any abatement, deferral or other benefit that may otherwise be reasonably available with respect to the Impositions; (c) if and to the extent (if any) this Ground Lease or the DHCA permits, to allow Tenant to change the use or zoning of the Premises and/or the Improvements; (d) to enable Tenant from time to time to seek any approvals from any governmental authority required in connection with any of the matters described in the preceding clause (a) or to use and operate the Premises and/or the Improvements in accordance with this Ground Lease or the DHCA; (e) otherwise reasonably necessary and appropriate to permit Tenant to realize the benefits of the Premises and/or the Improvements contemplated by this Ground Lease or the DHCA; or (f) that this Ground Lease otherwise requires Landlord to sign for Tenant.

*Casualty* means any damage or destruction (including any damage or destruction for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, affecting any or all of the Project.

*Collateral Trust Agreement* means that certain Collateral Trust Agreement, dated as of February 12, 2021 among Full House Resorts, Inc., a Delaware corporation, Tenant, the other grantors party thereto from time to time, the Collateral Trustee, the Trustee (as defined in the Collateral Trust Agreement), the Administrative Agent (as defined in the Collateral Trust Agreement) and the other Secured Debt Representatives (as defined in the Collateral Trust Agreement) from time to time party thereto, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

*Collateral Trustee* means Wilmington Trust, National Association, as collateral trustee under the Collateral Trust Agreement for the benefit of the Secured Parties (as defined in the Collateral Trust Agreement) pursuant to the Collateral Trust Agreement, in such capacity and together with its successors and assigns in such capacity. Landlord acknowledges that, as of the Effective Date, the Collateral Trustee is, or intends to become, a Leasehold Mortgagee under this Ground Lease.

*Declaration* means that certain First Amended Declaration of Protective Covenants, Conditions, Restrictions and Easements for Fountain Square of Waukegan dated August 27, 2005 and recorded with the Lake County Recorder on September 2, 2005 as document number 5853181, as amended.

*Dispute Notice* will have the meaning ascribed thereto in Section 12.10 below.

*Effective Date* means the date on which the last of Landlord and Tenant executes this Ground Lease, which date shall be reflected on the cover page and preambles to this Ground Lease.

*Environmental Laws* means the Resource Conservation and Recovery act, as amended by the Hazardous and Solid Waste Amendments of 1984, the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act and all applicable state and local environmental laws, ordinances, rules, requirements, and

regulations, as any of the foregoing may have been or may be from time to time amended, supplemented or supplanted and any and all other federal, state or local laws, ordinances, rules, requirements and regulations, now or hereafter existing, relating to the preservation of the environment or the regulation or control of toxic or hazardous substances or materials.

*Fee Mortgage* means any financing obtained by Landlord, as evidenced by any mortgage, assignment of leases and rents, or other instruments, and secured by the fee ownership interest of Landlord in the Premises and any direct or indirect interest in such fee estate, including Landlord's reversionary interest in the Improvements after the Expiration Date, including any extensions, modifications, amendments, replacements, supplements, renewals, refinancings, and consolidations thereof.

*Fee Mortgagee* shall mean the holder of a Fee Mortgage.

*Force Majeure* will have the meaning ascribed thereto in the DHCA.

*Gaming* will have the meaning ascribed thereto in the DHCA.

*Gaming Area* will have the meaning ascribed thereto in the DHCA.

*Gaming Authority* will have the meaning ascribed thereto in the DHCA.

*Gaming Laws* means the gaming laws or regulations of any jurisdiction or jurisdictions to which the Tenant is, or may at any time after the date of this Ground Lease, be subject, including, without limitation, the Illinois Gambling Act, 230 ILCS 10/1 et seq. and the rules and regulations promulgated thereunder.

*Governmental Authority* or *Governmental Authorities* will have the meaning ascribed thereto in the DHCA.

*Ground Lease Commencement Date* means the Effective Date.

*Ground Lease Rent Commencement Date* means the earlier to occur of (1) the date on which Tenant opens the Temporary Facility for business to the general public on the Premises or (2) the date that is five (5) days after the IGB issues the temporary operating permit for the Temporary Facility.

*Guarantor* means Full House Resorts, Inc., a Delaware corporation.

*IGB* means the Illinois Gaming Board.

*Impositions* will have the meaning ascribed thereto in Section 5.1 below.

*Improvements* means, collectively, the Pre-Existing Improvements and any buildings, improvements and fixtures hereafter constructed or erected on the Land in accordance with the DHCA, as well as any future additions, replacements, or alterations thereto, and any attachments, appliances, equipment, machinery, and other fixtures attached to said

buildings and improvements or otherwise located on the Premises, but excludes the Public Improvements.

*Institutional Lender* means: (1) a bank (state, federal or foreign), trust company (in its individual or trust capacity), insurance company, credit union, savings bank (state or federal), pension, welfare or retirement fund or system, real estate investment trust (or an umbrella partnership or other entity of which a real estate investment trust is the majority owner), federal or state agency regularly making or guaranteeing mortgage loans, investment bank, subsidiary of a Fortune 500 company, real estate mortgage investment conduit, or securitization trust; (2) any issuer of collateralized mortgage obligations or any similar investment entity (provided that such issuer or other entity is publicly traded or was or is sponsored by an entity that otherwise constitutes an Institutional Lender or has a trustee that is, or is an Affiliate of, any entity that otherwise constitutes an Institutional Lender), or any Person acting for the benefit of such an issuer; (3) any Person actively engaged in commercial financing and having total assets (on the date when its Leasehold Mortgage is executed and delivered, or on the date of such Leasehold Mortgagee's acquisition of its Leasehold Mortgage by assignment) of at least $10,000,000; (4) any Person that is controlled (as such term is defined in the definition of "Affiliate" in this Section 1.1) by, is a wholly owned subsidiary of, or is a combination of any one or more of the foregoing Persons; (5) any of the foregoing when acting as trustee, agent or similar representative for other lender(s), noteholder(s) or other investor(s), whether or not such other lender(s), noteholder(s) or other investor(s) are themselves Institutional Lenders; (6) any purchase-money Leasehold Mortgagee; or (7) any Person approved by any Gaming Authority (including the IGB) to secure all or any portion of its financing pursuant to a Leasehold Mortgage. The fact that a particular Person (or any Affiliate of such Person) is a partner, member, or other investor of the then Tenant shall not preclude such Person from being an Institutional Lender and a Leasehold Mortgagee provided that: (x) such entity has, in fact, made or acquired a bona fide loan to Tenant secured by a Leasehold Mortgage; (y) such entity otherwise qualifies as an Institutional Lender and a Leasehold Mortgagee (as applicable); and (z) at the time such entity becomes a Leasehold Mortgagee, no Tenant's Default exists, unless simultaneously cured. Landlord agrees that Collateral Trustee and each of the Secured Parties is, or shall be deemed to be, an Institutional Lender

*Land* means the parcel of land owned by Landlord commonly known as 600 Lakehurst Road, Waukegan, Illinois as described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto and by this reference made a part of this Ground Lease, and including the easements, rights, privileges, hereditaments and other appurtenances now or hereafter appurtenant to, benefiting or serving such parcel and the Improvements (including, without limitation, the easements granted pursuant to Section 5(b) of the Access Easement, Sections 4.2 and 4.3 of the Declaration, and Section 3(b) of the Total Site Agreement), but not including any Improvements or Pre-Existing Improvements.

*Landlord.* In addition to the meaning ascribed to the term "Landlord" in Section 20.5 of this Ground Lease, the term "Landlord" means the Landlord named herein and any person, firm, corporation or other legal entity who or which shall succeed to Landlord's legal and equitable fee simple title to the Land (any such successor to be conclusively deemed to have assumed the obligations of Landlord herein by virtue of such succession).

*Leasehold Mortgage* means any encumbrance by way of mortgages, deeds of trust or other documents or instruments intended to grant an interest in real property, in the form of leasehold security, in and to all or any part of Tenant's right, title and interest in and to this Ground Lease and the leasehold estate created hereby to any Person for the purpose of obtaining financing (including but not limited to a mortgage or deed of trust to be executed after the date hereof for the benefit of Collateral Trustee), including any extensions, modifications, amendments, replacements, supplements, renewals, refinancings, and consolidations thereof.

*Leasehold Mortgagee* means the holder or secured party under a Leasehold Mortgage.

*Limited Arbitrable Dispute* will have the meaning ascribed thereto in Section 12.10 below.

*Permanent Facility* will have the meaning ascribed to such term in the DHCA.

*Permitted Encumbrances* means only the encumbrances identified on Exhibit F to this Ground Lease.

*Person* means any corporation, partnership, individual, joint venture, limited liability company, trust, estate, association, business, enterprise, proprietorship, governmental body or any bureau, department or agency thereof, or other legal entity of any kind, either public or private, and any legal successor, agent, representative, authorized assign, or fiduciary acting on behalf of any of the foregoing.

*Pre-Existing Improvements* means any improvements located on the Land on Effective Date (e.g., sewers, utility lines, etc.) including, but not limited to, any improvements constructed on the Land by Tenant in accordance with the TCE, but excludes Public Improvements.

*Premises* the premises leased by Landlord to Tenant under this Ground Lease, consisting of the Land and the Pre-Existing Improvements.

*Project* will have the meaning ascribed to such term in the DHCA.

*Public Improvements* means those improvements either existing as of the Effective Date or to be constructed or installed on the Land and adjoining parcels as part of the Project that are approved and accepted by the corporate authorities or appropriate officers of Landlord as public improvements of the City of Waukegan.

*Purchase Option* means Tenant's rights to purchase fee title to the Premises from Landlord as set forth in Section 2.4 of this Ground Lease.

*Purchase Price* means the purchase price for Tenant's purchase of the Premises from Landlord pursuant to its Purchase Option rights set forth in Section 2.4 of this Ground Lease.

*Regulated Substance* means any, each and all substances or materials now or hereafter regulated pursuant to any Environmental Laws, including, but not limited to, any such substance or material now or hereafter under any Environmental Law defined as or deemed

to be a "regulated substance," pesticide, "hazardous substance" or "hazardous waste" or included in any similar or like classification or categorization thereunder.

*Rent* will have the meaning ascribed thereto in Section 4.1 below.

*Requirements of Law* means all building and zoning laws and all other laws, ordinances, orders, rules, regulations and requirements of all Federal, State and municipal governments, including, specifically, the City of Waukegan, and the appropriate departments, commissions, boards and officers thereof, in all cases, applicable to the Land, the Improvements or Tenant.

*Restoration* means, upon a Casualty, the safeguarding, clearing, repair, restoration, alteration, replacement, rebuilding, and reconstruction of the damaged or remaining Project, substantially consistent with its condition before such Casualty, in compliance with this Ground Lease and the DHCA, subject to any changes in Requirements of Law that would limit the foregoing.

*Site Plan* means approved by Ordinance No. 22-O-29: “The Temporary Casino – Full House Resorts Site Plan, consisting of 1 sheet, prepared by Gewalt Hamilton Associates, with a latest revision date of March 9, 2022.

*Substantial Casualty* means a Casualty that: (a) renders thirty percent (30%) or more of the Project not capable of being used or occupied; (b) occurs less than ten (10) years before the end of the Term and renders fifteen percent (15%) or more of the Project not capable of being used or occupied; (c) requires Restoration whose cost Tenant reasonably estimates in writing would exceed One Hundred Fifty Million and No/100 Dollars ($150,000,000.00); or (d) pursuant to Requirements of Law, prevents the Project from being Restored to the same bulk, and for the same use(s), as before the Casualty.

*TCE* means that certain Temporary Construction Easement Agreement by and between Landlord, as grantor, and Tenant, as grantee, made as of March 22, 2022 and recorded in the Office of the Lake County Recorder on April 1, 2022 as document number 7893327.

*Temporary Facility* will have the meaning ascribed to such term in the DHCA.

*Tenant.* In addition to the meanings ascribed to the term "Tenant" in Section 20.5 of this Ground Lease, the term "Tenant" means the Tenant named herein, and any person, firm, corporation or other legal entity to whom or to which Tenant's interest in this Ground Lease shall be assigned.

*Total Site Agreement* means that certain Total Site Agreement dated March 20, 1970 and recorded with the Lake County Recorder on April 1, 1970 as document number 1454745, as amended.

ARTICLE 2
THE DEMISE FOR THE TERM

Section 2.1 Demise. Upon and subject to the conditions and limitations set forth in this Ground Lease, Landlord hereby leases to Tenant, and Tenant leases from Landlord, the Premises situated in the County of Lake, State of Illinois, and, as to the Land, described more fully in Exhibit A-1, for the Term.

Section 2.2 Term. This Ground Lease shall remain in full force and effect for a term (the "*Term*") commencing on the Ground Lease Commencement Date and, unless sooner terminated as provided herein, continuing until, and expiring at the end of the day on the date which is ninety-nine years from the Ground Lease Commencement Date (the "*Expiration Date*").

Section 2.3 Lease Not Terminable Except as Provided Herein. Except as otherwise expressly provided for herein or the DHCA (including, without limitation, Section 7.1(d) of the DHCA), this Ground Lease shall not terminate, nor shall Tenant be entitled to any abatement, diminution, deduction, deferment, or reduction of rent, or set-off against the Rent (as defined below), nor shall the respective obligations of Landlord and Tenant be otherwise affected by reason of any damage to or destruction of the Premises by whatever cause; any taking by eminent domain or eviction by paramount title (except to the extent this Ground Lease is effected by operation of law); any lawful or unlawful prohibition of Tenant's use of the Premises for the purposes described herein; any interference with such use by any private person, corporation, or other entity; any default by Landlord under this Ground Lease; any inconvenience, interruption, cessation, or loss of business, or otherwise, caused directly or indirectly by any Requirements of Law whatsoever or by priorities, rationing, or curtailment of labor or materials or by war or any matter or thing resulting therefrom; or for any other cause whether similar to or dissimilar from the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the Parties that the obligations of Tenant hereunder shall be separate and independent covenants and agreements and that the Rent and all other payments to be made by Tenant hereunder shall continue to be payable in all events unless the obligations to pay the same shall be terminated or otherwise abated, diminished, deducted, deferred, or reduced pursuant to the express provisions of this Ground Lease or the DHCA (including, without limitation, Section 7.1(d) of the DHCA).

Section 2.4 Purchase Option. Tenant shall also have the right to purchase the Premises under the terms and conditions of this Section 2.4 ("*Purchase Option*"). As long as no uncured Tenant's Default exists, Tenant may exercise the right to purchase the Premises for Thirty Million and 00/100 Dollars, as such purchase price may be adjusted pursuant to Section 12.5 ("*Purchase Price*"). To exercise the Purchase Option, Tenant must provide written notice thereof to Landlord at least six months prior to the expiration of the Term accompanied by Tenant's executed counterpart of the Purchase and Sale Agreement (the " *PSA*") in the form attached hereto as Exhibit B. If such notice is timely provided and subject to the terms and conditions of this Section 2.4, within thirty days after its receipt of such notice, Landlord will deliver to Tenant a fully executed copy of the PSA, and the purchase and sale of the Premises shall be consummated on, and subject to, the terms and conditions of the PSA. The Purchase Option is personal to the Tenant originally named herein and any assignee of Tenant's interest in this Ground Lease pursuant to an assignment consented to by Landlord and may not be exercised by or for the benefit of any other party; provided, however, that the foregoing shall not limit the right of "Buyer" (as defined in the PSA) to assign the PSA in accordance with the terms and conditions of the PSA. Notwithstanding

anything contained herein to the contrary, in the event that Tenant exercises the Purchase Option prior to the date on which Tenant opens the Permanent Facility for business to the public on the Premises (the "*Phase 1 Opening*"), as additional consideration for the purchase of the Premises, Tenant shall continue to pay quarterly installments of Annual Minimum Rent as and when the same would be due and payable in accordance with this Ground Lease through the date of the Phase 1 Opening. Tenant's obligations under the immediately preceding sentence shall survive the termination of the Ground Lease.

Section 2.5 Delivery of Possession. Landlord shall deliver vacant possession of the Premises to Tenant on the Ground Lease Commencement Date.

Section 2.6 Termination of DHCA. If the DHCA terminates in accordance with the terms thereof, then this Ground Lease shall terminate concurrently with the termination of the DHCA and be of no further force or effect and the Parties shall have no further obligation to each other, except pursuant to the provisions of this Ground Lease that specifically state that they survive termination of this Ground Lease.

## ARTICLE 3
## QUIET ENJOYMENT; "AS IS" CONDITION

Section 3.1 Covenant of Quiet Enjoyment. Landlord covenants that so long as Tenant is performing every covenant and agreement of this Ground Lease and the DHCA to be observed and performed by Tenant, Tenant shall peaceably and quietly have possession of and enjoy the Premises in accordance with the terms of this Ground Lease, without hindrance or molestation by Landlord or any Persons claiming by, through or under Landlord, subject to the covenants, agreements, terms, provisions, and conditions of this Ground Lease and the DHCA.

Section 3.2 As Is Condition. TENANT ACKNOWLEDGES THAT THE PREMISES ARE BEING LEASED BY TENANT IN AN "AS IS" AND "WHERE IS" CONDITION AND WITH ALL EXISTING DEFECTS AND FAULTS (PATENT AND LATENT) AS A RESULT OF THE INSPECTIONS AND INVESTIGATIONS BY TENANT AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS GROUND LEASE OR THE DHCA, NOT IN RELIANCE ON ANY AGREEMENT, UNDERSTANDING, CONDITION, WARRANTY (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) OR REPRESENTATION MADE BY LANDLORD OR ANY AGENT, EMPLOYEE OR PRINCIPAL OF LANDLORD OR ANY OTHER PARTY AS TO THE FINANCIAL OR PHYSICAL (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL) CONDITION OF THE PREMISES OR THE AREAS SURROUNDING THE PREMISES, OR AS TO ANY OTHER MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, AS TO ANY PERMITTED USE THEREOF, THE ZONING CLASSIFICATION THEREOF OR COMPLIANCE THEREOF WITH FEDERAL, STATE OR LOCAL LAWS, THE INCOME OR EXPENSES OR AS TO ANY OTHER MATTER IN CONNECTION THEREWITH.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TENANT ACKNOWLEDGES AND AGREES THAT (A) IT IS PROCEEDING WITH THE PROJECT AT ITS SOLE AND ABSOLUTE RISK (PROVIDED THAT THIS CLAUSE (A) SHALL NOT LIMIT THE EXPRESS REPRESENTATIONS, WARRANTIES AND COVENANTS OF

LANDLORD CONTAINED IN THIS GROUND LEASE OR THE DHCA), AND (B) TENANT IS NOT ENTITLED TO THE ISSUANCE BY LANDLORD OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY FOR THE PROJECT, REGARDLESS OF EXPENDITURES INCURRED BY TENANT IN PROCEEDING PRIOR TO THE EFFECTIVE DATE, OR PURSUANT TO THIS GROUND LEASE OR THE DHCA, UNLESS AND UNTIL TENANT HAS SATISFIED ALL TERMS AND CONDITIONS OF THE DHCA, AND THE TERMS AND CONDITIONS PRECEDENT TO COMMENCING THE PROJECT IMPOSED IN ACCORDANCE WITH THE APPROVAL OF THE SITE PLAN (INCLUDING BUT NOT LIMITED TO, ALL OF THE TERMS AND CONDITIONS OF THE ISSUANCE OF A BUILDING PERMIT OR A CERTIFICATE OF OCCUPANCY, IF APPLICABLE), REQUIRED BY ALL OTHER APPLICABLE CITY OF WAUKEGAN CODES AND ORDINANCES, AND REQUIRED BY THE IGB.

## ARTICLE 4
## RENT

Section 4.1 Rent. The term "Rent" as used in this Ground Lease shall mean Annual Minimum Rent (as defined below), Additional Rent (as defined below) and all other amounts required to be paid by Tenant under the terms of this Ground Lease.

Section 4.2 Annual Minimum Rent. Tenant covenants to pay to Landlord, without set-off or deduction (except as otherwise expressly provided in Articles 10 and 12 and Section 7.1(d) of the DHCA), as a net base rental ("*Annual Minimum Rent*") for the Premises for each calendar year of the Term from and after the Ground Lease Rent Commencement Date in the amount and in the manner set forth herein. Annual Minimum Rent payable for each calendar year of the Term from and after the Ground Lease Rent Commencement Date shall be in the amount equal to the greater of: (i) $3,000,000.00 ("*Annual Guaranteed Minimum Rent*"), and (ii) 2.5% of Adjusted Gross Receipts generated by the Temporary Facility and/or the Permanent Facility ("*Annual Percentage Minimum Rent*"), as the case may be, and payable as follows:

A. Commencing on the Ground Lease Rent Commencement Date and continuing through and until the day immediately preceding the first (1st) day of the calendar year quarter (i.e. January 1st, April 1st, July 1st and October 1st of any calendar year) next following the first anniversary of the Ground Lease Rent Commencement Date (the first day of such calendar year quarter, the "*Adjustment Date*"), Annual Guaranteed Minimum Rent shall be paid by Tenant to Landlord in equal monthly installments of $250,000 (prorated with respect to any partial calendar month in which the Ground Lease Rent Commencement Date occurs), in arrears, not later than ten (10) days after the last day of the calendar month for which such installment payment applies. In the event the first anniversary of the Ground Lease Rent Commencement Date falls on the first day of a calendar year quarter, the Adjustment Date will be that date.

B. Commencing on the Adjustment Date and continuing throughout the remainder of the Term, Annual Guaranteed Minimum Rent shall be paid by Tenant to Landlord in equal quarterly payments of $750,000, on January 1st, April 1st, July 1st and October 1st of each calendar year, in advance, on or before the tenth (10th) day of each calendar quarter.

C. Tenant's payment of the first quarterly installment of Annual Guaranteed Minimum Rent due and payable under subparagraph (B) shall not excuse Tenant's payment of its last monthly

installment of Annual Guaranteed Minimum Rent due and payable under subparagraph (A), Tenant hereby acknowledging that such installment payments will be due and payable as provided above.

D. Commencing with the calendar year in which the Ground Lease Rent Commencement Date occurs and continuing through and until the expiration of the Term, Tenant shall remit payment ("*Annual True-Up Payment*") to Landlord in the amount, if any, equal to the amount by which the Annual Percentage Minimum Rent for such calendar year exceeds the Annual Guaranteed Minimum Rent paid by Tenant for such calendar year. Each Annual True-Up Payment shall be due and payable to Landlord within thirty (30) days after the expiration of the applicable calendar year and shall be accompanied by Tenant's calculation of the Annual True-Up Payment, which shall be based upon Tenant's reports of Adjusted Gross Receipts delivered to the IGB. Tenant shall provide Landlord with copies of the monthly and annual reports submitted by Tenant to the IGB with respect to Adjusted Gross Receipts for the Temporary Facility and/or the Permanent Facility promptly after the same are submitted to the IGB. Notwithstanding anything contained herein to the contrary, the Annual True-Up Payment with respect to the calendar year in which the Term expires or is otherwise terminated shall be paid by Tenant to Landlord no later than thirty days of the end of the Term.

E. Tenant's obligations under this Section 4.2 shall survive the expiration or earlier termination of the Term or the exercise of the Purchase Option, in all cases, with regard to any payments to be made in arrears that accrue prior thereto.

Section 4.3 Proration. In the event Tenant is obligated to pay Annual Guaranteed Minimum Rent for a period which is less than one calendar year, the installment of Annual Guaranteed Minimum Rent (and the monthly or quarterly payment of Annual Guaranteed Minimum Rent due and payable by Tenant for any partial calendar month or partial calendar year quarter during such partial calendar year, as the case may be) shall be prorated on the basis of the number of days in such period.

Section 4.4 Place of Payment. All rent amounts payable hereunder shall be paid to Landlord at the address set forth at Section 19.1 or in accordance with ACH payment instructions to be provided by Landlord, unless Tenant is otherwise instructed in writing by Landlord.

Section 4.5 Absolute Net Lease. Except as otherwise expressly provided in Articles 12 and Section 5.1 and Section 7.1(d) of the DHCA, it is the purpose and intent of Landlord and Tenant that the Annual Minimum Rent herein provided to be paid to Landlord by Tenant be absolutely net to Landlord and that this Ground Lease shall yield net to Landlord without abatement, set-off or deduction therefrom the Annual Minimum Rent as herein provided, to be paid during the Term, and that all costs, expenses, obligations, assessments or impositions of every kind or nature whatsoever which Tenant assumes or agrees to discharge pursuant to this Ground Lease which may arise or become due during the Term shall be paid by Tenant as "*Additional Rent*." Notwithstanding the foregoing, Landlord shall pay the following expenses: (i) any expenses expressly agreed to be paid by Landlord in this Ground Lease or the DHCA; (ii) debt service and other payments with respect to any Fee Mortgage; (iii) expenses incurred by Landlord to monitor and administer this Ground Lease or the DHCA (except as otherwise expressly provided in this Ground Lease or the DHCA and provided nothing set forth in this Section 4.5 shall be deemed to impose any obligation to so monitor or administer); and (iv) expenses incurred by Landlord prior

to the Ground Lease Commencement Date (except the extent Tenant has expressly agreed in writing to pay or reimburse Landlord for such expenses).

Section 4.6 Rent is Not Contingent. Neither the Annual Minimum Rent or Additional Rent shall be contingent on: (i) the construction and completion of the Project on the Land; (ii) the commencement of casino gambling on the Premises or any other uses, if any, allowed for the Project; (iii) any agreements, or lack thereof, between Tenant and any third party; or (iv) the receipt of any rent payments or any other payments by Landlord from any third party; provided, however, that the foregoing shall not accelerate the Ground Lease Rent Commencement Date.

## ARTICLE 5
## PAYMENT OF TAXES, ASSESSMENTS, AND OTHER IMPOSITIONS; UTILITIES

Section 5.1 Payment of Impositions. During the Term, Tenant agrees to pay, as Additional Rent, and prior to the imposition of any fines, penalties or interest thereon, subject to Tenant's right to contest Impositions pursuant to Section 5.4 and Landlord's obligation to pay Impositions pursuant to this Section 5.1, the following (collectively, "*Impositions*"):

A. All federal, state, county, or local governmental or municipal real estate taxes, license and permit fees, assessments, charges, commercial rental taxes, in lieu taxes, levies, penalties or other impositions of every kind and nature, whether general, special, ordinary or extraordinary, in each of the foregoing cases, assessed, levied, confirmed or imposed upon the Premises and/or the Improvements in connection with the ownership, leasing or operation of the Premises (collectively, "*Real Property Taxes*"). Without limiting the foregoing, "Real Property Taxes" shall also include, to the extent assessed, levied, confirmed or imposed upon the Premises and/or the Improvements: (a) any assessment, tax, fee, levy or charge imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other services, whether or not such assessment, tax, fee, levy or charge was previously commonly included within the definition of real property tax and whether or not such services were formerly provided without charge to property owners or occupants; and (b) any assessment, tax, fee, levy or charge upon creation of an interest or an estate in the Premises pursuant to this transaction or any document to which Tenant is a party, creating or transferring Tenant's interest or Tenant's estate in the Premises, each as may be amended from time to time. The amount of ad valorem real and personal property taxes against Premises and/or the Improvements (the "*Ad Valorem Taxes*") to be included in Impositions and payable Tenant for a calendar year during the Term shall be the amount levied or imposed for that calendar year, notwithstanding that such ad valorem real and personal property taxes are payable in the following calendar year;

B. All assessments or fees imposed upon the Land pursuant to any easement, license, operating agreement, declaration, private covenant, condition, restriction or other instrument, except to the extent such easement, license, operating agreement, declaration, private covenant, condition, restriction or other instrument is not a Permitted Encumbrance (unless made by either Tenant or Landlord at Tenant's request), but including, without limitation:

1. the Land's proportionate share of the "Shared Maintenance Area Expenses" imposed upon the Land pursuant to that certain First Amended Declaration of Protected Covenants, Conditions and Restrictions and Easements for Fountain Square of Waukegan dated August 27, 2005 and recorded with the

Lake County Recorder on September 2, 2005 as document number 5853181; and

2. The special assessment levied against the Land by the City of Waukegan payable annually through the year 2030 pursuant to City of Waukegan Special Assessment 04-2.

C. All costs of supplying all utilities to the Land or the Improvements;

D. All taxes that are measured by or reasonably attributable to the cost or value of equipment, furniture, trade fixtures and other personal property located on the Land (excluding the equipment, furniture, trade fixtures and personal property of Tenant whose interest is separately assessed); and

E. Any possessory interest tax that may be imposed on any possessory interest (other than the fee interest) in the Premises.

Tenant's obligations under this Section 5.1 shall extend to all Impositions which, as a result of the existence of the Land or the Improvements or both, are assessed, levied, confirmed, imposed or become a lien upon the Land or upon the Improvements or both accruing after the Ground Lease Commencement Date (also referred to as the "*Imposition Commencement Date*") and continuing during the Term. Any Imposition relating to a fiscal period, a part of which is included after the Imposition Commencement Date and within the Term and a part of which is included in a period of time before the Imposition Commencement Date or after the expiration of the Term, shall be adjusted as between Landlord and Tenant, so that Landlord shall pay an amount which bears the same ratio to such Imposition which that part of such fiscal period included in the period of time on or before the Imposition Commencement Date or after the expiration of the Term, as the case may be, bears to such fiscal period. Tenant's obligation to pay Impositions for the last fiscal period included in whole or in part during the Term shall survive the expiration or earlier termination of this Ground Lease, subject to the foregoing adjustment. For purposes of clarity and the avoidance of doubt, (i) Landlord shall be solely responsible for the payment of Ad Valorem Taxes that are due and payable during the calendar year in which the Imposition Commencement Date occurs, notwithstanding that such Ad Valorem Taxes are attributable to the preceding calendar year, (ii) Ad Valorem Taxes due and payable during the calendar year following the calendar year in which the Imposition Commencement Date occurs shall be adjusted as between Landlord and Tenant as provided in this paragraph (as such Ad Valorem Taxes are attributable to the calendar year in which the Imposition Commencement Date occurs), and (iii) Landlord shall be solely responsible for the payment prior to delinquency of (1) all Ad Valorem Taxes attributable to any calendar year (or periods) prior to the calendar year in which the Imposition Commencement Date occurs and (2) and all other Impositions for any period prior to the Imposition Commencement Date.

Notwithstanding anything in this Ground Lease to the contrary, the "Impositions" shall not include any of the following, all of which Landlord shall pay before delinquent: (i) any franchise, income, gross receipts, excess profits, estate, inheritance, succession, transfer, gift, corporation, business, capital levy, or profits tax, or license fee, of Landlord; (ii) the incremental portion of any of the items listed in this Section 5.1 that would not have been levied, imposed or assessed but for any sale or other direct or indirect transfer of the fee estate in the Premises or of any direct or indirect equity or ownership interest(s) in Landlord during the Term; (iii) any items listed in this

Section 5.1 that would not have been payable but for any act or omission of Landlord; (iv) any items listed in this Section 5.1 that are levied, assessed, or imposed against the Premises and/or the Improvements during the Term based on the recapture or reversal of any previous tax abatement or tax subsidy, or compensating for any previous tax deferral or reduced assessment or valuation, or correcting a miscalculation or misdetermination, relating to any period(s) before the Imposition Commencement Date; and (vi) interest, penalties, and other charges for the foregoing items (i) through (v).

Section 5.2 Place of Payment. All Impositions payable hereunder shall be paid directly to the relevant payees of such Impositions.

Section 5.3 Limitations. In the event that any Imposition may be paid in installments, Tenant shall have the option to pay such Imposition in installments. Tenant shall pay the general and special real estate taxes and other Impositions as enumerated in this Article 5 of the Ground Lease prior to their becoming delinquent and shall deliver copies of official receipts evidencing such payment to Landlord, at the place at which rental payments are required to be made, prior to accrual of any penalties assessed for late payment.

Section 5.4 Right to Contest Impositions. Subject to Section 5.8 below, Tenant shall have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith, in which event, notwithstanding the provisions of this Article 5, payment of such Imposition shall be postponed if, and only as long as: (i) neither the Premises nor any part thereof, or interest therein or any income therefrom, would by reason of such postponement or deferment be in imminent danger of being forfeited or lost or subject to any lien, encumbrance, or charge, and neither Landlord nor Tenant would by reason thereof be subject to any civil or criminal liability; and (ii) no Tenant's Default has occurred and is continuing (in which event only Landlord may commence such proceedings but shall have no obligation to do so). Upon the termination of such proceedings, it shall be the obligation of Tenant to pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including reasonable attorneys' fees and disbursements), interest, penalties, or other liabilities in connection therewith. Landlord shall not be required to join in any proceedings referred to in this Article 5 unless the provisions of any Requirements of Law at the time in effect shall require that such proceedings be brought by or in the name of Landlord, in which event, Landlord shall join and reasonably cooperate in such proceedings or permit the same to be brought in its name but shall not be liable for the payment of any costs or expenses in connection with any such proceedings and Tenant shall reimburse Landlord for any and all costs or expenses which Landlord may reasonably sustain or incur in connection with any such proceedings, including reasonable attorneys' fees and disbursements. If there shall be any refunds or rebates on account of any Impositions paid by Landlord or Tenant, such refund or rebate shall belong to the Party that paid the Imposition.

Section 5.5 Failure to Pay Impositions. If Tenant fails, refuses, or neglects to make any of the payments in this Article 5 prior to the date when a delinquent rate would be imposed, then, subject to Tenant's right to contest Impositions pursuant to Section 5.4, Landlord may, at its sole and absolute option and without waiver of the default thus committed by Tenant, upon ten days' prior written notice to Tenant, pay or discharge the same, and the amount of money so paid by

Landlord, including reasonable attorney's fees and expenses incurred in connection with such payments, together with interest on all of such amounts at the Default Rate (defined below) from date of demand shall be repaid by Tenant to Landlord upon demand, and the payment thereof may be collected by Landlord in the same manner as though said amount were an installment of rent specifically required by the terms of this Ground Lease to be paid by Tenant to Landlord.

Section 5.6 Leasehold Parcel Identification Number. Landlord shall complete such applications or supplemental filings as may be required by Requirements of Law to cause the Chief County Assessment Office of Lake County to divide the current parcel identification number of the Land into one parcel identification number for the fee interest in the Land and one parcel identification number for the leasehold interest in the Land. Promptly following written request from Landlord, Tenant shall cooperate in good faith with such applications or filings.

Section 5.7 Payment of Public Utility Charges. Tenant shall pay or cause to be paid all charges for gas, water, sanitary and storm sewer, electricity, light, heat or power, telephone or other communication service used, rendered or supplied to the Premises in connection with the Improvements during the Term.

Section 5.8 Reduction of Assessed Valuation. Subject to Section 8.2 of the DHCA and the provisions of any Leasehold Mortgage, Tenant may, at Tenant's sole cost and expense, endeavor from time to time to reduce the assessed valuation of the Premises and/or the Improvements for the purpose of reducing the Impositions payable by Tenant. Landlord agrees to offer no objection to such contest or proceeding and, at the request of Tenant, to reasonably cooperate with Tenant in pursuing such contest or proceeding, but without expense to Landlord. If all or any part of an Imposition is refunded to either Landlord or Tenant (whether through cash payment or credit against Impositions), the Party who paid the Imposition to which the refund relates shall be entitled to such refund to the extent such refund relates to any Imposition paid by such Party.

Section 5.9 Landlord Cooperation. Landlord shall, at no cost or expense to Landlord, and at Tenant’s request, reasonably cooperate with Tenant and use commercially reasonable efforts to enforce the rights and remedies under any easement, license, operating agreement, declaration, private covenant, condition, restriction or other instrument affecting the Land. For purposes of this Section 5.9, “commercially reasonable efforts” shall not include any obligation to institute legal proceedings unless Tenant agrees in a separate written agreement reasonably acceptable to Landlord to reimburse Landlord’s for its actual out-of-pocket costs and expenses incurred in connection with such legal proceedings.

## ARTICLE 6
## CONSTRUCTION

Section 6.1 Improvements. Tenant, at its sole risk, cost and expense shall construct and develop the Improvements in accordance with the DHCA and the requirements of all applicable building codes and regulations adopted by the City of Waukegan.

Section 6.2 Control of Construction. The construction and development of the Improvements, and any and all subsequent work on or about the Premises shall be done in compliance with the DHCA and all material Requirements of Law.

Section 6.3 Title to Improvements. Title to all Improvements, with the exception of the Public Improvements, are and shall be deemed vested in, and such Improvements belong and shall be deemed to belong to and were, are and shall be deemed to be owned by Tenant for all purposes including, without limitation, income tax purposes. Subject to Section 9.3, any Improvements remaining on the Premises at the end of the Term, unless Tenant exercises its right to purchase the Premises pursuant to Article 2 of this Ground Lease, shall then become the property of Landlord, and Landlord shall thereupon be entitled to possession thereof.

## ARTICLE 7
## USE AND OPERATION OF THE PREMISES

Section 7.1 Use of the Premises. From the Effective Date until the end of the Term:

A. Tenant shall use the Premises for the operation of the Project, as defined in the DHCA, and for no other purposes whatsoever without the express written consent of Landlord.

B. Tenant shall operate and keep open to the public the Gaming Area (as defined in the DHCA) of the Temporary Facility or the Gaming Area of the Permanent Facility, as the case may be, in accordance with the DHCA.

Section 7.2 Compliance with Requirements of Law and Governmental Requirements. Tenant shall, at its sole cost and expense, obtain all governmental permits, approvals, licenses, and authorizations needed by Tenant to construct any Improvements and to operate the Project to the extent located on the Premises, and shall thereafter maintain same during the Term in accordance with, and to the extent required by, Requirements of Law. Tenant covenants and agrees that it will, at its sole cost and expense, take such actions as may be lawfully required by any public body having jurisdiction over the Premises in order to comply with such material sanitary, zoning, and other similar requirements designed to protect the public, in effect during the Term, applicable to the Premises or the manner of Tenant's use and occupancy of the Premises or otherwise applicable to the Premises. Tenant shall, at Tenant's expense, make any alterations or repairs to the Premises that may be necessary to comply with any of the foregoing, subject to the applicable provisions of Article 9.

Section 7.3 Unforeseen Requirements. The Parties acknowledge and agree that Tenant's obligation under this Section to comply with all present or future material Requirements of Law is a material part of the bargained-for consideration under this Ground Lease. Tenant's obligation to comply with all material Requirements of Law shall include to the extent of such Requirements of Law, without limitation, the obligation to make substantial or structural repairs and alterations Improvements, regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Ground Lease, the length of the then-remaining Term of this Ground Lease, the relative benefit of the repairs to Tenant or Landlord, the degree to which curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the Parties contemplated the particular Requirements of Law involved, or the relationship between the Requirements of Law involved and Tenant's particular use of the Premises. No occurrence or situation arising during the Term, nor any present or future Requirements of Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations hereunder, nor give Tenant any right to terminate this Ground Lease in whole or in part or to otherwise seek redress

against Landlord, except as may be conferred upon it by any existing or future Requirement of Law or express terms of Articles 2.6, 10 or 12 or Section 5.1.

Section 7.4 No Ongoing Interest . Notwithstanding anything contained in this Ground Lease to the contrary, Landlord will not be deemed to have an ongoing ownership interest in the Project. Landlord will not have any management or oversight rights over the Project or the Premises except as otherwise expressly provided in this Ground Lease and those voluntarily provided in the DHCA.

## ARTICLE 8
## INSURANCE AND INDEMNIFICATION

Section 8.1 General Liability and Casualty Insurance. Tenant will procure and maintain in effect at all times during the Term and at Tenant's expense the types and amounts of insurance coverage as are set forth on Exhibit C attached hereto and incorporated herein. Such casualty insurance coverage shall be in an amount sufficient to prevent Tenant from being a co-insurer of any loss under the policy or policies, but in no event less than 100% of the full replacement cost of the Improvements.

Section 8.2 Additional Policy Requirements. If the Premises is not encumbered by any Leasehold Mortgage or other security instruments evidencing or securing indebtedness of Tenant, Landlord shall be named as a loss payee on Tenant's property insurance policies. All policies to which Landlord is an additional insured shall also contain an endorsement that Landlord, although named as an additional insured, shall nevertheless be entitled to recover for damages caused by the negligence of Tenant. The minimum limits of insurance specified in this Article 8 shall in no way limit or diminish Tenant's liability under this Ground Lease.

Section 8.3 Certificates of Insurance and Payment of Premiums. Tenant shall deliver certificates of insurance evidencing the required coverages and limits of liability. If said certificates are not approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed, Landlord shall advise Tenant of its objections thereto and Tenant must satisfy Landlord's reasonable objection. Said certificates shall be so delivered promptly after the writing and effective date of said policies but in no event less frequently than annually, along with receipts evidencing payment of the premiums therefor. Tenant will deliver to Landlord evidence of payment of premiums for all insurance policies which Tenant is obligated to carry under the terms of this Ground Lease before the payment of any such premiums become in default; and Tenant will cause renewals of expiring policies to be written and the binders therefor to be delivered to Landlord at least thirty days before the expiration date of such expiring policies, with certificates to be delivered to Landlord, as set out herein, promptly upon their preparation.

Section 8.4 Liability for Premium and Deductible Amounts . Tenant, as principal named insured for all property insurance required hereunder, retains full responsibility for payment of all premiums and deductibles under each of said policies. Nothing herein contained shall be construed as rendering Landlord personally liable for the payment of any such insurance premiums or deductibles, but if, at any time during the Term or any extensions of this Ground Lease, Tenant shall fail, refuse, or neglect to effect, maintain, or renew any of the policies of insurance required by this Ground Lease, or fail, refuse or neglect to keep and maintain same in full force and effect, or to pay premiums therefor promptly when due, or to deliver to Landlord any of such policies or

certificates, then Landlord, at its sole option but without obligation to do so, may, if Tenant fails to do so within ten (10) days after notice to Tenant, effect, maintain or renew such insurance (as to Tenant, but not as to any Tenant Parties), and the amount of money paid as the premium thereon, plus interest at the Default Rate set forth in Section 14.3 below, shall be collectible as though it were rent then matured hereunder and due and payable forthwith.

Section 8.5 Tenant's Indemnity.

A. To the fullest extent permitted by law, Tenant will defend, indemnify, and hold harmless Landlord and each of its officers, whether appointed or elected, agents, employees, contractors, subcontractors, attorneys, and consultants ("*Indemnified Parties*") from and against actual out-of-pocket liabilities, third party claims, actual out-of-pocket losses, actual damages, actions, judgments, actual out-of-pocket costs, and actual out-of-pocket expenses (including, without limitation, reasonable attorneys' fees and expenses) asserted against the Indemnified Parties or Landlord's title in the Premises arising by reason of or in connection with: (a) Tenant's possession, use, occupancy, or control of the Premises, including, without limitation, the development, construction, and operation of the Premises; (b) any accident, injury to or death of persons, or loss of or damage to property occurring during the Term on or about the Premises or the intersections and entrances to the Premises from the public rights-of-way; (c) Tenant's possession, operation, use, misuse, maintenance, or repair of the Premises; or (d) any failure on the part of Tenant to perform or comply with any of the terms of this Ground Lease (in each case, an "*Indemnified Claim*"). Landlord shall not be responsible for the loss of or damage to property or injury to or death of persons occurring in or about the Premises during the Term by reason of any future condition, defect, matter, or thing in the Premises, or for the acts, omissions, or negligence of other persons in and about the Premises during the Term, and Tenant agrees to defend, indemnify, and hold the Indemnified Parties harmless from and against all third party claims and actual out-of-pocket liability for same.

B. The indemnification provisions of Section 8.5 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Tenant or any contractor or subcontractor of Tenant under any workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. In no event shall the Indemnified Claims include any claims arising solely out of the grossly negligent or willful acts or omissions of the Indemnified Parties.

C. Landlord shall notify Tenant (such notification is herein called a "*Notice of Claim*" or "*Notice of Potential Claim*," as the case may be) of any Indemnified Claim or of any occurrence or event that could give rise to an Indemnified Claim ("*Potential Claim*") for which Landlord or one of the Indemnified Parties is (or believes it is) entitled to be indemnified or defended under this Ground Lease promptly after Landlord obtains actual knowledge of any Indemnified Claim or Potential Claim. A Notice of Claim or Notice of Potential Claim shall specify, in reasonable detail, the nature and estimated amount of any such Indemnified Claim or Potential Claim and the basis for Landlord's belief as to why it or applicable Indemnified Party is entitled to be indemnified or defended. Notwithstanding the foregoing, the failure by Landlord or an Indemnified Party to give such notice shall not relieve Tenant of its indemnification obligations under this Ground Lease, except to the extent that Tenant is materially prejudiced as a result of such failure.

D. If it becomes necessary for Landlord to defend an Indemnified Claim, Landlord may provide Tenant with a Notice of Claims and tender defense of such action to Tenant. Tenant shall accept such tender of defense and Tenant will pay all actual out-of-pocket costs, actual out-of-pocket expenses, and reasonable actual out-of-pocket attorney's fees incurred in effecting such defense, in addition to any other sums which Landlord may be called upon to pay by reason of the entry of a judgment against Landlord in the litigation in which such claim is asserted.

E. The provisions of this Section 8.5 and the respective rights and obligations of Landlord and Tenant hereunder shall continue in full force and effect without regard to the expiration or earlier termination of this Ground Lease.

Section 8.6 Subrogation. Landlord and Tenant agree to have all fire and extended coverage and material damage insurance which may be carried by either of them endorsed with a clause providing that any release from liability of or waiver of claim for recovery from the other Party entered into in writing by the insured thereunder prior to any loss or damage shall not affect the validity of said policy or the right of the insured to recover thereunder, and providing further that the insurer waives all rights of subrogation which such insurer might have against the other Party. Without limiting any release or waiver of liability or recovery contained in any other provision of this Ground Lease but rather in confirmation and furtherance thereof, Landlord waives all claims for recovery from Tenant and its agents, partners and employees, and Tenant waives all claims for recovery from Landlord and its agents, partners and employees, for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance policies. Notwithstanding the foregoing or anything contained in this Ground Lease to the contrary, any release or any waiver of claims shall not be operative, nor shall the foregoing endorsements be required, in any case where the effect of such release or waiver is to invalidate insurance coverage or invalidate the right of the insured to recover thereunder or increase the cost thereof (provided that in the case of increased cost the other Party shall have the right, within ten days following written notice, to pay such increased cost, thereby keeping such release or waiver in full force and effect).

## ARTICLE 9
## CONDITION OF IMPROVEMENTS

Section 9.1 Tenant Obligation to Maintain. During the Term, except to the extent (a) this Ground Lease is terminated pursuant to Articles 10 or 12, or (b) Tenant is performing alterations, modifications, demolition or removal of the Improvements in compliance with this Ground Lease and the DHCA, Tenant shall cause the Improvements to be maintained, preserved and kept in good repair and working order and in a safe condition, ordinary wear and tear excepted.

Section 9.2 No Landlord Obligation. Landlord shall not, in its capacity as the ground lessor under this Ground Lease, under any circumstances be required to furnish any services or facilities or to make any repairs, replacements or alterations of any nature or description in or to the Premises whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, or to make any expenditure whatsoever in connection with this Ground Lease, or to maintain the Premises in any way. Tenant hereby waives the right to make repairs at the expense of Landlord, in its capacity as the ground lessor under this Ground Lease, pursuant to any law in effect at the time of the execution of this Ground Lease or thereafter enacted, and assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance, and

management of the Premises. Nothing in this Section 9.2 shall be deemed to limit Landlord's obligations to furnish public services to the Premises or the Project or to make any repairs, replacements or alterations to the Public Improvements, in each case, in the ordinary course of providing governmental services in its capacity as a unit of local government.

Section 9.3 Alteration of Improvements. Tenant will not commit any physical waste of the Premises. Tenant may not, without the written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, alter, modify demolish or remove the Land or the Improvements, except as contemplated or permitted in this Ground Lease or the DHCA. Any such alterations, modifications, demolition or removal consented to by Landlord shall be done in a first-class workmanlike manner, using only good grades of materials and shall comply with all applicable insurance requirements and all material Requirements of Law. Except in the event the Term ends as a result of the exercise of the Purchase Option or Condemnation, Tenant shall, at its election, either remove all Improvements (including foundations, but excluding any Public Improvements) from the Premises at the end of the Term or the end of Tenant's right to remain in possession of the Premises, whichever occurs later, such that the Land is free of debris and from mechanic's liens arising out of such removal and any other liens, easements, exceptions of title, or other encumbrances of record not present on the Ground Lease Commencement Date (unless previously consented by in writing by Landlord or otherwise permitted or contemplated pursuant to terms of this Ground Lease or the DHCA), or Tenant shall deliver all of the Improvements to Landlord at the end of the Term or the end of Tenant's right to remain in possession of the Premises, whichever occurs later, free from mechanic's liens arising by or through Tenant and any other liens, easements, exceptions of title, or other encumbrances of record not present on the Ground Lease Commencement Date (unless previously consented by in writing by Landlord or otherwise permitted or contemplated pursuant to terms of this Ground Lease or the DHCA) and in reasonably good and working condition.

Section 9.4 Liens.

A. Tenant will pay or cause to be paid all charges for all work done by Tenant, including without limitation all labor and materials for all construction, repairs, alterations, additions, and/or demolition work to or upon the Premises during the Term, including such work or portion thereof as is required by any governmental entity having jurisdiction or is otherwise required by applicable law, and will not suffer or permit any mechanic's, materialman's, or similar liens for labor or materials furnished to the Premises during the Term or any extensions of this Ground Lease to be filed against the Premises and/or the Improvements; provided, however, Tenant shall have the right to: (i) contest the amount or validity, in whole or in part, of any such mechanic's, materialman's, or similar liens by appropriate proceedings diligently conducted in good faith, in which event, notwithstanding the provisions of this 9.4, payment of the charges for such work shall be postponed if, and only as long as, neither the Premises nor any part thereof, or interest therein or any income therefrom would by reason of such postponement or deferment, be reasonably expected to be in imminent danger of being forfeited or lost; or (ii) substitute a bond for the Premises and/or Improvements securing such lien claim in accordance with Requirements of Law (i.e., bond over), in which event Tenant shall have no further obligations with respect to such lien claim pursuant to this Section 9.4.

B. Neither Tenant, nor any contractor or subcontractor of Tenant, shall have a right, authority or power to bind Landlord for the payment of any claim for labor or material or for engineering or architect's fees, or for any charge or expense incurred in the erection, construction, alteration, restoration, maintenance, operation or management of the Land or Improvements, or to render Landlord's interest in the Land liable for any lien or right of lien for any labor, material, services (including management services) or for any other charge for expenses incurred in connection therewith. In addition, neither Tenant nor any contractor or subcontractor of Tenant shall under any circumstances be considered the agent of Landlord in constructing the Improvements or any other work undertaken in connection with any erection or construction of the Improvements.

C. Tenant shall require all of its contractors, subcontractors, suppliers, mechanics and materialmen to pay all invoices together with waivers of lien or conditional waivers, as appropriate, and shall not pay any invoices unless and until such waivers and releases are submitted. Tenant may elect to obtain "trailing waivers" from any parties other than contractors, reflecting payments made in connection with the prior draw application. Tenant shall not make final payment to any contractor, subcontractor, supplier, mechanic or materialman unless and until Tenant receives a "conditional waiver and release upon final payment" from such subcontractor, supplier, mechanic or materialman, together with appropriate proof of the release of all claims against the Premises for work performed or materials supplied.

D. In case of any lien of mechanics or materialmen or others with respect to work or services claimed to have been performed for or materials claimed to have been furnished to Tenant for the Premises having been filed against Landlord or Landlord's interest in the Premises, if Tenant does not bond over such lien in accordance with Section 9.4(A), then Tenant shall procure and deliver to Landlord a full and complete cancellation and discharge thereof or shall secure Landlord against damage for such failure to discharge or remove the same by either, at the option of Tenant:

(i) depositing with Landlord security in the form of cash in an amount equal to one hundred ten percent (110%) of the total of (i) the amount of the lien, (ii) all interest and penalties payable in connection therewith and (iii) all charges that may or might be assessed against or become a charge on the Landlord or other Improvements, or any part thereof as a result of such lien, such deposit to returned to Tenant upon discharge or satisfaction of such lien; or

(ii) delivering to Landlord security in the amount specified in clause (a) above in the form of a guaranty or bond, provided such guaranty or bond is in a commercially reasonable, industry standard form and is made by a surety reasonably satisfactory to Landlord at such time as to such surety's financial capability; or

(iii) delivering to Landlord security in the form of a title insurance endorsement to Landlord's owner's title insurance policy in form and substance reasonably satisfactory to Landlord.

Any sums held by Landlord pursuant to clause (i) above shall be paid by Landlord to the lienholder at the request of Tenant, provided that such utilization results in a full release or satisfaction of the lien it secures, and any balance shall be returned to Tenant. If Tenant shall fail to procure and deliver to Landlord a full and complete cancellation and discharge of any such lien,

or to deliver to Landlord the required form of security in the amount so specified, or bond over such lien, in any case, within a time period expiring on the earlier of (x) one hundred twenty (120) days after written notice from Landlord demanding such security or (y) fifteen (15) days after the date the lien claimant files a proceeding to foreclose such lien, Landlord may, but shall not be required to, take all action necessary to release and remove such lien and Tenant shall upon demand reimburse Landlord for all reasonable costs incurred by Landlord in connection therewith with interest thereon accruing at the Default Rate.

E. Tenant shall indemnify Landlord against, and save Landlord harmless from, any and all actual out-of-pocket loss, actual damage, third party claims, actual out-of-pocket liabilities, judgments, interest, actual out-of-pocket costs, actual out-of-pocket expenses, and reasonable actual out-of-pocket attorney's fees arising out of the filing of any such lien described in subparagraph (D) of this Section 9.4.

F. The Parties acknowledge and agree, for themselves and their successors and assigns, that Illinois law prohibits the filing of liens of mechanics or materialmen or others with respect to work, materials or services against real property owned by a unit of government. Accordingly, this Section 9.4 shall not be deemed or interpreted as a waiver by Landlord or Tenant of, or any limitation on, such statutory prohibition at any time during which Landlord is a unit of government.

Section 9.5 Environmental Matters.

A. Tenant shall not cause or permit any Regulated Substance to be placed, held, located, released, transported or disposed of on, under, at or from the Premises in violation of any Environmental Laws. Tenant shall, at its own cost and expense, contain at or remove from the Premises and/or the Improvements or perform any other necessary remedial action regarding any Regulated Substance in any way affecting the Premises and/or the Improvements if such containment, removal or other remedial action is required of the owner and/or operator of the Premises and/or the Improvements under any Environmental Laws during the Term (subject to the following paragraph) and, to the extent Tenant takes any remedial action with respect to any Regulated Substance whether or not so required, Tenant shall perform any containment, removal or remediation of any kind involving any Regulated Substance in any way affecting the Premises and/or the Improvements in compliance with the requirements of all material Environmental Laws. Tenant shall promptly provide Landlord with written notice (and a copy as may be applicable) of any of the following: (i) Tenant's obtaining knowledge or notice of any kind of the presence, or any actual or threatened release, of any Regulated Substance in any way affecting the Premises and/or the Improvements in violation of any Environmental Laws; (ii) Tenant's receipt or submission, or Tenant's obtaining knowledge or notice of any kind, of any report, citation, notice or other communication from or to any federal, state or local governmental or quasi-governmental authority regarding any Regulated Substance in any way affecting the Premises and/or the Improvements; or (iii) Tenant's obtaining knowledge or notice of any kind of the incurrence of any cost or expense by any federal, state or local governmental or quasi-governmental authority or any private party in connection with the assessment, monitoring, containment, removal or remediation of any kind of any Regulated Substance in any way affecting the Premises and/or the Improvements, or of the filing or recording of any lien on the Premises and/or the Improvements or any portion thereof in connection with any such action or Regulated Substance in any way affecting the Premises and/or the Improvements.

Tenant shall defend all actions against the Landlord and pay, protect, indemnify and save harmless Landlord, its directors, officers, employees and agents from and against any and all actual out-of-pocket liabilities, actual out-of-pocket losses, actual damages, actual out-of-pocket costs, actual out-of-pocket expenses (including, without limitation, reasonable attorneys' and consultant's fees, response and cleanup costs, court costs, and litigation expenses), causes of action, suits, third party claims, demands or judgments of any nature relating to any action brought against Landlord arising out of or in any way relating to any violation or claimed violation of Environmental Laws by Tenant with respect to the Premises and/or the Improvements. If at the expiration or other termination of this Ground Lease any response or cleanup of a condition involving Regulated Substances is required of Tenant and/or the Premises and/or the Improvements by any federal, state or local governmental authority and such condition first arose during the Term as a result of Tenant's acts or omissions, then Tenant shall remain solely responsible for such requirement and Landlord's actual damages for breach of this Ground Lease. The foregoing indemnity shall survive the expiration or earlier termination of this Ground Lease.

## ARTICLE 10
## DAMAGE OR DESTRUCTION

Notwithstanding any contrary law, subject to Tenant's right to terminate this Ground Lease pursuant to this Article 10, Rent shall not be suspended or abated as a result of any damage or destruction to, and/or during any restoration or rebuilding of, the Premises and/or the Improvements. If, at any time during the Term, the Land or the Improvements or any part thereof shall be damaged or destroyed by a casualty (the "*Damaged Facilities*"), Tenant, at its sole cost and expense, shall, except as otherwise provided in this Article 10, commence and thereafter proceed as promptly as possible to repair, restore and replace the Damaged Facilities as nearly as possible to their condition immediately prior to the casualty. If, however, the Casualty is a Substantial Casualty, then Tenant may, by notice to Landlord given within six (6) months after the Casualty, but only with Leasehold Mortgagee's (if any) consent, terminate this Ground Lease effective sixty (60) days after such notice; provided, however, that (i) Tenant shall remove all Improvements (including foundations, but excluding any Public Improvements) from the Premises in accordance with Section 9.3, and (ii) such termination shall not terminate any of Tenant's obligations or liabilities under this Ground Lease that are expressly stated herein to survive the termination of this Ground Lease.

## ARTICLE 11
## SUBLETTING AND ASSIGNMENT

Section 11.1 No Assignment or Subletting. Except (i) as permitted in Section 15.2 in connection with or arising out of a grant by Tenant of a Leasehold Mortgage to an Institutional Lender, (ii) as otherwise provided in this Section 11.1 or Section 11.2 below, or (iii) in connection with a Permitted Transfer (as defined in the DHCA), Tenant shall not, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed: (a) assign this Ground Lease or any interest hereunder or (b) permit any assignment of this Ground Lease by operation of law, or (c) sublet the Premises or any part thereof. After an assignment and the assumption by assignee of Tenant's obligations under this Ground Lease first arising and accruing thereafter, the assignor shall have no obligation or liability under this Ground Lease for such obligations. Tenant may, without Landlord's consent, sublease space at the Premises or in the Improvements to any Person for any use that does not violate the DHCA. Further, Tenant may,

without Landlord's consent, enter into occupancy, license or concession agreements with any Person for any use or occupancy of space at the Premises or in the Improvements that does not violate the DHCA.

Section 11.2 Transfers of Control. For purposes of this Article 11, a transfer at any one time or from time to time of more than fifty percent (50%) of an interest in Tenant or in an entity that controls Tenant (whether, directly or indirectly, pursuant to stock, partnership interest or other form of ownership or control, but excluding any transfer of securities listed on a recognized securities exchange) by any Person or Persons or entity or entities having an ownership interest in or other control of Tenant as of the Effective Date shall be deemed to be an "assignment". Notwithstanding the foregoing to the contrary, this Section 11.2 shall not prohibit: (a) transfers among existing members of Tenant; (b) an issuance, assignment or transfer of direct or indirect interests in Tenant related to infusions of new capital into such entity under circumstances where the owners of such entity prior to such issuance, assignment or transfer maintain, directly or indirectly, their capital in and day-to-day operating control of such entities; (c) an assignment or transfer of direct or indirect interests in Tenant by a member thereof to a third party, so long as such transfer or assignment does not result in a change in direct or indirect day-to-day control of Tenant; (d) an assignment or transfer of indirect interests in Tenant resulting from a transfer of an interest in an entity that directly or indirectly owns or controls multiple entities and not only Tenant, provided that the assignment or transfer is not designed to circumvent the requirement of Landlord's consent with respect to certain assignments of this Ground Lease; or (e) any Permitted Transfer.

Section 11.3 Assignment by Landlord. Landlord shall cause any transferee of Landlord's interest in the Premises to assume Landlord's obligations under this Ground Lease.

## ARTICLE 12
## CONDEMNATION

Section 12.1 General. If at any time during the Term there is a taking or damaging, including severance damage, of all or any part of the Premises, the Improvements and/or the Project, or the right of possession thereof, by eminent domain, inverse condemnation, or for any public or quasi-public use under the law (each such event, a "*Condemnation*"), which may occur pursuant to the entry by a court of competent jurisdiction of a final judgment order, or by a voluntary sale of all or any part of the Premises, the Improvements and/or the Project to the condemning authority (or to a designee of the condemning authority), provided that, with respect to such voluntary sale, the Premises, the Improvements and/or the Project or such part thereof is then under the threat of condemnation or such sale occurs by way of settlement of a condemnation action, the rights and obligations of the Parties shall be as set forth in this Article 12.

Section 12.2 Notice. In case of the commencement of any proceedings or negotiations which might be in lieu of or result in a Condemnation of all or any portion of the Premises, the Improvements and/or the Project during the Term, the Party learning of such proceedings shall promptly give written notice of such proceedings or negotiations to the other Party. Such notice shall describe, with as much specificity as is reasonable, the nature and extent of such Condemnation or the nature of such proceedings or negotiations and of the Condemnation which might result therefrom, as the case may be, and shall include a copy of any notice, information or documentation received from the condemning authority.

Section 12.3 Waiver. The parties intend that this Ground Lease fully govern all of their rights and obligations in the event of a Condemnation with respect to the Premises and/or the Improvements. Accordingly, Landlord and Tenant each hereby waive the provisions of 735 ILCS 30/10-5-90, as such Sections may from time to time be amended, replaced, or restated, with respect to the Premises or the Improvements.

Section 12.4 Major Condemnation. In the event of a Major Condemnation (as defined in the DHCA), this Ground Lease and all of Tenant's right, title, interest and future obligations thereunder shall terminate on the date when title to the condemned property vests in the condemning authority by delivery of a deed or entry of a final judgment order establishing the date on which the vesting of title will occur (the "*Condemnation Date*"); provided, however, that such termination shall not terminate any of Tenant's obligations or liabilities under this Ground Lease that are expressly stated herein to survive the termination of this Ground Lease.

Section 12.5 Partial Condemnation. In the event of a Condemnation other than a Major Condemnation or Temporary Easement (a "*Partial Condemnation*"):

A. This Ground Lease and all of Tenant's right, title and interest thereunder shall terminate on the Condemnation Date only with respect to the portion of the Premises or Tenant's leasehold estate in the Premises so taken; provided, however, that such termination shall not terminate any of Tenant's obligations or liabilities under this Ground Lease that are expressly stated herein to survive the termination of this Ground Lease;

B. This Ground Lease shall remain in full force and effect as to the portion of the Premises and Tenant's leasehold estate in the Premises not so taken that remains immediately after such Partial Condemnation;

C. Tenant shall proceed promptly to restore the Premises in a manner consistent with the terms and conditions set forth in this Ground Lease and the DHCA; and

D. The Annual Guaranteed Minimum Rent and the Annual Percentage Minimum Rent payable hereunder during the unexpired Term and the Purchase Price shall be each reduced to such extent as may be fair and reasonable under the circumstances, and Landlord and Tenant shall negotiate in good faith such reductions in the Annual Guaranteed Minimum Rent, the Annual Percentage Minimum Rent and the Purchase Price. If the parties cannot agree upon the applicable reductions in the Annual Guaranteed Minimum Rent, the Annual Percentage Minimum Rent and the Purchase Price, then the parties agree to settle any such dispute by arbitration as provided in Section 12.10.

Section 12.6 Allocation of Condemnation Award. All amounts, compensation, sums or value paid, awarded or received for a Condemnation attributable to the Premises or the Improvements, whether pursuant to judgment, this Ground Lease, settlement or otherwise (the "*Condemnation Award*") to either Landlord or Tenant on account of a Condemnation, shall, if applicable, be paid in accordance with the following:

FIRST, to the extent required by any Leasehold Mortgage, Tenant's Leasehold Mortgagee, if any, shall receive a sum equal to the unpaid principal balance of any Leasehold Mortgage, with interest thereon at the rate specified therein to the date of payment, or so much thereof as the

balance of the award is sufficient to pay (such payments to be made in order of lien priority and pari passu to Leasehold Mortgagees with liens of the same priority);

SECOND, Landlord shall receive such portion of the award as shall represent compensation for the fair market value of the Land taken, considered as vacant and unimproved and unencumbered by this Ground Lease and such portion of such award, if separately stated in the award or decree as shall represent consequential damages, if any, to the portion of the Land not taken, considered as vacant and unimproved and unencumbered by this Ground Lease; and

THIRD, Tenant shall receive the entire balance of the award, if any.

Notwithstanding the foregoing to the contrary, if Landlord is the condemning authority with respect to any Condemnation, then Landlord shall not receive any portion of the applicable Condemnation Award (and Tenant shall receive the entire balance of the award after the payment of the portion of the Condemnation Award to any Leasehold Mortgagees as described above).

Notwithstanding anything in this Ground Lease to the contrary, all amounts, compensation, sums or value paid, awarded or received for a Condemnation attributable to the 10-Acre Parcel (as defined in the DHCA) shall be payable entirely to Tenant and Landlord shall have no rights or claims with respect thereto.

Section 12.7 Temporary Easement. In the event of any Condemnation of all or any of the Premises and/or the Improvements or Tenant's leasehold estate in the Premises for a temporary period lasting less than the remaining Term of this Ground Lease, other than in connection with a Partial Condemnation for the remainder of the Term (a "*Temporary Easement*"), this Ground Lease shall remain in full force and effect, and, to the extent feasible, Tenant shall proceed promptly to restore the Premises in a manner consistent with the terms and conditions set forth in in this Ground Lease and the DHCA. In such event, any Condemnation Award shall be payable entirely to Tenant (unless Tenant terminations this Ground Lease and the period of the Temporary Easement shall extend beyond the expiration of the Term, in which case such Condemnation Award shall be apportioned between Landlord and Tenant as of the day of the Term in the same ratio that the part of the entire period for such compensation is made falling on or before the day of expiration and that part falling after, bear to such entire period). Notwithstanding the foregoing to the contrary, if any Condemnation of all or any of the Project or Tenant's leasehold estate in the Premises for a temporary period relates to a period longer than ninety (90) days and renders ten percent (10%) or more of the total useable area of the building (or buildings or other structures) included in the Project or ten percent (10%) or more of the total number of parking spaces available at the Project and/or the building (or buildings or other structures) included in the Project not capable of being used or occupied, then Tenant may, by notice within ninety (90) days after the expiration of such ninety (90) day period, terminate this Ground Lease effective as of the date designated by Tenant in such notice.

Section 12.8 Benefit of Landlord and Tenant. Except as otherwise expressly provided in this Ground Lease, the requirements of this Article 12 are for the benefit only of Landlord and Tenant, and no other Person shall have or acquire any claim against Landlord or Tenant as a result of any failure of Landlord or Tenant to actually undertake or complete any restoration as provided in this Article 12 or to obtain the evidence, certifications and other documentation provided for herein.

Section 12.9 Reserved.

Section 12.10 Arbitration.

A. The Parties agree that any dispute, claim, or controversy arising under Section 12.5 and/or such other matters hereunder as the Parties may mutually determine (individually or collectively, a "*Limited Arbitrable Dispute*") shall be resolved through arbitration as provided in this Section 12.10.

B. Either Party shall give the other Party written notice of any Limited Arbitrable Dispute ("*Dispute Notice*") which Dispute Notice shall set forth the nature of the dispute and the amount of loss, damage, and cost of expense claimed, if any, or the position of the Party with respect to the Limited Arbitrable Dispute.

C. Within thirty (30) days of the Dispute Notice, the Parties shall meet to negotiate in good faith to resolve the Limited Arbitrable Dispute. No time bar defenses shall be available based upon the passage of time during any negotiation called for by this Section.

D. In the event the Limited Arbitrable Dispute is unresolved within ninety (90) days of the Dispute Notice by good faith negotiations, the Dispute shall be arbitrated upon the filing by either Party of a written demand, with notice to the other Party, to the American Arbitration Association ("*AAA*") (to the extent such rules are not inconsistent as provided for herein). Within twenty (20) days after the filing of such arbitration demand, the Parties shall each select one person to act as arbitrator, and the two so selected shall select a third arbitrator within twenty (20) days of the commencement of the arbitration. If a Party fails to select an arbitrator or the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator within the allocated time, the arbitrator(s) not selected shall be appointed by AAA in accordance with its rules. The arbitrators shall be selected from a list supplied by AAA and shall be neutral and independent and must be either an attorney with at least ten (10) years of active practice or be a retired judge. Arbitration of the Limited Arbitrable Dispute shall be governed by the then current Commercial Arbitration Rules of AAA. Within thirty (30) days after the selection of the three (3) arbitrators has been completed, each Party shall submit to the arbitrators a best and final settlement offer with respect to each issue submitted to the arbitrators and an accompanying statement of position containing supporting facts, documentation and data. Upon such Limited Arbitrable Dispute being submitted to the arbitrators for resolution, the arbitrators shall assume exclusive jurisdiction over the Limited Arbitrable Dispute, and shall utilize such consultants or experts as they shall deem appropriate under the circumstances to assist in the resolution of the Limited Arbitrable Dispute, and will be required to make a final binding determination of a majority of the arbitrators with a reasoned opinion, not subject to appeal, within forty-five (45) days of the date of submission. Nothing herein shall prevent either Party to seek injunctive or equitable relief in the 19th Judicial Circuit Court of Lake County, Illinois or, where applicable, in the federal court for the Northern District of Illinois, to maintain the status quo in furtherance of arbitration.

E. For each issue decided by the arbitrators, the arbitrators shall award the reasonable expenses of the proceeding, including reasonable attorneys' fees, to the prevailing Party with respect to such issue. The arbitrators in arriving at their decision shall consider the pertinent facts and circumstances as presented in evidence and be guided by the terms and provisions of this Ground Lease and applicable law, and shall apply the terms of this Ground Lease without adding

to, modifying or changing the terms in any respect (except as expressly provided in Section 12.5(D)), and shall apply the laws of the State of Illinois to the extent such application is not inconsistent with this Ground Lease.

F. Any arbitration award may be entered as a judgment in the 19th Judicial Circuit Court of Lake County, Illinois or, where applicable, in the federal court for the Northern District of Illinois. A printed transcript of any such arbitration proceeding shall be kept and each of the Parties shall have the right to request a copy of such transcript, at its sole cost.

G. The Parties agree that, in addition to monetary relief, the arbitrators may make an award of equitable relief including a temporary, preliminary or permanent injunction and the Parties further agree that the arbitrators are empowered to enforce any of the provisions of this Ground Lease.

## ARTICLE 13
## EASEMENTS; LANDLORD'S ACCESS

Section 13.1 Easements.

A. Except as provided in Section 13.3, Landlord will not grant any easements, licenses or other rights which would permit any third party to obtain rights to the Premises (other than mortgages or deeds of trust granted by Landlord pursuant to Article 15) and/or the Improvements or modify any of the Permitted Encumbrances.

B. Landlord reserves the right to access and utilize the Land as necessary to complete its obligations under this Ground Lease and the DHCA.

Section 13.2 Landlord's Access to Premises. Except as provided in Section 13.1(B) of this Ground Lease, and other than in the event of an emergency involving an imminent threat to persons or property in the regular exercise of its police and regulatory powers as a home rule municipality in service to the public health, safety, or welfare, in which event Landlord may gain such access to the Premises and Improvements as is necessary, Landlord may not have any entry or access to the Premises or Improvements (i) except at reasonable times, (ii) in any manner which interrupts, interferes with or diminishes the operations of Tenant in the demised premises or would cause Tenant to incur costs or expenses that Tenant would not have incurred but for such entry, or (iii) in any matter that would violate the requirements of the Illinois Gambling Act or regulations promulgated by the IGB.

Section 13.3 Application(s) and Filings . Upon Tenant’s request, Landlord shall, without cost to Landlord, promptly join in and execute any Application or Filing as Tenant may from time to time request, provided that: (a) such Application or Filing is in customary form and imposes no material obligations (other than obligations that are ministerial in nature or merely require compliance with Requirements of Law) upon Landlord; (b) no uncured Tenant’s Default exists; and (c) Tenant reimburses Landlord’s reasonable costs and expenses (including, without limitation, reasonable attorneys’ fees) incurred in performing under this paragraph. Tenant shall have the right to obtain any approvals from governmental authorities necessary under applicable Requirements of Law, including, without limitation, land use and zoning approvals, to authorize the construction

of the Project or any other Construction Work and the operation of the uses permitted pursuant to Section 7.1 on the Premises.

## ARTICLE 14
## DEFAULT PROVISIONS

Section 14.1 Tenant's Default.

A. Tenant shall be in default under this Ground Lease ("*Tenant's Default*") if: (i) failure shall be made in the payment of the Rent or any installment thereof or in the payment of any other sum required to be paid by Tenant under this Ground Lease and such failure shall continue for fifteen business days after written notice thereof from Landlord; (ii) Tenant shall fail to maintain the insurance required by Article 8 of this Ground Lease and such failure shall continue for ten days after written notice thereof from Landlord; (iii) failure shall be made in the observance or performance of any of the other covenants or conditions in this Ground Lease which Tenant is required to observe and perform and such failure shall continue for thirty days after written notice to Tenant, unless such failure cannot reasonably be cured within such thirty day period, in which event Tenant shall have such additional reasonable period of time as is necessary to cure such failure provided it is diligently pursing such a cure during such additional period of time, (iv) the interest of Tenant in this Ground Lease shall be levied on under execution or other legal process and the same is not dismissed, stayed or vacated within one hundred eighty days thereafter other than in connection with the exercise by a Leasehold Mortgagee of its rights under a Leasehold Mortgage, or (v) an Event of Default (as defined in the DHCA) occurs under the DHCA, Landlord may treat the occurrence of any Tenant's Default as a breach of this Ground Lease, and thereupon at its option may, with or without further notice or demand of any kind to Tenant or any other person, be entitled to exercise any rights and remedies set forth in Section 14.1(B) of this Ground Lease.

B. Upon Tenant's Default, Landlord, subject to Sections 14.6 and 14.7 below, may, in addition to all other rights and remedies provided by law or equity, from time to time, to which Landlord may resort cumulatively or in the alternative, enter upon and repossess the Premises or any part thereof by legal process, summary proceedings, ejectment or otherwise, and may remove Tenant and all other persons and any and all property therefrom. Landlord shall be under no liability for or by reason of any such entry, repossession or removal. No such re-entry or repossession of the Premises or any part thereof by Landlord shall be construed as an election by Landlord to terminate this Ground Lease unless notice of such termination be given to Tenant or unless the termination of this Ground Lease be decreed by a court of competent jurisdiction. Tenant hereby waives the right to interpose counterclaims (other than compulsory counterclaims) in any summary proceeding instituted by Landlord against Tenant in any court or in any action instituted by Landlord in any court for unpaid Rent under this Ground Lease. Landlord shall use reasonable efforts to mitigate its damages arising from, or in connection with, any Tenant's Default.

Section 14.2 Landlord's Cure of Tenant's Default. If Tenant shall default in the performance or observance of any agreement or condition of this Ground Lease other than an obligation to pay money to Landlord and shall not cure such default within the applicable cure period under Section 14.1, Landlord, at its option, without waiving any claim for breach of this Ground Lease, may at any time thereafter cure such default for the account of Tenant, and any amount paid or any contractual liability incurred by Landlord in so doing shall be deemed paid or

incurred for the account of Tenant, and Tenant shall reimburse Landlord therefor and save Landlord harmless therefrom; provided, however, that, if Tenant is not diligently pursuing the cure of such default, Landlord may cure such default as aforesaid prior to the expiration of said waiting period but after notice to Tenant, if the curing of such default prior to the expiration of said waiting period is reasonably necessary to protect the Premises or Landlord's interest therein, or to prevent injury or damage to persons or property. If Tenant shall fail to reimburse Landlord upon demand for any amount paid for the account of Tenant hereunder, said amount shall be added to and become due as a part of the next payment of rent due hereunder. Tenant hereby agrees to pay Landlord interest on such amount at the Default Rate described below in Section 14.3. No entry by Landlord in accordance with the provisions of this Section 14.2 shall be deemed to be an eviction of Tenant. Nothing in this Section 14.3 shall limit Landlord's rights under Section 13.2.

Section 14.3 Interest on Unpaid Sums. Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent due hereunder will cause Landlord to incur costs not contemplated by this Ground Lease, the exact amount of which will be difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any mortgage or trust deed encumbering the Premises. Accordingly, if any installment of Rent due from Tenant shall not be received by Landlord or Landlord's designee within fifteen days after the date on which such sum is due, Tenant shall pay to Landlord interest on said rent at the Default Rate (as defined in the DHCA) from the date such Rent was due. Acceptance of interest by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

Section 14.4 Default by Landlord. If any act or omission by Landlord, as the ground lessor under this Ground Lease, would give Tenant the right to sue for damages from Landlord or to claim any rights with respect to this Ground Lease, Tenant will not sue for such damages or exercise any such rights until: (i) it shall have given written notice of the act or omission to Landlord; and (ii) such default shall continue for thirty days after such written notice to Landlord, unless such default cannot reasonably be cured within such thirty day period, in which event Landlord shall have such additional reasonable period of time as is necessary to cure such default provided it is diligently pursing such a cure during such additional period of time.

Section 14.5 Intentionally Omitted.

Section 14.6 Leasehold Mortgagee's Right to Cure.

A. Provided Tenant has provided Landlord with written notice of the existence of a Leasehold Mortgage, together with Leasehold Mortgagee's address and a contact party, simultaneously with the giving to Tenant of any notice of default under this Ground Lease, Landlord shall give a duplicate copy thereof to such Leasehold Mortgagee by registered mail, return receipt requested, and no such notice to Tenant shall be effective unless a copy of the same has been so sent to each such Leasehold Mortgagee. Any Leasehold Mortgagee shall have the right (but not the obligation) to cure any default by Tenant under this Ground Lease within the same period by which Tenant is required to effectuate any such cure plus (a) an additional 30 days for any monetary default hereunder and (b) an additional 90 days for any non-monetary default hereunder; provided that any such 90 day period shall be extended to the extent that the default is of the nature that it cannot reasonably be expected to be cured within such 90 day period and

Leasehold Mortgagee is diligently prosecuting such cure to completion or otherwise has commenced action to enforce its rights and remedies under any Leasehold Mortgage to recover possession of the Premises and/or the Improvements. In all cases, Landlord agrees to accept any performance by any Leasehold Mortgagee of any obligations hereunder as if the same had been performed by Tenant, and shall not terminate this Ground Lease or Tenant's right to possession until the requisite time periods for cure by each Leasehold Mortgagee have been exhausted pursuant to the terms hereof; provided, however, that no Leasehold Mortgagee shall be obligated to cure any default by Tenant or any other matter. Upon the written request of any Leasehold Mortgagee or prospective Leasehold Mortgagee, and for the exclusive benefit of said Leasehold Mortgagee, Landlord will promptly deliver to said Leasehold Mortgagee such form of Landlord's consent and waiver as may be reasonably required to assure such Leasehold Mortgagee that Landlord will comply with this Section 14.6.

B. In the event of a non-monetary default which cannot be cured without obtaining possession of the Premises and/or the Improvements or that is otherwise personal to Tenant and not susceptible of being cured, Landlord will not terminate this Ground Lease or Tenant's right to possession without first giving Leasehold Mortgagee (or its designee) reasonable time within which to obtain possession of the Premises and/or Improvements, including possession by a receiver, or to institute and complete foreclosure proceedings. Upon acquisition of Tenant's interest in this Ground Lease and performance by such Leasehold Mortgagee of all covenants and agreements of Tenant, except those which by their nature cannot be performed or cured by any Person other than Tenant, Landlord's right to terminate this Ground Lease and right to possession of the tenant hereunder shall be waived with respect to the matters which have been cured by Leasehold Mortgagee. This Section 14(B) shall not limit Section 15.2(H) of this Ground Lease.

Section 14.7 Gaming Laws. This Ground Lease is subject to the Gaming Laws. Notwithstanding anything to the contrary set forth in this Ground Lease, Landlord acknowledges and agrees that certain rights, remedies and powers under this Ground Lease (including its exercise of remedial rights upon the Premises or the Improvements) may be exercised only to the extent that (i) the exercise thereof does not violate any applicable laws, rules and regulations of the Gaming Authorities, including Gaming Laws, and (ii) all necessary approvals, licenses and consents from the Gaming Authorities required in connection therewith are obtained. Notwithstanding any other provision of this Ground Lease, Tenant expressly authorizes Landlord to cooperate with the applicable Gaming Authorities in connection with the administration of their regulatory jurisdiction over Tenant, including, without limitation, to the extent not inconsistent with the internal policies of Landlord and any applicable legal or regulatory restrictions, the provision of such documents or other information as may be requested by any such Gaming Authorities relating to Landlord, Tenant, Guarantor or this Ground Lease. The Parties acknowledge that the provisions of this Section 14.7 shall not be for the benefit of Tenant or any other Person. Each of the Parties hereto acknowledge that this Ground Lease is not effective unless and until approved by the IGB.

Section 14.8 Future Modifications. If any modification of this Ground Lease is required to comply with requirements of the Gaming Laws, as the same may be amended from time-to-time, or an order of the Gaming Authorities or IGB, Landlord and Tenant shall cooperate in good faith to negotiate and enter into such modification.

## ARTICLE 15
## FINANCING

Section 15.1 Landlord's Financing. Landlord may mortgage its fee interest in the Premises subject to the provisions of this Section 15.1. The following shall apply to Fee Mortgages: (a) all Fee Mortgages shall be expressly subject and subordinate to this Ground Lease, any new lease with a Leasehold Mortgagee or its designee described in subparagraph (O) of Section 15.2, and all amendments, modifications, and extensions thereof and shall include the Fee Mortgagee's agreement to execute and deliver to each Leasehold Mortgagee an agreement in accordance with subparagraph (P) of Section 15.2; and (b) Tenant shall not subordinate this Ground Lease without the prior written consents of all Leasehold Mortgagees. Landlord hereby represents and warrants that no Fee Mortgages are in effect as of the Effective Date. Landlord shall not enter into any Fee Mortgage that violates this Section 15.1.

Section 15.2 Tenant's Financing. Tenant shall have the right, at any time and from time to time, in addition to any other rights herein granted and without any requirement, to obtain Landlord's consent to encumber or to mortgage or grant a security interest in and to all or any part of Tenant's right, title and interest in and to this Ground Lease and Tenant's leasehold interest in this Ground Lease, under one or more Leasehold Mortgages for the purpose of obtaining financing, and/or to assign this Ground Lease as collateral security for such Leasehold Mortgages including but not limited to a mortgage to be executed on or after the Effective Date for the benefit of Collateral Trustee; provided, however, in each such case the Leasehold Mortgagee shall be an Institutional Lender. This Ground Lease shall be freely assignable to a Leasehold Mortgagee, its nominees or designees, or to any purchaser at foreclosure sale or through a power of sale or other enforcement proceeding or by a deed in lieu of foreclosure or otherwise without the consent of Landlord. Each of Landlord and Tenant acknowledges that so long as Tenant has provided Landlord with written notice of the existence of a Leasehold Mortgage, together with Leasehold Mortgagee's address and a contact party, and so long as such Leasehold Mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by the holder to Landlord, the following provisions shall apply in respect of such Leasehold Mortgage notwithstanding any other provisions of this Ground Lease to the contrary:

A. There shall be no cancellation, termination, surrender, acceptance of surrender, amendment or modification of this Ground Lease by joint action of Landlord and Tenant, nor shall Landlord recognize any such action by Tenant alone, without in each case the prior consent in writing of any Leasehold Mortgagee (which shall not be unreasonably withheld, delayed or conditioned). Nor shall any merger result from the acquisition by, or devolution upon, any person or entity of both the fee estate in the Premises and the leasehold estate created by this Ground Lease. Any attempted cancellation, termination, surrender, amendment, modification or merger of this Ground Lease without the prior written consent of all Leasehold Mortgagees (which shall not be unreasonably withheld, delayed or conditioned) shall be of no force or effect;

B. Each Leasehold Mortgagee shall be given notice of any arbitration or action, suit or other proceeding or dispute between the Parties and shall have the right to intervene therein and be made a party thereto if Tenant fails to do so. In any event, each Leasehold Mortgagee shall receive notice, and a copy, of any award, decision or judgment rendered in such arbitration, action, suit or other proceeding.

C. If there is a Condemnation in respect of the Premises, any award of payment which is to be paid to Tenant shall, if required under any Leasehold Mortgage, be paid instead to the

Leasehold Mortgagees in accordance with the priority of their liens and in accordance with the terms of Section 12.6 of this Ground Lease and the applicable Leasehold Mortgage. If a Condemnation results in a termination of this Ground Lease, Tenant's portion of the award or payment shall be paid to the Leasehold Mortgagees in accordance with the priority of their liens and the provisions of their respective Leasehold Mortgages, with any remaining balance paid to Tenant.

D. No payment made to Landlord by any Leasehold Mortgagee shall constitute agreement that such payment was, in fact, due under the terms of this Ground Lease; and the Leasehold Mortgagee having made any payment or portion thereof to Landlord pursuant to Landlord's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof provided it shall have made demand therefor not later than one year after the date of its payment.

E. In connection with the rights of a Leasehold Mortgagee to cure Tenant's defaults under this Ground Lease and to protect its security, Landlord and Tenant hereby expressly grant to each Leasehold Mortgagee, and agree that each Leasehold Mortgagee shall have, the absolute and immediate right to enter in and upon the Premises and the Improvements or any part thereof to such extent and as often as the Leasehold Mortgagee, in its sole discretion, deems necessary or desirable in order to prevent or to cure any such default by Tenant, without any obligation to do so.

F. In the event any right granted to a Leasehold Mortgagee under this Section 15.2 shall by its nature only be exercisable by one Leasehold Mortgagee, and if there are multiple Leasehold Mortgagees, then only the Leasehold Mortgagee holding the most senior Leasehold Mortgage shall be entitled to do so unless such Leasehold Mortgagee delegates its right to exercise such right to a Leasehold Mortgagee holding a junior Leasehold Mortgage.

G. In the event a Leasehold Mortgagee or its designee (by foreclosure, conveyance in lieu of foreclosure or otherwise), or the purchaser at a foreclosure sale or the assignee or designee of such purchaser, acquires Tenant's interest in this Ground Lease, the Leasehold Mortgagee or its designee shall not be bound by any modification or amendment to this Ground Lease entered into after Leasehold Mortgagee acquired a security interest in the Tenant’s interest in this Ground Lease not otherwise previously approved by the Leasehold Mortgagee.

H. In the event a Leasehold Mortgagee or its designee (by foreclosure, conveyance in lieu of foreclosure or otherwise), or the purchaser at a foreclosure sale or the assignee or designee of such purchaser, acquires Tenant's interest herein, such party shall thereupon become Tenant under this Ground Lease and hereby agrees to perform each and all of Tenant's obligations and covenants hereunder (including the payment of past due Rent); provided, however, that any defaults by Tenant under this Ground Lease which do not involve the payment of money and which cannot be satisfied or cured by such party shall be deemed waived.

I. Nothing in this Section 15.2 or Section 14.6 shall be deemed or construed to create or impose any obligation, covenant or liability, whatsoever, upon a Leasehold Mortgagee: (a) for the payment of Annual Minimum Rent and Additional Rent or any additional monetary sums due under this Ground Lease; (b) for the performance of any of Tenant's covenants and agreements hereunder; or (c) to cure any default by the Tenant under this Ground Lease, and neither Tenant nor Landlord shall have any claims against a Leasehold Mortgagee for its failure to make any

payment or take any action which it is entitled to take under this Section 15.2 until such time as such Leasehold Mortgagee assumes possession of the Premises or acquires the Tenant's interest in the Ground Lease, and then only for as long as it remains in possession or the owner of the leasehold estate created thereby, and Landlord expressly waives any and all such claims.

J. The liability of any Leasehold Mortgagee, its successors and assigns, under this Ground Lease shall be limited in all respects to its interest in this Ground Lease and the leasehold estate created hereby and such Leasehold Mortgagee shall have no personal liability hereunder and no judgment or decree shall be enforceable beyond the interest of such Leasehold Mortgagee in the leasehold estate created under this Ground Lease or shall be sought or entered in any action or proceeding brought in connection with this Ground Lease.

K. Notwithstanding anything to the contrary contained in this Ground Lease, if a Leasehold Mortgagee or its designee shall acquire title to Tenant's interest in this Ground Lease, by foreclosure of its Leasehold Mortgage thereon or by assignment in lieu of foreclosure, such Leasehold Mortgagee or designee may freely assign this Ground Lease without the consent of Landlord and shall thereupon be released from all liability for the performance or observance of the covenants and conditions in this Ground Lease contained on Tenant's part to be performed and observed from and after the date of such assignment; provided, however, that the assignee shall have assumed, pursuant to legally binding written instruments, the obligations of Tenant under the Ground Lease and the DHCA that first accrue from and after the date of such assumption.

L. Subject to the terms of its Leasehold Mortgage and to the extent permitted therein, should a Leasehold Mortgagee be entitled to the appointment of a receiver for all or any part of the Premises and/or the Improvements (a "*Receiver*"), without regard to whether such Leasehold Mortgagee has commenced an action to foreclose the lien of its Leasehold Mortgage and without regard to the nature of the action in which the appointment of a receiver is sought, Landlord agrees that it will not oppose any such appointment, whether or not entitled by the terms of this Ground Lease to do so. Notwithstanding anything to the contrary contained in this Ground Lease, the appointment of the Receiver for the Premises or the Improvements by any court at the request of a Leasehold Mortgagee or by agreement between Tenant and such Leasehold Mortgagee, or the entering into possession of the Premises or the Improvements by such Receiver, shall not be deemed to make such Leasehold Mortgagee a “mortgagee-in-possession" or otherwise liable in any manner with respect to the Premises or the Improvements and shall not, in and of itself, constitute default under this Ground Lease.

M. Tenant and Landlord agree that the provisions of this Section 15.2 are for the benefit of and shall be enforceable by each Leasehold Mortgagee, its respective successors and assigns, provided that each such Leasehold Mortgagee, and its respective successors and assigns, comply with the provisions of this Section 15.2.

N. Each Leasehold Mortgage shall expressly provide that, the rights granted by Tenant to the Leasehold Mortgagee respecting all rights and interests of Tenant under this Ground Lease are at all times subject and subordinate to the rights and interests of Landlord as fee owner of the Premises. Further, each Leasehold Mortgage shall provide that the Leasehold Mortgagee will execute such reasonable agreements and instruments as may be required by Landlord and/ or its lenders to further evidence such subordination. Tenant acknowledges and agrees that Landlord’s title in and to the Land shall at all times be superior to and paramount to the interest in the Land of

Tenant and anyone claiming by, through or under Tenant including, without limitation, any Leasehold Mortgagee or other encumbrancer, assignee or subtenant of Tenant.

O. If the Ground Lease is terminated because of a default by Tenant, or because of a disaffirmance or rejection of the Ground Lease by a receiver, liquidator, or trustee for Tenant or Tenant's property that has taken possession of Tenant's business or property because of Tenant's insolvency or alleged insolvency, at the time of such termination, then Landlord shall give notice thereof to Leasehold Mortgagee and upon Leasehold Mortgagee's request made within sixty days after delivery of such notice to Leasehold Mortgagee. Upon payment to Landlord of all rent and other monies due and payable by Tenant under the Ground Lease immediately prior to such termination of the Ground Lease, as well as all sums that would have become payable under the Ground Lease by Tenant to Landlord to the date of execution and delivery of the new lease as provided below, had the Ground Lease not been terminated, together with reasonable attorneys' fees and expenses in connection therewith and in connection with the removal of Tenant from the Premises, and the curing of all defaults under the Ground Lease that are within Leasehold Mortgagee's power to cure, and the performance of all of the covenants and provisions under the Ground Lease that are within Leasehold Mortgagee's power to perform up to the date of the execution and delivery of the new lease as provided below, giving credit, however, for any net income actually collected by Landlord from the Premises and the Improvements, Landlord shall enter into a new lease of the Premises and the Improvements (to the extent thereof as of the date of termination) with Leasehold Mortgagee or its designee for the remainder of the term of the Ground Lease (and, at Leasehold Mortgagee's election, Landlord shall convey to Leasehold Mortgagee, by a customary form of quitclaim deed in the State of Illinois, all of Landlord's right, title and interest in and to the Improvements other than the Pre-Existing Improvements), at the same rent and on the same terms and conditions as contained in the Ground Lease and dated as of the date of termination of the Ground Lease. Leasehold Mortgagee or its designee, as tenant under the new lease, shall have priority equal to Tenant's estate under the Ground Lease (that is, there shall be no charge, lien, or burden upon the Premises or improvements prior to or superior to the estate granted by such new lease that was not prior to or superior to Tenant's estate under the Ground Lease as of the date immediately preceding the date the Ground Lease went into default, except, however, any charge, lien or burden that should not have been permitted and/or should have been discharged by Tenant under the terms of the Ground Lease).

P. Landlord, upon request, shall execute, acknowledge, and deliver to any Leasehold Mortgagee an agreement, by and among Landlord, Tenant, and Leasehold Mortgagee (provided the same has been previously executed by Tenant and Leasehold Mortgagee) agreeing to all of the provisions of this Article 15 and Section 14.6, in form and substance reasonably satisfactory to such Leasehold Mortgagee and Landlord. Tenant shall reimburse Landlord for all of Landlord's reasonable out of pocket costs and expenses including, but not limited to, attorneys' fees, incurred in connection with a request from Tenant or a Leasehold Mortgagee for such an agreement.

Q. Landlord agrees that any insurance proceeds paid in connection with any fire or other casualty affecting the Premises and/or the Improvements shall be paid and applied in accordance with the terms of the most senior Leasehold Mortgage and related loan documents.

## ARTICLE 16
## HOLDING OVER AND SURRENDER

Except where Tenant exercises its right to purchase the Premises pursuant to Article 2 of this Ground Lease, at the termination of this Ground Lease by lapse of time or otherwise, Tenant shall yield up immediate possession of the Premises to Landlord and, failing so to do, Tenant hereby agrees to pay to Landlord an amount equal to one hundred fifty percent (150%) of the quarterly installments of the Annual Minimum Rent applicable immediately prior to the expiration of the Term, as set forth in Section 4.2 of this Ground Lease, for each quarter or fractional quarter such holding over (prorated on a per diem basis for any partial calendar quarter), plus the actual amount of Additional Rent for the holdover period, plus any other damages prescribed by law; provided, however, that Landlord shall not be entitled to seek any consequential damages due to any holding over unless such holding over continues for more than ninety (90) days after the termination of this Ground Lease.

## ARTICLE 17
## PROPERTY OF TENANT

Section 17.1 Personal Property, Trade Fixtures and Equipment. Tenant may, at its sole cost and expense, install any trade fixtures, equipment, and other personal property of a temporary or permanent nature used in connection with the development, construction, and operation of the Project on or at the Premises, and Tenant shall have the right at any time during the Term to remove any and all such trade fixtures, equipment, and other personal property that it may have stored or installed upon or at the Premises.

Section 17.2 Abandonment of Property. In case Tenant shall decide not to remove any part of its trade fixtures, equipment, or other personal property upon expiration or earlier termination of this Ground Lease, Tenant shall notify Landlord in writing not fewer than ninety days prior to the scheduled expiration of the Term, or within thirty days after the earlier termination of this Ground Lease, specifying those items of trade fixtures, equipment, installations made pursuant to Section 17.1, or other personal property that Tenant has decided not to remove. If, within thirty days after service of such notice ("*Abandonment Notice*"), Landlord shall request ("*Removal Notice*") Tenant to remove any of said trade fixtures, equipment, or other personal property, Tenant shall, at its own expense, at or before the scheduled expiration of the Term, or, in the event of the earlier termination of this Ground Lease, no later than sixty days after Landlord delivers the Removal Notice to Tenant, remove said trade fixtures, equipment, and other personal property and, in case of damage by reason of such removal, restore the Premises to good order and condition. Any of Tenant's trade fixtures, equipment, and other personal property not removed by Tenant upon the expiration or earlier termination of this Ground Lease shall, after the expiration of the removal period described in this Section 17.2, if any, be considered abandoned by Tenant ("*Abandoned Property*") and may be appropriated, sold, destroyed, or otherwise disposed of by Landlord without liability or obligation on Landlord's part to pay or account for, same. Except for any trade fixtures, equipment, and other personal property identified in the Abandonment Notice and not requested to be removed pursuant to the Removal Notice, Tenant will pay all reasonable costs and expenses incurred by Landlord in removing, sorting, or disposing of Tenant's trade fixtures, equipment, and other personal property and repairing all damage to the Premises caused by removal of Tenant's trade fixtures, equipment, and other personal property which Tenant has failed to remove despite Landlord's request therefor. At the request of Landlord, Tenant will, at such time, execute, acknowledge, and deliver to Landlord a bill of sale or other appropriate conveyance document evidencing the transfer to Landlord of all right, title and interest of Tenant in and to the Abandoned Property.

ARTICLE 18
ESTOPPEL CERTIFICATES

Section 18.1 Estoppel Certificates. Landlord and Tenant each agree to furnish, at any time and from time to time, so long as this Ground Lease shall remain in effect, upon not less than twenty-one days prior written request by the other Party, a statement (an "*Estoppel Certificate")* in writing certifying (i) that this Ground Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified, stating the modifications), (ii) that the dates to which the Rent and other charges have been paid in advance, if any, (iii) that to the best knowledge of the certifying Party, there are no defaults under the Ground Lease by Landlord or Tenant, as the case may be, except such defaults as may be specified in such statement, (iv) that, in the case of Landlord, to its best knowledge, it is not in default under any mortgage or deed of trust encumbering the Premises and that in the case of Tenant, to its best knowledge, it is not in default under any leasehold mortgage encumbering Tenant's leasehold interest under this Ground Lease, and (v) such other matters as the requesting Party shall reasonably request, it being intended that any such statement delivered pursuant to this Article may be relied upon by any prospective purchasers or assignees of Landlord's or Tenant's respective interests, any prospective mortgagee, holder of any mortgage, or assignee of any mortgage upon Tenant's interest in the Premises or the Improvements or any prospective subtenant of all or any portion of the Premises. Notwithstanding anything contained herein to the contrary, in no event shall either Party be required to furnish more than two Estoppel Certificates in any twelve consecutive month period; provided, however, that Tenant may request multiple Estoppel Certificates for the same transaction or financing simultaneously (which shall be deemed to constitute only one Estoppel Certificate). Tenant shall reimburse Landlord for all of Landlord's reasonable out of pocket costs and expenses including, but not limited to, reasonable attorneys' fees, incurred in connection with a request from Tenant for an Estoppel Certificate.

ARTICLE 19
NOTICES

Section 19.1 Manner of Making Notices. In every case where under any of the provisions of this Ground Lease or in the opinion of either Landlord or Tenant, or otherwise, it shall or may become necessary or desirable to make or give any declaration, approval or notice of any kind, it shall be sufficient if a copy of any such declaration, approval or notice is hand delivered, sent by nationally recognized overnight delivery company, sent by registered or certified mail, return receipt requested, postage prepaid, or sent by electronic mail (and if transmitted before 5:00 p.m. Central Time on a business day, then such notice sent by electronic mail shall be deemed given on the same business day, otherwise such notice shall be deemed given on the next business day, provided that no error or failure of delivery message is received by the sender, and provided that in the case notice is sent by electronic mail, a copy must be sent the same business day by one of the other methods set forth in this Section 19.1 unless the recipient affirmatively replies to such message and acknowledges receipt [i.e. not an automated return receipt]), in each case properly addressed to Landlord or Tenant (as the case may be) at the following address (or such other address as may hereafter be given in writing as the address for notice hereunder by one Party to the other):

If to Landlord:

City of Waukegan
100 North Martin Luther King, Jr. Avenue
Waukegan, Illinois 60085
Attention: Noelle Kischer-Lepper, Director of Planning & Economic Development
Email: noelle.kischer@waukeganil.gov

with a copy to:

Elrod Friedman LLP
325 North LaSalle Street, Suite 450
Chicago, Illinois 60654
Attention: Stewart J. Weiss
Email: stewart.weiss@elrodfriedman.com

If to Tenant:

FHR-Illinois LLC
c/o Full House Resorts, Inc.
1980 Festival Plaza Drive, Suite 680
Las Vegas, Nevada 89135
Attention: Alex J. Stolyar, SVP & Chief Development Officer
Email: astolyar@fullhouseresorts.com

and

FHR-Illinois LLC
c/o Full House Resorts, Inc.
1980 Festival Plaza Drive, Suite 680
Las Vegas, Nevada 89135
Attention: Elaine Guidroz
Email: eguidroz@fullhouseresorts.com

and

FHR-Illinois LLC
600 Lakehurst Road
Waukegan, Illinois 60085
Attention: Jeff Babinski
Email: jbabinski@americanplace.com

with a copy to:

Taft Stettinius & Hollister LLP
111 East Wacker Drive, Suite 2800
Chicago, Illinois 60601
Attention: Cezar M. Froelich, Kimberly M. Copp

Email: cfroelich@taftlaw.com, kcopp@taftlaw.com

Copies of all notices shall be given to Leasehold Mortgagee(s) at the address(es) provided by Tenant or by Leasehold Mortgagee(s), as the case may be; provided, however, all notices to Collateral Trustee to be given to:

Wilmington Trust, National Association
50 S. Sixth Street, Suite 1290
Minneapolis, MN 55402
Attn: Full House Resorts Notes Administrator
Facsimile: (612) 217-5651

Section 19.2 When Notice Deemed Given. Whenever a notice which is required by this Ground Lease to be given by either Party hereto to the other Party, the notice shall be considered as having been given on the day on which the notice was hand delivered or delivered by overnight delivery company, or on the day placed in the United States mails as provided by this Article.

## ARTICLE 20
## MISCELLANEOUS

Section 20.1 Covenants to Run with the Land. All the covenants, agreements, conditions and undertakings in this Ground Lease shall extend and inure to and be binding upon the successors and permitted assigns of each of the parties hereto, the same as if they were in every case named and expressed, and the same shall be construed as covenants running with the land. Wherever in this Ground Lease reference is made to any of the Parties hereto, it shall be held to include and apply to, wherever applicable, also the successors and permitted assigns of each such Party, the same as if in each and every case so expressed.

Section 20.2 Survival of Indemnity and Payment Obligations. Each obligation to indemnify, defend and hold harmless provided for in this Ground Lease and to pay any amounts accruing under this Ground Lease prior to the date of expiration or termination of this Ground Lease shall survive the expiration or termination of this Ground Lease.

Section 20.3 No Merger of Estates. There shall be no merger of this Ground Lease or the leasehold estate created by this Ground Lease with any other estate or interest in the Premises by reason of the fact of the same person, firm, corporation (including the Tenant), or other entity acquiring or owning or holding, directly or indirectly, this Ground Lease or the leasehold interest created by this Ground Lease or any interest in this Ground Lease, and any such other estate or interest in the Premises or any part thereof, and no such merger shall occur unless and until all corporations, firms, and other entities having an interest (including a security interest) in this Ground Lease or the leasehold interest created by this Ground Lease and any such other estate or interest in the Premises or any part thereof, shall join in a written instrument effecting such merger and shall duly record the same.

Section 20.4 Relationship of Parties. Neither anything in this Ground Lease nor any acts of the Parties shall be construed or deemed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between the Parties.

Section 20.5 Successors and Assigns. The words "Landlord" and "Tenant" and the pronouns referring thereto, as used in this Ground Lease, shall mean, where the context requires or permits, the persons named herein as Landlord and as Tenant, respectively, and their respective heirs, legal representatives, successors, and assigns, irrespective of whether singular or plural, or masculine, feminine, or neuter. The agreements and conditions in this Ground Lease contained on the part of Landlord to be performed and observed shall be binding upon Landlord and its heirs, legal representatives, successors, and assigns, and shall inure to the benefit of Tenant and its heirs, legal representatives, successors, and assigns; and the agreements and conditions on the part of Tenant to be performed and observed hereunder shall be binding upon Tenant and its heirs, legal representatives, successors, and assigns, and shall inure to the benefit of Landlord and its heirs, legal representatives, successors, and assigns.

Section 20.6 Entire Agreement. This Ground Lease (including the DHCA and all Exhibits to both instruments) contains the entire and only agreement between the parties with respect to the subject matter of this Ground Lease, and no oral statements or representations or prior written matter or negotiations not contained in this Ground Lease shall have any force or effect. This Ground Lease shall not be modified, amended, canceled, surrendered, or terminated in any way except by a writing, subscribed by authorized representatives of the Party against whom it is to be enforced, which writing shall contain the written consent of each Leasehold Mortgagee.

Section 20.7 Force Majeure Occurrences. In the event that Landlord or Tenant are delayed or prevented from performing any of their respective obligations during the Term because of an occurrence of Force Majeure, then the period of such delays shall be deemed added to the time herein provided for the performance of any such obligation and the delayed Party shall not be liable for losses or damages caused by such delays; provided, however, that this Section 20.7 shall not apply to the payment of any rent required to be paid by Tenant hereunder.

Section 20.8 Memorandum of Lease. The Parties agree, concurrently with the execution of this Ground Lease, to execute a memorandum of this Ground Lease in the form attached hereto as Exhibit D recording in the chain of title of the Land, setting forth the parties hereto, the date of this Ground Lease and the term of this Ground Lease, and said memorandum shall be promptly recorded by Tenant. Either Landlord or Tenant may record a memorandum of any amendment or modification of this Ground Lease, provided the memorandum shall not include the financial terms of this Ground Lease (as so amended or modified). Each Party shall, upon the request of the other, join in the execution of a memorandum of any amendment or modification of this Ground Lease in proper form for recordation together with any transfer tax returns or forms necessary for such recordation. The Party requesting such memorandum of any amendment or modification of this Ground Lease shall be responsible for the payment of any recording fees.

Section 20.9 Invalidity of Provisions. If any provision of this Ground Lease or the application thereof to any Person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Ground Lease, or the application of such provision to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Ground Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 20.10 Remedies Cumulative. Except as otherwise expressly provided in this Ground Lease: no remedy herein or otherwise conferred upon or reserved to Landlord or Tenant

shall be considered exclusive of any other remedy, but the same shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute; and every power and remedy given by this Ground Lease to Landlord or Tenant may be exercised from time to time and as often as occasion may arise or as may be deemed expedient by Landlord or Tenant, as the case may be. No delay or omission of Landlord or Tenant to exercise any right or power arising from any default shall impair any such right or power, nor shall it be construed to be a waiver of any such default or an acquiescence therein.

Section 20.11 Waiver of Remedies Not to be Inferred. No waiver of any breach of any of the covenants or conditions of this Ground Lease shall be construed to be a waiver of any other breach or to be a waiver of, acquiescence in, or consent to any further or succeeding breach of the same or similar covenant or condition.

Section 20.12 Amendments. None of the covenants, terms or conditions of this Ground Lease to be kept and performed by Landlord or Tenant shall in any manner be waived, modified, changed or abandoned except by a written instrument approved by Landlord's corporate authorities and signed by both Parties (provided that any waiver need only be signed by the Party against whom enforcement of such waiver is sought).

Section 20.13 Singular and Plural. Any word contained in the text of this Ground Lease, including but not by way of limitation "Tenant" and "Landlord", shall be read as the singular or the plural and as the masculine, feminine or neuter gender as may be applicable in the particular context.

Section 20.14 Captions. The captions of this Ground Lease are for convenience and reference only and in no way define, limit or describe the scope or intent of this Ground Lease.

Section 20.15 Governing Law; Consent to Jurisdiction. This Ground Lease shall be governed by, and enforced in accordance with, the internal laws, but not the conflicts of laws rules, of the State of Illinois. Exclusive jurisdiction with regard to the commencement of any actions or proceedings arising from, relating to, or in connection with this Ground Lease will be in the 19th Judicial Circuit Court of Lake County, Illinois or, where applicable, in the federal court for the Northern District of Illinois, and each Party consents to the jurisdiction of such courts. The Parties waive their respective right to transfer or change the venue of any litigation filed in the 19th Judicial Circuit Court of Lake County, Illinois or the federal court for the Northern District of Illinois. The Parties further acknowledge and agree: (i) that the Parties shall not enter into binding arbitration to resolve any contract dispute, except as provided in Sections 12.5 and 12.10; and (ii) Landlord does not waive any rights, powers, or affirmative defenses provided by the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 et seq.).

Section 20.16 Attorneys' Fees. In the event of a dispute between the parties resulting in litigation, the prevailing Party (as determined by the court, agency, or other authority before which such litigation is commenced) shall have the right to recover its court costs, reasonable attorneys' fees, and reasonable expenses incurred in connection with prosecuting or defending such litigation from the non-prevailing Party.

Section 20.17 Counterparts. This Ground Lease may be executed in one or more counterparts, with signatures to one being deemed signatures to each such counterpart, each of

which shall be deemed one and the same instrument. Electronic signatures appearing on this Ground Lease are the same as handwritten signatures for the purposes of validity, enforceability and admissibility.

Section 20.18 Brokers. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Ground Lease, and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Ground Lease. Tenant agrees to indemnify, defend and hold harmless Landlord and the Indemnified Parties from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the Tenant's dealings with any real estate broker or agent. Landlord agrees to indemnify, defend and hold harmless Tenant from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the Landlord's dealings with any real estate broker or agent. The terms of this Section 20.18 shall survive the expiration of the Term or earlier termination of this Ground Lease.

Section 20.19 Time is of the Essence. Time is of the essence of this Ground Lease and each of its provisions, subject to Section 20.7 of this Ground Lease.

Section 20.20 No Third Party Beneficiaries. No claim as a third party beneficiary under this Ground Lease by any person, firm, or corporation (except Leasehold Mortgagees) shall be made, or be valid, against Landlord or Tenant.

Section 20.21 References to DHCA: Conflicts. As the context requires, for purposes of this Ground Lease the term "*Developer*" as used in the DHCA shall mean Tenant hereunder, the term " *City*" as used in the DHCA shall mean Landlord hereunder. In the event of any conflict between the provisions of this Ground Lease and the DHCA, the provisions of the DHCA shall control.

Section 20.22 Guaranty. Concurrently with Tenant's execution and delivery of this Ground Lease, Tenant shall provide to Landlord a Limited Guaranty in the form attached hereto as Exhibit E from Tenant's parent company, Full House Resorts, Inc., a Delaware corporation.

Section 20.23 Landlord's Representations and Warranties. Landlord represents and warrants to Tenant that the following facts and conditions exist and are true as of the Effective Date:

A. Except as otherwise disclosed on Schedule 20.23, there is no existing or, to Landlord's knowledge, pending or threatened litigation, suit, action, or proceeding before any court or administrative agency affecting Landlord, any constituent entity or individual of Landlord, or the Premises that would, if adversely determined, adversely affect Landlord, the Premises, or Tenant's ability to develop and operate the Premises for the Project;

B. Except for the DHCA, Landlord is not a party to any contract for any alteration, addition, development, redevelopment, modification, expansion, demolition, restoration, or other construction or reconstruction work affecting any or all improvements from time to time constituting part of the Premises, or the construction or reconstruction of any new improvements,

or repair of any existing improvements, located on or at the Premises. No Person has the right to claim any mechanic's or supplier's lien arising from any labor or materials furnished to the Premises before the Effective Date (excluding any labor or materials furnished to Tenant pursuant to the TCE).

C. Tenant is the only lessee of the Premises. No other Person has any right to lease, use, or occupy the Premises.

D. Except for the Purchase Option, neither Landlord nor any of its Affiliates has entered into any, and to the knowledge of Landlord there are no, agreements currently in effect pursuant to which any party has any right of first refusal, option or other right to purchase all or any part of the Premises.

Section 20.24 No Consequential Damages. Except as otherwise provided in Article 16 above, Landlord and Tenant each hereby agrees that, whenever either Party shall be entitled to seek or claim damages against the other Party by reason of a breach of this Ground Lease by such Party, in enforcement of any indemnity obligation, or for misrepresentation or breach of warranty, or otherwise, neither Landlord nor Tenant shall seek, nor shall there be awarded or granted by any court, arbitrator, or other adjudicator, any speculative, consequential, collateral, special, punitive, or indirect damages, whether such breach shall be willful, knowing, intentional, deliberate, or otherwise. Except as otherwise provided in Article 16 above, the Parties intend that any damages awarded to either Party shall be limited to the actual, direct damages sustained by the aggrieved Party in question. Except as otherwise provided in Article 16 above, neither Party shall be liable for any loss of profits suffered or claimed to have been suffered by the other.

Section 20.25 Waiver of Jury Trial. **LANDLORD AND TENANT EACH WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS GROUND LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, OR TENANT'S USE OR OCCUPANCY OF THE PREMISES.**

Section 20.26 No Waiver of Regulatory Authority. The Parties agree and acknowledge that this Ground Lease is entered into by Landlord in accordance with its constitutional authority to contract with individuals, associations, and corporations in any manner not prohibited by law or ordinance. Nothing set forth herein shall be deemed to limit, waive or otherwise modify Landlord's regulatory authority as a home rule municipal corporation including, without limitation, the legislative discretion of the City Council (including any subsidiary board thereof) to grant or withhold any approvals, consents, permits, licenses or similar enactments as well as the exercise of Landlord's police powers to preserve the health, safety, and welfare of the City and its residents.

## ARTICLE 21
## EXHIBITS AND ADDENDA TO LEASE

Attached to this Ground Lease, and incorporated into and made a part of this Ground Lease by this reference, are the following:

(a) EXHIBIT A-1: Legal Description of the Land

(b) EXHIBIT A-2: Depiction of the Land

(c) EXHIBIT B: Purchase and Sale Agreement

(d) EXHIBIT C: Tenant's Required Insurance Coverage

(e) EXHIBIT D: Form of Memorandum of Ground Lease

(f) EXHIBIT E: Form of Guaranty

(g) EXHIBIT F: Permitted Encumbrances

(h) SCHEDULE 20.23: Litigation

[**REMAINDER INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS**]

**IN WITNESS WHEREOF**, the parties hereto have duly executed and delivered this Ground Lease, effective as of the day and year first above written.

**LANDLORD:**

**CITY OF WAUKEGAN**,
an Illinois home rule municipality

By: /s/ Ann B. Taylor
Ann B. Taylor, Mayor

ATTEST:

By: /s/ Janet E. Kilkelly
Janet E. Kilkelly, City Clerk

**TENANT:**

**FHR-ILLINOIS LLC**,
a Delaware limited liability company

By: /s/ Elaine Guidroz
Elaine Guidroz, Vice President and Secretary

**Exhibit 21.1**

**LIST OF SUBSIDIARIES OF FULL HOUSE RESORTS, INC.**

| Name of Subsidiary | Jurisdiction of Incorporation |
|---|---|
| FHR Atlas LLC | Nevada |
| FHR-Colorado LLC | Nevada |
| FHR-Illinois LLC | Delaware |
| Full House Subsidiary, Inc. | Delaware |
| Full House Subsidiary II, Inc. | Nevada |
| Gaming Entertainment (Indiana) LLC | Nevada |
| Gaming Entertainment (Kentucky) LLC | Nevada |
| Gaming Entertainment (Nevada) LLC | Nevada |
| Richard and Louise Johnson, LLC | Kentucky |
| Silver Slipper Casino Venture LLC | Delaware |
| Stockman's Casino | Nevada |

**Exhibit 23.1**

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement Nos. 333-251778 and 333-260566 on Form S-3 and Registration Statement Nos. 333-203046, 333-204312, 333-219294, and 333-258729 on Form S-8 of our reports dated March 15, 2023, relating to the financial statements of Full House Resorts, Inc. and the effectiveness of Full House Resorts, Inc.'s internal control over financial reporting appearing in this Annual Report on Form 10-K for the year ended December 31, 2022.

/s/ Deloitte & Touche LLP

Las Vegas, Nevada
March 15, 2023

**Exhibit 31.1**

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO EXCHANGE ACT RULE 13A-14(A)/15(D)-14(A) AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Daniel R. Lee, certify that:

1. I have reviewed this Annual Report on Form 10-K of Full House Resorts, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 15, 2023

By: /s/ DANIEL R. LEE
Daniel R. Lee
Chief Executive Officer

**Exhibit 31.2**

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO EXCHANGE ACT RULE 13A-14(A)/15(D)-14(A) AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Lewis A. Fanger, certify that:

1. I have reviewed this Annual Report on Form 10-K of Full House Resorts, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 15, 2023

By: /s/ LEWIS A. FANGER
Lewis A. Fanger
Chief Financial Officer

**Exhibit 32.1**

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER**
**PURSUANT TO 18 U.S.C. SECTION 1350 AS ADOPTED PURSUANT TO SECTION 906 OF THE**
**SARBANES-OXLEY ACT OF 2002**

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, I, Daniel R. Lee, Chief Executive Officer of Full House Resorts, Inc. (the "Company"), hereby certify, that, to my knowledge:

(1) The Annual Report on Form 10-K for the year ended December 31, 2022 of the Company as filed with the Securities and Exchange Commission on the date hereof (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 15, 2023

By: /s/ DANIEL R. LEE
Daniel R. Lee
Chief Executive Officer

**Exhibit 32.2**

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER**
**PURSUANT TO 18 U.S.C. SECTION 1350 AS ADOPTED PURSUANT TO SECTION 906 OF THE**
**SARBANES-OXLEY ACT OF 2002**

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, I, Lewis A. Fanger, Chief Financial Officer of Full House Resorts, Inc. (the "Company"), hereby certify, that, to my knowledge:

(1) The Annual Report on Form 10-K for the year ended December 31, 2022 of the Company as filed with the Securities and Exchange Commission on the date hereof (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 15, 2023

By: /s/ LEWIS A. FANGER
Lewis A. Fanger
Chief Financial Officer

## DESCRIPTION OF GOVERNMENTAL GAMING REGULATIONS

**Nevada Regulatory Matters**

In order to own or lease Stockman's Casino, the Grand Lodge Casino or any other gaming operation in Nevada, we are subject to the Nevada Gaming Control Act and to the licensing and regulatory control of the Nevada Gaming Control Board, the Nevada Gaming Commission, and various local, city and county regulatory agencies.

In May 2006, we applied for registration with the Nevada Gaming Commission as a publicly traded corporation, which was granted on January 25, 2007. We must regularly submit detailed financial and operating reports to the Nevada Gaming Control Board. Certain loans, leases, sales of securities and similar financing transactions must also be reported to or approved by the Nevada Gaming Commission.

The Nevada Gaming Commission may also require anyone having a material relationship or involvement with us to be found suitable or licensed, in which case those persons are required to pay the costs and fees of the Nevada Gaming Control Board in connection with the investigation.

Any person who acquires more than 5% of any class of our voting securities must report the acquisition to the Nevada Gaming Commission. Any person who becomes a beneficial owner of 10% or more of our voting securities is required to apply for a finding of suitability. The Nevada Gaming Commission may also, in its discretion, require any other holders of our debt or equity securities to file applications to be found suitable to own the debt or equity securities. If the Nevada Gaming Commission determines that a person is unsuitable to own such security, then pursuant to the regulations of the Nevada Gaming Commission, we may be sanctioned, including the loss of our approvals, if, without the prior approval of the Nevada Gaming Commission, we:

- pay to the unsuitable person any dividends, interest or any distribution whatsoever;
- recognize any voting right by such unsuitable person in connection with such securities;
- pay the unsuitable person remuneration in any form; or
- make any payment to the unsuitable person by way of principal, redemption, conversion exchange, liquidation or similar transaction.

Under certain circumstances, an "institutional investor," as such term is defined in the regulations of the Nevada Gaming Commission, which acquires more than 10%, but not more than 25% of our voting securities, may apply to the Nevada Gaming Commission for a waiver of such finding of suitability requirements, provided the institutional investor holds the voting securities for investment purposes only.

Any person who fails or refuses to apply for a finding of suitability or a license within 30 days after being ordered to do so by the Nevada Gaming Commission may be found unsuitable based solely on such failure or refusal.

We are required to maintain a current stock ledger in Nevada which may be examined by the Nevada Gaming Commission at any time, and to file with the Nevada Gaming Commission, at least annually, a list of our stockholders. The Nevada Gaming Commission has the power to require our stock certificates to bear a legend indicating that the securities are subject to the Nevada Gaming Control Act and the regulations of the Nevada Gaming Commission.

As a licensee or registrant, we may not make certain public offerings of our securities without the prior approval of the Nevada Gaming Commission. We have received a waiver of the prior approval requirement with respect to public offerings of securities subject to certain conditions. Also, changes in control through merger, consolidation, acquisition of assets, management or consulting agreements or any form of takeover cannot occur without prior investigation by the Nevada Gaming Control Board and approval by the Nevada Gaming Commission.

The Nevada Legislature has declared that some repurchases of voting securities, corporate acquisitions opposed by management, and corporate defense tactics affecting Nevada gaming licensees, and registered companies that are affiliated with those operations, may be harmful to stable and productive corporate gaming. Because we are a registered company, approvals may be required from the Nevada Gaming Commission before we can make exceptional repurchases of voting securities above their current market price and before a corporate acquisition opposed by management can be consummated. The Nevada Gaming Control Act also requires prior approval of a plan of recapitalization proposed by a registered company's Board in response to a tender offer made directly to its stockholders for the purpose of acquiring control.

Licensee fees and taxes, computed in various ways depending on the type of gaming or activity involved, are payable to the State of Nevada and to the counties and cities in which the Nevada licensee's respective operations are conducted. Depending upon the particular fee or tax involved, these fees and taxes are payable monthly, quarterly or annually and are based upon either:

- a percentage of the gross revenues received;
- the number of gaming devices operated; or
- the number of table games operated.

A live entertainment tax is also paid on admission charges where entertainment is furnished. Nevada licensees that hold a license as an operator of a slot route, a manufacturer or a distributor also pay certain fees and taxes to the State of Nevada.

The Nevada Gaming Commission enacted a cybersecurity regulation in December 2022, which requires us to conduct a risk assessment to develop cybersecurity best practices by December 31, 2023, and designate an individual to be responsible for cybersecurity, as well as to have our independent accountant annually review the cybersecurity best practices we develop. The Nevada regulation also includes reporting obligations to the Nevada Gaming Control Board in the event we experience a cyber-attack.

Any person who is licensed, required to be licensed, registered, required to be registered, or who is under common control with those persons, collectively, "licensees," and who proposes to become involved in a gaming venture outside of Nevada, is required to deposit with the Nevada Gaming Control Board, and thereafter maintain, a revolving fund in the amount of $10,000 to pay the expenses of investigation by the Nevada Gaming Control Board of the licensee's participation in foreign gaming. We currently comply with this requirement. The revolving fund is subject to increase or decrease at the discretion of the Nevada Gaming Commission. Licensees are required to comply with the reporting requirements imposed by the Nevada Gaming Control Act. A licensee is also subject to disciplinary action by the Nevada Gaming Commission if it:

- knowingly violates any laws of the foreign jurisdiction pertaining to the foreign gaming operation;
- fails to conduct the foreign gaming operation in accordance with the standards of honesty and integrity required of Nevada gaming operations;
- engages in any activity or enters into any association that is unsuitable because it poses an unreasonable threat to the control of gaming in Nevada, reflects or tends to reflect, discredit or disrepute upon the State of Nevada or gaming in Nevada, or is contrary to the gaming policies of Nevada;
- engages in activities or enters into associations that are harmful to the State of Nevada or its ability to collect gaming taxes and fees; or
- employs, contracts with or associates with a person in the foreign operation who has been denied a license or a finding of suitability in Nevada on the ground of unsuitability.

**Indiana Regulatory Matters**

We own and operate a wholly-owned subsidiary, Gaming Entertainment (Indiana) LLC, which acquired and operates Rising Star Casino Resort in Rising Sun, Indiana. The ownership and operation of casino facilities in Indiana are subject to extensive state and local regulation, including primarily the licensing and regulatory control of the Indiana Gaming Commission ("IGC").

The Indiana Riverboat Gaming Act ("Riverboat Act") and the Gambling Games at Racetracks Act, together and as amended (the "Indiana Acts"), allow up to thirteen commercial (non-tribal) casinos in the State of Indiana. Specifically, the IGC has presently authorized: (i) owner's licenses for the operation of four riverboat casinos in counties contiguous to Lake Michigan in northern Indiana, as well as five riverboat casinos in counties contiguous to the Ohio River in southern Indiana; (ii) one operating agent contract permitting a private company to operate a land based casino in French Lick, Indiana; and (iii) two gambling game licenses for the operation of land based casinos at Indiana's two pari-mutuel horse racing tracks. In 2019, the Indiana General Assembly passed legislation that allowed one of the owner's licenses allocated to one of the riverboats previously located in a county contiguous to Lake Michigan in northern Indiana to be moved to a land based casino in Terre Haute, Indiana. The same legislation allowed the holder of another of the riverboat casino licenses located in northwest Indiana to move to a land-based site, still located in a county contiguous to Lake Michigan, in Gary, Indiana. The Terre Haute casino license was awarded in November of 2021 and is presently expected to open in 2024.

In 2015, Indiana enacted legislation that would have allowed both racinos to begin offering live table games after March 1, 2021. However, the legislation enacted in 2019 (as noted above) enabled the racinos to begin offering live table games on January 1, 2020, which both locations implemented at that time. The 2015 legislation also authorized an increase of each racino's maximum size to 2,200 gambling games (beginning on January 1, 2021), while imposing a cap on the size of all other casino properties that is equal to the greatest number of gambling games offered by the applicable casino property since January 1, 2007. The 2015 legislation also permitted riverboat owners to relocate an owner's gaming operation from a riverboat facility to an inland facility, provided such inland facility is, among other things, located on a parcel that is adjacent to the dock site of the licensed owner's riverboat. Any such inland casino is subject to the same gambling game cap applicable to the riverboat. Since passage of the 2015 legislation, the IGC has demonstrated a willingness to consider and approve requests to relocate certain gaming devices to off-riverboat locations that are adjacent to still-functioning riverboat casinos, thus enabling partial land-based gaming without relocating the entire gaming facility to land.

In 2015, Public Law 255-2015 specified a process for entering into tribal-state compacts concerning Indian Gaming, a procedure not previously contemplated under Indiana law. Prior to that, in May of 2012, the Pokagon Band of Potawatomi Indians (the "Band") submitted to the Bureau of Indian Affairs a fee-to-trust application to take 165 acres of land in South Bend into trust. In 2017, the Band opened a Class II gaming facility in South Bend, Indiana. In 2019, the Band began negotiations with the State of Indiana to enter into a tribal-state compact for Class III gaming at the facility in South Bend, Indiana. In April of 2021, the Indiana General Assembly passed legislation to ratify and codify a tribal-state compact negotiated between the Band and the State of Indiana. In May of 2021, it was announced that the Band had finalized and executed the compact with the State. The Pokagon Band is currently operating a Class III facility in South Bend, Indiana.

The Indiana Acts strictly regulate the facilities, persons, associations and practices related to gaming operations pursuant to the police powers of Indiana, including comprehensive law enforcement provisions. The Indiana Acts vest the IGC with the power and duties of administering, regulating and enforcing the system of casino gaming in Indiana. The IGC's jurisdiction extends to every person, association, corporation, partnership, owner, and trust involved in casino gaming operations in Indiana and grants the IGC the authority to request specific information from all such persons or entities.

An Indiana owner's license allows the licensee to own and operate one riverboat per license granted and gaming equipment as part of a gaming operation. An owner's license is not a property right and remains, at all times, the property of the State of Indiana. The Riverboat Act allows a person to hold up to a 100% ownership interest in not more than six of any combination of riverboat licenses or gambling game licenses issued under IC 4-35 (racino licenses). Each owner's license is subject to renewal on an annual basis upon a determination by the IGC that the licensee continues to be suitable to hold an owner's license pursuant to the Riverboat Act and the rules and regulations adopted thereunder. A licensee may not lease, hypothecate, borrow money against or lend money against an owner's license. An ownership interest in an owner's license may only be transferred in accordance with the regulations promulgated by the IGC under the Riverboat Act. Gaming Entertainment (Indiana) LLC applied for and, on March 15, 2011, was granted the transfer of a riverboat owner's license. Thereafter, Gaming Entertainment (Indiana) LLC has renewed its license annually, effective on September 15 of each year.

The Riverboat Act requires that a licensed owner undergo a complete re-investigation every three years. If for any reason the license is terminated, the assets of the riverboat gaming operation cannot be disposed of without the approval of the IGC. The IGC also requires a comprehensive disclosure of financial and operating information by licensees, by their principal officers and by their parent corporations.

If an institutional investor acquires a beneficial ownership interest of 5% or more of any class of voting securities of a publicly traded corporation, the investor is required to notify the IGC and may be subject to licensure and a finding of suitability. Institutional investors who acquire a beneficial ownership interest of 15% or more of any class of voting securities are subject to a full investigation and finding of suitability. In addition, the IGC may require an institutional investor that acquires 15% or more of certain non-voting equity units to apply for a finding of suitability. Any person who is not an institutional investor that acquires beneficial ownership of 5% or more of any class of voting securities of a licensee is required to apply for a finding of suitability.

The Riverboat Act prohibits contributions to a candidate for any state, legislative, or local office; to a candidate's committee; or to a regular party committee by: (i) the holder of an owner's license; (ii) a person holding at least 1% interest in an owner licensee; (iii) an officer of an owner licensee; (iv) an officer of a person that holds at least 1% interest in an owner licensee; or (v) a political action committee of an owner licensee. The prohibition on political contributions is applicable while an owner licensee holds the license and for a period of three years following the expiration or termination of such license.

In 2009, the Indiana General Assembly enacted legislation requiring all casino operators to submit for approval by the IGC a written power of attorney identifying a person who would serve as a trustee to temporarily operate the casino in certain rare circumstances, such as: the revocation or non-renewal of any owner's license; the denial of an owner's license to a proposed transferee and the person attempting to sell the riverboat is unable or unwilling to retain ownership or control; the involuntary bankruptcy of the licensed owner; or a licensed owner's agreement in writing to relinquish control of the riverboat. During any time period that the trustee is operating the casino, the trustee has exclusive and broad authority over the casino gambling operations. The IGC most recently approved Gaming Entertainment (Indiana) LLC's power of attorney renewal in September of 2022.

The IGC requires licensees to maintain a cash reserve equal to a licensee's average payout for a three-day period based on the licensee's performance during the prior calendar quarter. The cash reserve can consist of cash on hand, cash maintained in Indiana bank accounts and cash equivalents not otherwise committed or obligated. The IGC also prohibits distributions, other than distributions for the payment of state or federal taxes, by a licensee to its partners, shareholders, itself or any affiliated entity if the distribution would impair the financial viability of the gaming operation.

The Indiana Acts do not limit the maximum bet or loss per patron. Each licensee sets minimum and maximum wagers on its own games. Players must use chips or tokens as, according to the Indiana Acts, wagering may not be conducted with money or other negotiable currency. No person under the age of 21 is permitted to wager or enter a casino. With the exception of permitted sports wagers that are accepted through licensed mobile sports wagering operations, as is discussed in greater detail below, wagers may only be made by persons who are physically present at a licensed casino.

Contracts to which Gaming Entertainment (Indiana) LLC is a party are subject to regulatory oversight by the IGC, including in certain circumstances, disclosure and approval processes imposed by Indiana regulations. An owner licensee may not enter into or perform any contract or transaction in which it transfers or receives consideration which is not commercially reasonable or which does not reflect the fair market value of the goods or services rendered or received. All contracts are subject to disapproval and/or cancellation by the IGC.

Through the establishment of purchasing goals for licensees, the IGC encourages minority business enterprises and women business enterprises to participate in the gaming industry. The goals must be derived from the statistical analysis of utilization studies of licensee contracts for goods and services. Any failure by a licensee to meet these goals will be scrutinized heavily by the IGC and the Riverboat Act authorizes the IGC to suspend, limit, or revoke an owner's gaming license, or to impose a fine, if the licensee does not demonstrate compliance within ninety days of a finding of noncompliance.

Pursuant to a 2019 amendment to the graduated wagering tax portion of the Riverboat Act, licensees that receive Adjusted Gross Receipts ("AGR") under $75 million in the preceding state fiscal year are subject to the following graduated wagering taxes (for state fiscal years beginning after June 30, 2021):

- 2.5% on the first $25 million of AGR for state fiscal years beginning after June 30, 2021.
- 10% on the AGR in excess of $25 million, but not exceeding $50 million, for state fiscal years beginning after June 30, 2021.
- 20% on the AGR in excess of $50 million, but not exceeding $75 million, for state fiscal years beginning after June 30, 2021.
- 30% of the AGR in excess of $75 million, but not exceeding $150 million.
- 35% of all AGR in excess of $150 million, but not exceeding $600 million.
- 40% of all AGR exceeding $600 million.

"AGR" is the total of all cash and property received from gaming, less cash paid out as winnings and uncollectible gaming receivables (not to exceed 2%). Legislation passed in 2013 permitted all Indiana casinos to begin deducting from AGR certain amounts attributable to "qualified wagering" incentives. Such qualified wagering incentives (commonly referred to as "free play") are defined as wagers made by patrons using non-cashable vouchers, coupons, electronic credits or electronic promotions offered by a licensee. For state fiscal years ending after June 30, 2013 and before July 1, 2015, the maximum amount of permitted qualified wagering deductions was $5 million per casino. In 2015, that maximum deduction was increased to $7 million for fiscal years following June 30, 2015. In 2019, the maximum deduction was increased to $9 million for fiscal years following June 30, 2021.

In addition to wagering taxes, an admissions tax of $3 per admission was previously assessed for all casinos other than the casino operating in French Lick, Indiana, the two racinos, and the land-based casino operating in Evansville, Indiana. Pursuant to legislation passed in 2017, as soon as the operator of the Evansville casino relocated its riverboat casino to a land-based facility, it began paying a "supplemental wagering tax" equal to three percent (3%) of AGR in lieu of continuing to pay admissions tax. Pursuant to the same 2017 legislation, all other casinos for whom the admissions tax had been applicable began paying a supplemental wagering tax on July 1, 2018. The supplemental wagering tax replaced the admissions tax for these casinos. The Supplemental wagering tax rate varies by location based on a statutory formula but was capped at four percent (4%) of AGR until June 30, 2019, and three and five tenths percent (3.5%) of AGR thereafter. The Riverboat Act provides for the suspension or revocation of a license if the wagering taxes, admissions taxes, and/or supplemental wagering taxes are not timely remitted.

Pursuant to a development agreement between the Company and the City of Rising Sun, Indiana, we are required to pay annually to the Rising Sun Regional Foundation a sum equal to either: (i) 1.55% of AGR, if AGR is $150 million or less; or (ii) 1.6% of AGR, if AGR is greater than $150 million.

Real property taxes are imposed on riverboats at rates determined by local taxing authorities. Income to us from Rising Star Casino Resort is also subject to the Indiana adjusted gross income tax, which has traditionally been calculated in a manner that required "adding back" the value of any federal income tax deductions that were allowable for wagering taxes paid to the state. Legislation passed in 2017 permits for the gradual phase-out of the add back calculation, such that beginning in the first taxable year following December 31, 2025, no such add back shall be required. Sales on a riverboat and at its related amenities, other than gaming revenues, are subject to applicable use, excise, and retail taxes. The Riverboat Act requires a licensee to directly reimburse the IGC for costs associated with gaming enforcement agents, which are required to be present at the casino while gaming is conducted.

An owner licensee may enter into debt transactions of $1 million or greater only with the prior approval of the IGC. Such approval is subject to compliance with requisite procedures and a showing that each person with whom the licensee enters into a debt transaction would be suitable for licensure under the Riverboat Act. Unless waived, approval of debt transactions requires consideration by the IGC at two business meetings. The IGC, by resolution, has authorized its executive director, subject to subsequent ratification by the IGC, to approve debt transactions. Such approval may occur following appropriate review of the transaction along with concurrence by: (i) the executive director, (ii) IGC's Chair, and (iii) the IGC member who is a certified public accountant.

The Riverboat Act provides that the sale of alcoholic beverages at casinos is subject to licensing, control and regulation pursuant to Title 7.1 of the Indiana Code and the rules adopted by the Indiana Alcohol and Tobacco Commission.

In 2019, the Indiana General Assembly passed legislation legalizing certain sports wagering and mobile sports wagering activities and operations in the State of Indiana (the "Indiana Sports Wagering Act") (See IC 4-38). In the same year, the IGC approved emergency rules to regulate licensed sports wagering operations. The Indiana Sports Wagering Act allowed sports wagering operations to commence in Indiana on September 1, 2019, subject to regulatory approval by the IGC for individual operators to begin accepting wagers. Permanent sports wagering rules were promulgated in 2021.

Under the Indiana Sports Wagering Act, a licensed operator of an Indiana riverboat casino, a racino, or an off-track facility where horse wagering is allowed (a "Satellite Facility") is granted the opportunity to apply for and receive a Certificate of Authority to conduct sports wagering (thereby becoming a "Certificate Holder"). A Certificate Holder is entitled to operate an on-site retail sportsbook at the casino, racino, or Satellite Facility affiliated with the Certificate of Authority, as well as to contract with three individually branded vendors (a "Vendor") for the conduct of mobile sports wagering through digital platforms. There are currently fifteen licensed Certificate Holders and fifteen licensed mobile Vendors in Indiana. Gaming Entertainment (Indiana) LLC holds a permanent Certificate of Authority which renews annually in the ordinary course and was last renewed on December 15, 2022, effective November 7, 2022 through November 6, 2023. Rising Star is presently using two of the three mobile Vendors that it is permitted to use under the Certificate of Authority. Sports wagers may not be placed either in-person at a retail location or via mobile platform by an individual less than 21 years of age. All mobile sports wagering patrons must undergo "Know Your Customer" age and identification verification processes prior to using a mobile device to place sports wagers. This process may be undertaken via mobile device remotely and does not require in-person registration at a casino. Additionally, all mobile sports wagering patrons must undergo geolocation measures prior to placing wagers using a mobile device to ensure their physical presence in the State of Indiana. Each Vendor is subject to corporate and individual licensing and findings of suitability by the IGC and is responsible for compliance with all relevant sports wagering laws and regulations relevant to their retail and/or mobile sports wagering operations. Each of Rising Star's sports wagering Vendors is required by Indiana regulations to perform an annual system integrity and security assessment of sports wagering systems and online sports wagering systems. The assessment must be conducted by an independent professional selected by the Vendor which is subject to approval of the IGC executive director.

**Mississippi Regulatory Matters**

Our ownership and operation of the Silver Slipper Casino and Hotel is subject to the Mississippi Gaming Control Act ("Mississippi Act") and to the licensing and regulatory control of the Mississippi Gaming Commission, the Mississippi Department of Revenue and various local, city and county regulatory agencies.

The Mississippi Act provides for legalized gaming in each of the fourteen counties that border the Gulf Coast or the Mississippi River; however, gaming is legal only if the voters in the county have not voted to prohibit gaming in that county. Voters have approved gaming in nine of the fourteen counties and currently occurs in seven counties. The Mississippi Act originally required gaming vessels to be located on the Mississippi River or on navigable waters in eligible counties along the Mississippi River, or in the waters lying south of the counties along the Mississippi Gulf Coast. However, the Mississippi Act was amended to permit licensees in the three counties along the Gulf Coast to establish casino structures that are located in whole or part on shore and land-based casino operations, provided the land-based gaming areas do not extend more than 800 feet beyond the nineteen-year mean high water line, (except in Harrison County where the 800-foot limit can be extended as far as the greater of 800 feet beyond the 19-year mean high water line or the southern boundary of Highway 90). Due to another change in the interpretation of the Mississippi Act, the Mississippi Gaming Commission has also permitted licensees in approved Mississippi River counties to conduct gaming operations on permanent structures, provided that the majority of the gaming floor in any such structure is located on the river side of the "bank full" line of the Mississippi River.

There are no limitations on the number of gaming licenses that may be granted. Further, the Mississippi Act provides for 24-hour gaming operations and does not limit the maximum bet or loss per patron or the percentage of space that may be utilized for gaming. In 2018, the Mississippi Gaming Commission adopted regulations permitting race books and sports pools to be operated by licensed Mississippi gaming operators. Although mobile wagering is permitted, such wagers may be made only while the patron is on the property of a licensed gaming establishment.

Our wholly-owned subsidiary, Silver Slipper Casino Venture LLC is licensed as the operator of the Silver Slipper Casino and Hotel. A Mississippi gaming licensee must maintain a gaming license from the Mississippi Gaming Commission, subject to certain conditions, including continued compliance with all applicable state laws and regulations. If we fail to satisfy the requirements of the Mississippi Act and regulations, we and Silver Slipper Casino Venture LLC cannot own or operate gaming facilities in Mississippi. Gaming licenses are issued for a three-year period, are not transferable, and must be renewed periodically thereafter. There is no assurance that a new license can be obtained at the end of each three-year period of a license. Silver Slipper Casino and Hotel was most recently granted a renewal of its license by the Mississippi Gaming Commission on June 17, 2021, effective July 20, 2021. The license expires on July 19, 2024.

The Mississippi Act and the Mississippi Gaming Commission regulations require that certain of our officers and directors and certain key employees of Silver Slipper Hotel and Casino be found suitable or approved by the Mississippi Gaming Commission. A finding of suitability is comparable to licensing, and both require submission of detailed personal and financial information followed by a thorough investigation. We believe that we have obtained, applied for or are in the process of applying for all necessary findings of suitability, although the Mississippi Gaming Commission, in its discretion, may require any individual who has a material relationship to, or material involvement with, a licensee to file an application to determine whether the individual is suitable to be associated with a gaming licensee.

As the sole member of Silver Slipper Casino Venture LLC, we applied for registration with the Mississippi Gaming Commission as a publicly traded corporation, which was granted on September 20, 2012. As a registered, publicly-traded corporation, we are required periodically to submit financial and operating reports, and any other information that the Mississippi Gaming Commission may require. Certain loans, leases, sales of securities and similar financing transactions must also be reported to or approved by the Mississippi Gaming Commission.

Any person who acquires more than 5% of any class of our voting securities must report the acquisition to the Mississippi Gaming Commission and may be required to file an application for a finding of suitability. If a security holder who must be found suitable is a corporation, partnership or trust, it must submit detailed business and financial information, including a list of its beneficial owners. The Mississippi Gaming Commission may require us to disclose the identities of the holders of our debt or other securities, and, in its discretion, require such holders to file applications, be investigated and be found suitable to own our debt or equity securities. Although the Mississippi Gaming Commission generally does not require the individual holders of such securities to be investigated and found suitable, it retains the right to do so for any reason deemed necessary by the Mississippi Gaming Commission.

If the Mississippi Gaming Commission determines that a person is unsuitable to hold, directly or indirectly, voting securities of a registered publicly traded corporation, any beneficial ownership of such securities by the unsuitable person beyond such period of time as may be prescribed by the Mississippi Gaming Commission is a misdemeanor. We are subject to disciplinary action if, after we receive notice that a person is unsuitable to be a security holder or to have any other relationship with us, we:

- pay that person any dividend or interest upon our voting securities;
- recognize the exercise, directly or indirectly of any voting right conferred through securities held by that person;
- pay the unsuitable person any remuneration in any form for services rendered or otherwise, except in certain limited and specific circumstances; or
- fail to pursue all lawful efforts to require the unsuitable person to divest himself of the securities including, if necessary, the immediate purchase of the securities for cash at fair market value.

Under certain circumstances, an "institutional investor," as such term is defined in the regulations of the Mississippi Gaming Commission, which acquires more than 10%, but not more than 25% of our voting securities, may apply to the Mississippi Gaming Commission for a waiver of such finding of suitability requirements, provided the institutional investor holds the voting securities for investment purposes only.

No person may receive any percentage of gaming revenue from a Mississippi gaming licensee without first obtaining the necessary licensing and approvals from the Mississippi Gaming Commission. The Mississippi Gaming Commission may also require anyone having a material relationship or involvement with us to be found suitable or licensed, in which case those persons are required to pay the costs and fees of the Mississippi Gaming Commission in connection with the investigation. Any person who fails or refuses to apply for a finding of suitability or a license within 30 days after being ordered to do so by the Mississippi Gaming Commission may be found unsuitable based solely on such failure or refusal.

We are required to maintain a current stock ledger in Mississippi, which may be examined by the Mississippi Gaming Commission at any time, and to file with the Mississippi Gaming Commission, at least annually, a list of our stockholders. The Mississippi Gaming Commission has the power to require our stock certificates to bear a legend indicating that the securities are subject to the Mississippi Gaming Control Act and the regulations of the Mississippi Gaming Commission. We obtained a waiver of this requirement on September 20, 2012.

Substantially all material loans, leases, sales of securities and similar financing transactions by a registered corporation or a Mississippi gaming licensee must be reported to and approved by the Mississippi Gaming Commission. Changes in control through merger, consolidation, acquisition of assets, management or consulting agreements or any form of takeover cannot occur without prior investigation and approval by the Mississippi Gaming Commission. We may not make certain public offerings of our securities without the prior approval of the Mississippi Gaming Commission. Such approval, if given, does not constitute a recommendation or approval of the investment merits of the securities subject to the offering. We have received a waiver of the prior approval requirement with respect to public offerings of securities subject to certain conditions.

The Mississippi legislature has declared that some repurchases of voting securities, corporate acquisitions opposed by management, and corporate defense tactics affecting Mississippi gaming licensees, and registered companies that are affiliated with those operations, may be harmful to stable and productive corporate gaming. Because we are a registered company, approvals may be required from the Mississippi Gaming Commission before we can make exceptional repurchases of voting securities above their current market price and before a corporate acquisition opposed by management can be consummated. The Mississippi Gaming Control Act also requires prior approval of a plan of recapitalization proposed by a registered company's Board in response to a tender offer made directly to its stockholders for the purpose of acquiring control.

A Mississippi licensee may not guarantee a security issued by an affiliated company pursuant to a public offering, or pledge its assets to secure payment or performance of the obligations evidenced by a security issued by an affiliated company, without the prior approval of the Mississippi Gaming Commission. We have obtained waivers from the Mississippi Gaming Commission, effective September 20, 2021 through September 19, 2024, for such guarantees, pledges and restrictions in connection with public offerings of our securities, subject to certain restrictions. A pledge of the stock of a Mississippi licensee and the foreclosure of such a pledge are ineffective without the prior approval of the Mississippi Gaming Commission.

All legal gaming conducted in the state is subject to taxation. Gaming fees and tax calculations are generally based upon a percentage of the gross revenue and the number of gaming devices and table games operated by the casino. The license fee payable to the State of Mississippi is based upon gross revenue (generally defined as gaming receipts less payout to customers as winnings) and equals 4% of gross revenue of $50,000 or less per calendar month, 6% of gross revenue in excess of $50,000 but less than $134,000 per calendar month, and 8% of gross revenue in excess of $134,000 per calendar month. Each licensee must pay an annual license fee of $5,000. Each licensee must pay an annual fee based on the number of games, both electronic gaming devices and table games, it operates at its establishment. Licensees operating thirty-five (35) games pay a fee of $81,200 for the first 35 games, plus $100 for each game over 35. Licensees located within certain municipalities or counties may be required to pay fees to those municipalities or counties based on the licensees' gross revenues. These fees are paid in the same manner as the state gross revenue fees. The fees payable to the county in which Silver Slipper Hotel and Casino operates is an amount not to exceed four percent (4%) of all gross revenue and an annual license fee of $100 per gaming device.

The Gaming Commission imposes a flat annual fee on each casino operator licensee, payable quarterly, covering all investigative fees for that year associated with an operator licensee, any entity registered as a holding company or publicly traded corporation of that licensee, and any person required to be found suitable in connection with that licensee or any holding company or publicly traded corporation of that licensee. The annual fee is based on the average number of gaming devices operated by the licensee during a twelve-month period, as reported to the Mississippi Gaming Commission. The investigative fee is $325,000 for licensees with 1,500 or more gaming devices, $250,000 for licensees with 1,000 to 1,499 gaming devices, and $150,000 for licensees with less than 1,000 gaming devices. The fee is payable in four equal quarterly installments.

Neither we nor Silver Slipper Casino Venture LLC may engage in gaming activities outside of Mississippi without approval of, or a waiver of such approval by, the Mississippi Gaming Commission. We have approval from the Mississippi Gaming Commission for foreign gaming operations in that such approval for foreign gaming operations is automatically granted under the Mississippi regulations in connection with foreign operations conducted within the 50 states or any territory of the United States, or on board any cruise ship embarking from a port located therein. However, the Mississippi Gaming Commission requires a formal foreign gaming waiver for involvement in Internet gaming.

A violation of the Mississippi gaming laws could result in a fine; revocation or suspension of, or a limitation or condition on, the gaming license, and criminal action. Disciplinary action in any jurisdiction may lead to disciplinary action in Mississippi, including, but not limited to, the revocation or suspension of the Silver Slipper Casino Venture, LLC gaming license.

**Colorado Regulatory Matters**

The Colorado Limited Gaming Control Commission (the "Colorado Commission") initially approved all our necessary licenses on February 18, 2016, to acquire the operating assets and assume certain liabilities of Bronco Billy's Casino and Hotel in Cripple Creek, Colorado, which closed on May 13, 2016. The license approvals initially issued and subsequently renewed include (i) an Operator's license for Full House Resorts, Inc.; (ii) three (3) Retail Licenses for our wholly owned subsidiary, FHR-Colorado, LLC; (iii) three (3) Master Sports Betting licenses, each associated with the three (3) Retail Licenses held by FHR-Colorado LLC; (iv) a Manufacturer/Distributor's License for FHR-Colorado, LLC; (v) findings of suitability for key personnel and our Board of Directors. We continue to renew these licenses every two years, with our licenses most recently renewed through February 18, 2024.

Under the Colorado Limited Gaming Act of 1991 (the "Colorado Act"), the ownership and operation of limited-stakes gaming facilities in Colorado are subject to the Colorado Gaming Regulations (the "Colorado Regulations") and final authority of the Colorado Commission. The Colorado Act also created the Colorado Division of Gaming (the "Division of Gaming") within the Colorado Department of Revenue to license, supervise and enforce the conduct of limited stakes gaming.

No person may offer limited gaming to the public unless such person holds a valid retail gaming license, which must be renewed every two years. Our licenses were most recently renewed on February 17, 2022, expiring on February 18, 2024. The Colorado Act requires that licensees file applications for renewal with the Colorado Commission not less than 120 days prior to their expiration.

Limited-stakes gaming became lawful in the cities of Central City, Black Hawk and Cripple Creek when the state constitution was amended, effective October 1, 1991 ("Colorado Amendment"). Currently, "limited-stakes gaming" means a maximum single bet of $100 on slot machines, blackjack, poker, craps and roulette, and it is permitted 24 hours a day.

Limited-stakes gaming is confined to the commercial districts of these cities as defined by Central City ordinance on October 7, 1981, by Black Hawk ordinance on May 4, 1978, and by Cripple Creek ordinance on December 3, 1973. Additionally, the Colorado Amendment restricts limited-stakes gaming to structures which conform to the architectural styles and designs which were common to the areas prior to World War I and that conform to the requirements of applicable city ordinances regardless of the age of the structures. Under the Colorado Amendment, no more than 35% of the square footage of any building and no more than 50% of any one floor of any building may be used for limited-stakes gaming. Persons under the age of 21 cannot participate in limited-stakes gaming. Under Colorado state law, smoking is not permitted in any indoor area, including limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted.

The Colorado Commission has delegated authority to the Division of Gaming to conduct background investigations and review of financial documents, issue certain types of licenses, and approve certain limited changes in ownership. With limited exceptions applicable to licensees which are publicly traded entities, no person may sell, lease, purchase, convey or acquire any interest in a retail gaming, manufacturer or distributor, associated equipment supplier, or operator license or business without the prior approval of the Colorado Commission or the Division of Gaming.

As a general rule, the Colorado Act prohibits any person from having an "ownership interest" in more than three retail gaming licenses in Colorado. The Colorado Commission has ruled that a person does not have an ownership interest in a retail gaming licensee for purposes of the multiple license prohibition if any of the following apply:

- A person has less than a 5% ownership interest in an institutional investor that has an ownership interest in a publicly traded licensee or publicly traded company affiliated with a licensee;
- A person has a 5% or more ownership interest in an institutional investor, but the institutional investor has less than a 5% ownership interest in a publicly traded licensee or publicly traded company affiliated with a licensee;
- An institutional investor has less than a 5% ownership interest in a publicly traded licensee or publicly traded company affiliated with a licensee;
- An institutional investor possesses voting securities in a fiduciary capacity for another person and does not exercise voting control over 5% or more of the outstanding voting securities of a publicly traded licensee or of a publicly traded company affiliated with a licensee;

- A registered broker or dealer retains possession of voting securities of a publicly traded licensee or of a publicly traded company affiliated with a licensee for its customers and not for its own account, and exercises voting rights for less than 5% of the outstanding voting securities of a publicly traded licensee or publicly traded company affiliated with a licensee;
- A registered broker or dealer acts as a market maker for the stock of a publicly traded licensee or of a publicly traded company affiliated with a licensee and exercises voting rights in less than 5% of the outstanding voting securities of the publicly traded licensee or publicly traded company affiliated with a licensee;
- An underwriter is holding securities of a publicly traded licensee or publicly traded company affiliated with a licensee as part of an underwriting for no more than 90 days after the beginning of such underwriting if it exercises voting rights of less than 5% of the outstanding voting securities of a publicly traded licensee or publicly traded company affiliated with a licensee;
- A book entry transfer facility holds voting securities for third parties, if it exercises voting rights with respect to less than 5% of the outstanding voting securities of a publicly traded licensee or publicly traded company affiliated with a licensee; or
- A person's sole ownership interest is less than 5% of the outstanding voting securities of the publicly traded licensee or publicly traded company affiliated with a licensee.

The Colorado Commission has enacted Rule 4.5, which imposes requirements on publicly traded corporations holding gaming licenses in Colorado and on gaming licenses owned directly or indirectly by a publicly traded corporation, whether through a subsidiary or intermediary company. Such requirements automatically apply to any ownership interest held by a publicly traded corporation, holding company or intermediary company thereof, where the ownership interest directly or indirectly is, or will be upon approval of the Colorado Commission, 5% or more of the entire licensee. However, the Colorado Commission also has the discretion to require that any publicly traded corporation, subsidiary, intermediary, or holding company that it determines has the actual ability to exercise influence over a licensee, regardless of ownership percentage, comply with the disclosure regulations and requirements contained in Rule 4.5.

Additionally, the Colorado Regulations require that every officer, director and stockholder of private corporations or equivalent office or ownership holders for non-corporate applicants, and every officer, director or stockholder holding either a 5% or greater interest or controlling interest of a publicly traded corporation or owners of an applicant or licensee, shall be a person of good moral character and submit to, and pay for, a full background investigation conducted by the Division of Gaming and the Colorado Commission. The Colorado Commission may require any person having an interest in a license to undergo a full background investigation and pay the cost of investigation in the same manner as an applicant.

Licensees are required to provide information and file periodic reports with the Division of Gaming, including identifying (i) those who have a 5% or greater ownership, financial or equity interest in the licensee, (ii) those who have the ability to control or exercise significant influence over the licensee, (iii) those who loan money or other things of value to a licensee, and (iv) those who have the right to share in revenue derived from limited gaming, or to whom any interest or share in profits of limited gaming has been pledged as security for a debt or performance of an act. Additional reporting requirements include (i) notifying the Division of Gaming if any licensee, including its parent company or subsidiary, applies for, or holds a license to conduct foreign gaming operations, and (ii) reporting any criminal convictions or charges against all persons licensed by the Colorado Commission and any associated person of a licensee.

The Colorado Commission and Division of Gaming also may require information regarding every person who is a party to a "gaming contract," defined as an agreement where a person does business with, or that is conducted on the premises of, a licensed entity, or a lease with a licensee (or applicant). In that event, such person must promptly provide the Colorado Commission or the Division of Gaming requested information, which may include a financial history, description of financial holdings, real and personal property ownership, interests in other companies, criminal history, personal history and associations, character, reputation in the community and all other information which might be relevant to a determination of whether a person would be suitable to be licensed by the Colorado Commission. Failure to provide all information requested constitutes sufficient grounds for the Colorado Commission or the Division of Gaming to require a licensee or applicant to terminate its gaming contract or lease with any person who failed to provide the information requested. The Colorado Commission or the Division of Gaming may also require that the gaming contract be amended prior to approval of an application or commencement of the contract.

The Colorado Commission and the Division of Gaming have interpreted the Colorado Regulations to permit the Colorado Commission to investigate and find suitable persons or entities providing financing to or acquiring securities from us. As previously noted, any person or entity that is required to provide information, submit an application, or be found suitable, must pay all application and investigation fees and costs. Although the Colorado Regulations do not require prior approval for the execution of credit facilities or issuance of debt securities, the Colorado Commission reserves the right to approve, require changes to or require the termination of any financing, including, but not limited to, situations where a person or entity is required to be found suitable and is not found suitable. In any event, note holders, lenders and others providing financing will not be able to exercise certain rights and remedies without the prior approval of the Colorado Commission. Information regarding any changes in holders of securities may be required to be periodically reported to the Colorado Commission or the Division of Gaming. Any changes in lending relationships or terms or conditions must be immediately reported to the Division of Gaming.

The Colorado Constitution provides for a tax on the total amount wagered, less all payouts to players, which is known as the adjusted gross proceeds ("AGP"). For poker, the tax is calculated based on the sums wagered which are retained by the licensee as compensation, consistent with the minimum and maximum amounts established by the Colorado Commission. The Constitution sets a maximum tax rate of 40%, and voter approval of a constitutional amendment would be required to increase this maximum rate.

The Colorado Commission votes annually on the structure of the gaming taxes. Currently, the tax structure is tiered with a graduated rate of between .25% and 20% of AGP. Specifically, the rate tiers are:

- 0.25% up to and including $2 million of AGP;
- 2.0% on amounts from $2 million to $5 million of AGP;
- 9.0% on amounts from $5 million to $8 million of AGP;
- 11.0% on amounts from $8 million to $10 million of AGP;
- 16.0% on amounts from $10 million to $13 million of AGP; and
- 20.0% on amounts over $13 million of AGP.

These rates became effective July 1, 2012. Pursuant to the Colorado state constitution, any Commission decision to increase the tax levels on the adjusted gross proceeds of limited gaming requires statewide voter approval.

Effective July 1, 2021, the Colorado Commission also implemented a three-year pilot program to allow casinos to receive a quarterly tax rebate equal to the amount of tax paid on free play coupons for the preceding quarter. Casinos are eligible for this rebate if the gaming tax revenue paid to the State grew by at least 3.5%, compounded annually, over the preceding year. If eligible, the casino will receive a credit against the following month's tax payment. If total free play and total gaming revenue have grown by at least 10.87% after the first three years, the rebate program would become permanent, effective July 1, 2025. To date, there have been no tax credits granted to casinos under this program.

On November 5, 2019, Colorado voters approved sports betting offered at casinos in Cripple Creek, Black Hawk, and Central City or through Internet sports betting operators that are associated with brick-and-mortar casinos in those towns. The state imposes a tax of 10% on "net sports betting proceeds" which is distinct and taxed separately from limited gaming "adjusted gross proceeds." The state also imposes multiple fees to pay for: (1) the privilege of being licensed to operate as a sports betting licensee; (2) the costs of applicant investigation; and (3) the Division of Gaming's ongoing regulation of sports betting. The City of Cripple Creek may also impose device fees on sports betting gaming equipment used at casinos licensed if they are used to conduct a sports betting operation. Those device fees may be more, less, or the same as the current fee imposed by the City on limited gaming devices. Sports betting became legal in Colorado on May 1, 2020. In January 2020, FHR-Colorado LLC applied for three (3) master sports betting licenses to be associated with each of its three (3) retail licenses. Subject to regulatory licensing and other requisite approvals, FHR-Colorado LLC offers mobile sports wagering through its third-party sports wagering vendors. We received our three (3) Master Licenses on March 19, 2020, and their renewal and expiration dates coincide with our three (3) Retail Licenses (February 18, 2024). FHR-Colorado LLC began offering mobile sports wagering through its three third-party vendors with one of its third-party vendors on June 4, 2020. Thereafter, FHR-Colorado offered its retail sports book on September 24, 2020, and mobile sports wagering on April 21, 2021, both through its second third-party vendor. Lastly, FHR-Colorado began offering mobile sports wagering through its third third-party vendor on December 22, 2020; however, as of May 15, 2022, FHR-Colorado no longer utilizes the third third-party vendor, but intends to utilize its third Master License to offer mobile sports through a new third-party vendor, subject to licensure of the vendor and approval by the Colorado Commission. No person under 21 years of age may place any sports wager in Colorado. All mobile sports wagering patrons must undergo "Know Your Customer" age and identification verification processes prior to using a mobile device to place sports wagers. This process may be undertaken via mobile device remotely and does not require in-person registration at a casino. Additionally, all mobile sports wagering patrons must undergo geolocation measures prior to placing wagers using a mobile device to ensure their physical presence in the State of Colorado. Each third-party sports wagering vendor must be licensed by the Colorado Commission, and any vendor director, officer, key employee, and affiliated business may be required to either be licensed or found suitable by the Commission. Depending on whether they share in sports betting revenues or what types of goods or services they provided, businesses involved with sports wagering operations may also be required to be licensed. All licensed entities and licensed persons are responsible for compliance with all relevant sports wagering laws and regulations relevant to their retail and/or mobile sports wagering operations.

On November 3, 2020, Colorado voters approved Amendment 77, which allowed the Cities of Central City, Black Hawk, and Cripple Creek to (1) approve a maximum single bet limit of any amount and (2) expand allowable game types in addition to slot machines, blackjack, poker, roulette, and craps.

In the City of Cripple Creek, pursuant to Article 5 of the municipal code, the City Clerk is authorized to calculate, collect, and enforce a gaming device fee, which may be amended from time to time by the City Council. For purposes of Article 5, a gaming device means "any slot machine, poker table and/or blackjack table. The term gaming device shall include each table manned by a single dealer for the games of blackjack and/or poker and shall include each slot machine."

Currently, this gaming device fee is paid quarterly, in advance, on the first day of the month for each quarter. The fee amount depends on a number of factors, including when the device is placed into service, and the total number of gaming devices the licensee has in operation. For example, each gaming licensee shall pay $300 per gaming device for its first three (3) months of operation, and each new gaming device added shall have a gaming device fee of $300, regardless of the day the device is placed into service. Subsequently, the gaming device fee is charged per device, at the following rates:

- First fifty (50) gaming devices - $50 for the first quarter, $100 for the second quarter, $225 for the third quarter, and $225 for the fourth quarter.
- Each device in excess of fifty (50) - $300 per quarter.

The sale of alcoholic beverages in gaming establishments is subject to strict licensing, control and regulation by State and local authorities. There are various classes of retail liquor licenses which may be issued under the Colorado Liquor Code, and no person may be financially interested in more than one such class of liquor license. A retail gaming tavern licensee may sell malt, vinous or spirituous liquors only by the individual drink for consumption on the premises. An application for an alcoholic beverage license in Colorado requires notice, posting and a public hearing before the local liquor licensing authority prior to approval. The Colorado Department of Revenue's Liquor Enforcement Division must also approve the application on behalf of the state. Each Bronco Billy's location has been approved for and holds a retail gaming tavern liquor license for its casino, hotel and restaurant operations.

All persons who directly or indirectly hold a 10% or greater interest in, or 10% or more of the issued and outstanding capital stock of, a licensee must file applications and may possibly be investigated by state and local liquor authorities. The Colorado liquor authorities also may investigate persons who, directly or indirectly, loan money to or have any financial interest in liquor licensees. In addition, there are restrictions on stockholders, directors and officers of liquor licensees preventing such persons from being a stockholder, director, officer or otherwise interested in certain persons who lend money to liquor licensees and from making loans to other liquor licensees. Persons directly or indirectly interested in any of our Colorado gaming properties may be limited with regard to certain other types of liquor licenses in which they may have an interest, and specifically cannot have an interest in a retail liquor store license. No person can hold more than three retail gaming tavern liquor licenses. In addition, the remedies of certain lenders may be limited by applicable liquor laws and regulations. Alcoholic beverage licenses are revocable and nontransferable. State and local licensing authorities have full power to limit, condition, suspend for as long as six months or revoke any such licenses for violations of the liquor and regulatory requirements, which could have a material adverse effect upon our operations.

Our Colorado operations are subject to Governor Polis' Disaster Declaration, as it may be amended from time to time, addressing COVID-19 protocols for our business operations; In Colorado, our operations are also subject to the Colorado Department of Public Health & Environment and Teller County COVID-19 restrictions. The Colorado Commission could discipline licensees for not adhering to the Governor's Disaster Declaration and/or the Colorado Department of Public Health & Environment and Teller County restrictions concerning the COVID-19 operational protocols therein.

**Illinois Regulatory Matters**

Following a competitive bidding process, on December 8, 2021, the Illinois Gaming Board (the "IGB") unanimously granted preliminary suitability to us for the development of a new casino to be located in Waukegan, Illinois. At its meeting on January 27, 2022, the IGB unanimously granted us approval to (i) amend our application pending before the IGB to change the applicant thereunder from Full House Resorts, Inc. to our wholly-owned subsidiary, FHR-Illinois, LLC, a Delaware limited liability company ("FHR-IL"), on the express condition that FHR-IL assumes all agreements, obligations and commitments made by us to the IGB, State of Illinois and City of Waukegan in our application; and (ii) allow all prior actions, approvals and findings (including the finding of preliminary suitability) made by the IGB with respect to us to be applicable, binding and transferable to FHR-IL. In accordance with this approval, by the terms of that certain Assignment and Assumption Agreement effective as of January 27, 2022 by and between us, as assignor, and FHR-IL, as assignee, we assigned to FHR-IL all agreements, obligations and commitments made by us to the IGB, State of Illinois and City of Waukegan in our application.

On January 18, 2023, FHR-IL and the City of Waukegan entered into a Development and Host Community Agreement (the "Development Agreement") related to FHR-IL's development, construction and operation of a temporary casino facility ("The Temporary") and a permanent casino facility ("American Place") in Waukegan, Illinois. The Development Agreement establishes terms and conditions related to the project, including project milestones requiring (i) the completion of The Temporary's construction by January 31, 2023, with operations commencing within three months of such completion and (ii) the completion of American Place's construction within thirty-six (36) months of The Temporary's opening, with operations also commencing within three months of such completion. The Development Agreement provides a mechanism for the extension of the above deadlines in certain circumstances, including if FHR-IL is diligently pursuing construction of the facilities. The Development Agreement also establishes the procedures for obtaining approvals for current and future phases of the project, penalties for failure to complete the phases of the project on time, and standards and terms for the use, operations and maintenance of the property. The Development Agreement also requires FHR-IL to pay $150,000 for anticipated public works and public safety costs related to the opening of The Temporary and to make annual contributions to the City of Waukegan of at least $500,000 to support charitable programs and causes following the commencement of operations at American Place.

FHR-IL has the right to terminate the Development Agreement and the Ground Lease (defined below) if it has complied with its obligations related to the application and pursuit of applicable regulatory approvals and either (i) such approvals are denied, materially delayed, or otherwise not approved; or (ii) FHR-IL determines, in its reasonable judgment, that any necessary regulatory approvals cannot be obtained using its best efforts.

On January 18, 2023, FHR-IL and the City of Waukegan entered into a 99-year Ground Lease (the "Ground Lease") for approximately 31.7 acres of land (the "City-Owned Parcel"). The City-Owned Parcel and an adjacent 10-acre parcel owned by FHR-IL comprise the location of American Place, including The Temporary. The Ground Lease is a triple-net lease whereby FHR-IL is required to pay all taxes, utilities, and expenses associated with the leased property. FHR-IL will pay annual rent under the Ground Lease in an amount equal to the greater of (i) $3,000,000 (the "Annual Guaranteed Minimum Rent"), or (ii) 2.5% of Adjusted Gross Receipts (as defined in Section 4 of the Illinois Gambling Act, 230 ILCS 10/1 et seq. (the "Illinois Act")) generated by either The Temporary or American Place. The Ground Lease is only terminable to the extent that the Development Agreement is terminated.

FHR-IL has the right to purchase the City-Owned Parcel at any time during the term of the Ground Lease for $30 million, but if it does so prior to the opening of American Place, it must continue to pay rent due to the City of Waukegan under the Ground Lease until the permanent casino is open. The Ground Lease contains customary terms with respect to taxes, leasehold mortgage, insurance, condemnation, and other terms and conditions typically found in long-term ground leases of similar nature.

On February 16, 2023, the IGB's Administrator granted FHR-IL a temporary operating permit authorizing it to conduct gaming operations at The Temporary beginning February 17, 2023, subject to subject the terms and conditions provided in such temporary operating permit. Operations commenced on February 17, 2023 at The Temporary's grand opening. The IGB's finding of preliminary suitability and issuance of the temporary operating permit do not constitute the issuance of an owners license under the Illinois Act. Rather, under the Illinois Act (and IGB's rules thereunder), a finding of preliminary suitability and issuance of a temporary operating permit are steps toward the issuance of an owners license to FHR-IL. A temporary operating permit may be withdrawn by the IGB's Administrator if he determines that gambling operations are not suitable for continued operation. We anticipate that FHR-IL will receive its owners license shortly, but the issuance of such license is subject to the discretion of the IGB. As an applicant for an owners license FHR-IL is, and as an owners licensee FHR-IL will be, subject to extensive regulation under the Illinois Act and the regulations promulgated thereunder by the IGB.

In February 1990, the State of Illinois legalized riverboat gambling. Initially, the Illinois Act authorized the IGB to issue up to ten owners licenses authorizing the holders thereof to conduct gambling operations on riverboats located on any water within the State of Illinois or any water other than Lake Michigan which constitutes a boundary of the State of Illinois. The original ten owners licenses are in operation in Alton, Aurora, East Peoria, East St. Louis, Elgin, Joliet (two licenses), Metropolis, Rock Island, and Des Plaines, Illinois.

On June 28, 2019, Governor Pritzker signed into law Public Act 101-0091 ("PA 101-0091") which implemented historic gaming expansion throughout Illinois. Among other things, PA 101-0091 amended the Illinois Act to: (a) authorize an additional six new casinos in the following locations: City of Chicago, City of Danville, City of Waukegan, City of Rockford, Williamson County and any one of the following townships in Cook County – Bloom, Bremen, Calumet, Rich, Thornton or Worth; (b) permit casinos to be land-based (including allowing Illinois' existing riverboat casinos to relocate on land); and (c) permit each racetrack facility licensed pursuant to the Illinois Horse Racing Act of 1975 ("Organization Licensees") to apply for an Organization Gaming license, which authorizes table games and slot machines at the Organization Licensee's racetrack facilities.

The Illinois Act strictly regulates the facilities, persons, associations and practices related to gaming operations. It grants the IGB specific powers and duties, and all other powers necessary and proper to fully and effectively execute the Illinois Act for the purpose of administering, regulating and enforcing the system of casino gaming. The IGB has authority over every person, association, corporation, partnership and trust involved in casino gaming operations in the State of Illinois.

The Illinois Act requires the owner of a casino gaming operation to hold an owners license issued by the IGB and restricts the number of gaming positions for each owners license. Each of Illinois' original ten owners licensees were limited to operating 1,200 gaming positions. PA 101-0091 authorized each of these existing ten owners licensees to expand gaming operations from 1,200 to 2,000 gaming positions, subject to the payment of a per gaming position fee of $17,500 (or $30,000 if located within Cook County) (the "Position Fee"). The owners license in the City of Chicago is authorized to have up to 4,000 gaming positions, the owners license in Williamson County is limited to 1,200 gaming positions and the other four new owners licenses, including the owners license expected to be issued to FHR-IL, are permitted a maximum of 2,000 gaming positions, subject to payment of the applicable Position Fee. The number of gaming positions are determined in accordance with the IGB's rules. Ultimately, FHR-IL will be required to pay $17,500 for each of its 2,000 positions.

Each owners licensee of the six new casinos authorized by PA101-0091 (including FHR-IL) must make a reconciliation payment (the "Reconciliation Payment") to the State of Illinois. The Reconciliation Payment is calculated 3 years after the date the owners licensee begins operating in an amount equal to 75% of the adjusted gross receipts for the most lucrative 12-month period of operations, minus an amount equal to the aggregate Position Fee paid by such owners licensee. The Reconciliation Fee is paid as follows: (1) $15,000,000 is paid upon issuance of the owners license; and (2) the remainder of the Reconciliation Fee, if any, is paid in installments over a period of six years (without interest) beginning in year four of the owners licensee's operations. If the calculation of the Reconciliation Fee results in a negative amount, the owners licensee is not entitled to reimbursement of any fees previously paid.

Each owners license is valid for four years. The fee for the issuance or renewal of a new owners license is $250,000. An owners licensee is eligible for renewal upon payment of the applicable fee and a determination by the IGB that the licensee continues to meet all of the requirements of the Illinois Act and IGB's rules. An ownership interest in an owners license may not be transferred or pledged as collateral without the prior approval of the IGB.

Pursuant to the Illinois Act, in determining whether to approve direct or indirect ownership or control of an owners license, the IGB must consider the impact of any economic concentration caused by such ownership or control. No direct or indirect ownership or control may be approved which will result in undue economic concentration of the ownership of a casino gambling operation in Illinois. The Illinois Act specifies a number of criteria for the IGB to consider in determining whether the approval of the issuance, transfer or holding of a license will create undue economic concentration. The IGB's application of such criteria could reduce the number of potential purchasers for American Place.

The Illinois Act does not limit the maximum bet or per patron loss. Minimum and maximum wagers on games are set by the holder of the owners license. Wagering may only be conducted with money or other negotiable currency. No person under the age of 21 is permitted to wager and wagers may only be received from a person present at the casino. With respect to electronic gaming devices, the payout percentage may not be less than 80% or more than 100% unless approved by the IGB's Administrator. On January 1, 2008 Illinois' statewide public smoking ban became effective making it illegal to smoke in Illinois' casinos, bars, restaurants and other public establishments.

Illinois imposes an admission tax and a wagering tax on all Illinois casinos. From time to time, the Illinois legislature has taken actions to change these taxes. Historically, these legislative changes have resulted in tax increases. Currently, the admission tax is $3.00 per person admitted into the casino (with the exception of the casino in Rock Island, which is subject to an admissions tax of $2.00 per person admitted). The wagering tax is imposed on the "adjusted gross receipts," as defined in the Illinois Act, of a gambling operation. The owners licensee is required, on a daily basis, to wire the wagering tax payment to the IGB. For all casinos (other than the proposed Chicago casino), the wagering tax for all gambling games other than table games, including, but not limited to, slot machines, video game of chance gambling, and electronic gambling games is assessed at the following rates:

- 15.0% of annual adjusted gross receipts up to and including $25.0 million;
- 22.5% of annual adjusted gross receipts in excess of $25.0 million but not exceeding $50.0 million;
- 27.5% of annual adjusted gross receipts in excess of $50.0 million but not exceeding $75.0 million;
- 32.5% of annual adjusted gross receipts in excess of $75.0 million but not exceeding $100.0 million;
- 37.5% of annual adjusted gross receipts in excess of $100.0 million but not exceeding $150.0 million;
- 45.0% of annual adjusted gross receipts in excess of $150.0 million but not exceeding $200.0 million; and
- 50.0% of annual adjusted gross receipts in excess of $200.0 million.

For all casinos (other than the proposed Chicago casino), the wagering tax for table games is assessed at the following rates:

- 15.0% of annual adjusted gross receipts up to and including $25.0 million;
- 20.0% of annual adjusted gross receipts in excess of $25.0 million

A holder of any gaming license in Illinois is subject to imposition of fines, suspension or revocation of such license, or other action for any act or failure to act by the licensee or the licensee's agents or employees, that is injurious to the public health, safety, morals, good order and general welfare of the people of the State of Illinois, or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois. The IGB may revoke or suspend licenses, as the IGB may determine and, in compliance with applicable Illinois law regarding administrative procedures, may suspend an owners license, without notice or hearing, upon a determination that the safety or health of patrons or employees is jeopardized by continuing such gambling operations. The suspension may remain in effect until the IGB determines that the cause for suspension has been abated and it may revoke the owners license upon a determination that the owner has not made satisfactory progress toward abating the hazard.

If the IGB has suspended, revoked or refused to renew an owners license or if a casino gambling operation is closing and the owner is voluntarily surrendering its owners license, the IGB may petition the local circuit court in which the casino is situated for appointment of a receiver. The circuit court has sole jurisdiction over any and all issues pertaining to the appointment of a receiver. The IGB specifies the powers, duties and limitations of the receiver.

The IGB requires that each "Key Person" of an owners licensee submit a Personal Disclosure or Business Entity Disclosure Form and be investigated and approved by the IGB. The IGB determines which positions, individuals or business entities are required to be approved by the Board as Key Persons. Once approved, such Key Person status must be maintained. Key Persons include:

- any business entity and any individual with an ownership interest or voting rights of more than 5% in the licensee or applicant and the trustee of any trust holding such ownership interest or voting rights;
- the directors of the licensee or applicant and its chief executive officer, president and chief operating officer or their functional equivalents;
- a Gaming Operations Manager (as defined in the IGB's rules) or any other business entity or individual who has influence and/or control over the conduct of gaming or the Casino Gaming Operation (as defined in the IGB's rules); and
- all other individuals or Business Entities that, upon review of the applicant's or licensee's organizational structure, the Board determines hold a position or a level of ownership, control or influence that is material to the regulatory concerns and obligations of the IGB for the specified licensee or applicant.

Each owners licensee must provide a means for the economic disassociation of a Key Person in the event such economic disassociation is required by an order of the IGB. Based upon findings from an investigation into the character, reputation, experience, associations, business probity and financial integrity of a Key Person, the IGB may enter an order upon the licensee or require the economic disassociation of the Key Person.

Applicants for and holders of an owners license are required to obtain the IGB's approval for changes in the following: (i) Key Persons; (ii) type of entity; (iii) equity and debt capitalization of the entity; (iv) investors and/or debt holders; (v) sources of funds; (vi) economic development plans or proposals; (vii) casino capacity or significant design changes; (viii) gaming positions; (ix) anticipated economic impact; or (x) agreements, oral or written, relating to the acquisition or disposition of property (real or personal) of a value greater than $1 million. Illinois regulations provide that a holder of an owners license may make distributions to its stockholders only to the extent that such distributions do not impair the financial viability of the owner. Additionally, the IGB requires each holder of an owners license to obtain the IGB's approval prior to issuing a guaranty of any indebtedness.

The IGB requires that each "institutional investor," as that term is defined by IGB, that, individually or jointly with others, cumulatively acquires, directly or indirectly, 5% or more of any class of voting securities of a publicly-traded licensee or a licensee's publicly-traded parent corporation (like Full House) shall, within no less than ten days after acquiring such securities, notify the IGB of such ownership and shall, upon request, provide such additional information as may be required by the IGB (which additional information may include requiring the filing of an "Institutional Investor Disclosure Form"). An institutional investor that, individually or jointly with others, cumulatively acquires, directly or indirectly, 10% or more of any class of voting securities of a publicly-traded licensee or a licensee's publicly-traded parent corporation must file an "Institutional Investor Disclosure Form," provided by the IGB, within 45 days after cumulatively acquiring such level of ownership interest, unless such requirement is waived by the IGB. Additionally, we must notify the IGB as soon as possible after we become aware that we are involved in an ownership acquisition by an institutional investor.

The IGB may waive any licensing requirement or procedure provided by rule if it determines that the waiver is in the best interests of the public and the gaming industry. Also, the IGB may, from time to time, amend or change its rules.

Beginning August 1, 2020, the IGB established benchmark contract utilization goals for owners licensees as set forth below:

- 11% for minority-owned businesses;
- 7% for women-owned businesses;
- 2% for businesses owned by persons with disabilities; and
- 3% for veteran-owned businesses.

Each owners licensee is required to submit to the IGB proposed contracting goals for the coming calendar year and final contracting goals shall be established through a consultation process with each owners licensee and subsequent IGB evaluation and approval. By March 31st of each year, each owners licensee is required to file with the IGB an annual report of its utilization of minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities and veteran-owned businesses during the preceding calendar year. The IGB strongly encourages compliance with these benchmarking goals. Any failure by an owners licensee to meet these goals will be scrutinized by the IGB, and if the IGB determines that its goals and policies are not being met by an owners licensee, then the Board may recommend remedies for these violations in accordance with the IGB's rules.

On July 13, 2009, Illinois enacted the Video Gaming Act, which initially legalized the use of up to five video gaming terminals in most bars, restaurants, fraternal organizations and veterans' organizations holding valid Illinois liquor licenses, as well as at qualifying truck stops. Effective October 9, 2012, video gaming in Illinois became operational. The video gaming terminals in licensed establishments allow patrons to play games such as video poker, line up and blackjack. PA101-0091 similarly expanded the Video Gaming Act by authorizing the use of up to six video gaming terminals (increased from five) in most bars, restaurants, fraternal organizations and veterans' organizations holding valid Illinois liquor licenses and created a new category of licensure for "large truck stop establishments" that are authorized to operate up to ten video gaming terminals. As of December 2022, there were approximately 45,000 video gaming terminals in operation in Illinois. Revenues at American Place (including The Temporary) may be adversely impacted by the availability of video gaming terminals in non-casino establishments proximately located to its customer base.

From time to time, various proposals have been introduced in the Illinois legislature that, if enacted, would affect the taxation, regulation, operation or other aspects of the gaming industry. The Illinois legislature regularly considers proposals that would expand gaming opportunities in Illinois. Some of this legislation, if enacted, could adversely affect the gaming industry. No assurance can be given whether such or similar legislation will be enacted.