

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT (the "Agreement"), dated as of October 1, 2016, by and between TIOGA DOWNS RACETRACK, LLC, a limited liability company duly organized and validly existing under the laws of the State of New York with an address for the transaction of business located at 2384 West River Road, Nichols, New York 13812 (the "Company") and the TIOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public-benefit corporation duly organized and validly existing under the laws of the State of New York with an office for the transaction of business located at 56 Main Street, Owego, New York 13827 (the "Agency"), collectively, the "Parties."

WITNESSETH:

WHEREAS, Title 1 of Article 18-A, as amended, of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York (the "State"); and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities on such terms and conditions as it deems advisable, to issue its bonds for the purpose of carrying out any of its corporate purposes; and, as security for the payment of the principal and

redemption price of, and interest on, any such bonds so issued and any agreements made in connection therewith, to pledge the revenues and receipts from its facilities or from the lease thereof; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, Chapter 534 of the Laws of 1971 of the State (collectively, the "Act") created the Tioga County Industrial Development Agency (the "Agency"), which is empowered under the Act to undertake the providing, financing and leasing of the facility described below; and

WHEREAS, the TIOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") was created as a public benefit corporation pursuant to and for the purposes specified in Title 1 of Article 18-A of the General Municipal Law; and

WHEREAS, the Company has agreed to a lease and lease-back transaction, on two (2) separate parcels of real property to facilitate the construction, renovation and equipping of a casino floor and restaurant known as the "Casino Expansion," more particularly described in Exhibit "A-1" attached hereto, and a second parcel known as the "Hotel Expansion," more particularly described in Exhibit "A-2" attached hereto, located at 2384 West River Road in the Town of Nichols, Tioga County, New York (the "Project"), and to lease the Project from the Agency; and

WHEREAS, the Agency will lease the Project to the Company for a term not to exceed the longer of twenty-one (21) years or until the tax exemptions as set forth in this PILOT Agreement have expired on both parcels; and

WHEREAS, the Agency is exempt from the payment of taxes and assessments imposed upon real property, and as a further condition related to the acquisition of the Project, the Company has agreed that, notwithstanding such exemption, the Company will nevertheless make payments to the Town of Nichols (the "Town"), the Tioga Central School District (the "School District") and the County of Tioga (the "County") while occupying the Project in lieu of general

tax levies.

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed as follows:

1. Pursuant to Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon acquisition of the Project by the Agency and the filing of an Equalization and Assessment Form RP-412-a (the "Exemption Form") with respect to the Project, and for so long thereafter as the Agency shall have a leasehold interest in the Project, the Project shall be assessed by the various taxing entities having jurisdiction over the Project, including, without limitation, the Town, the School District and the County as exempt on their respective assessment rolls prepared subsequent to the acquisition by the Agency of title to the Project and the filing of the Exemption Form. The Parties hereto understand that the Project shall not be entitled to such exempt status on any tax roll until the first tax year following the tax status date subsequent to the date upon which the Agency became the record owner of the Project and an Exemption Form is filed. The Company shall be required to pay all taxes and assessments lawfully levied and/or assessed against the Project, including taxes and assessments levied for the current tax year and all subsequent years until the Project is entitled to exempt status on the tax roll. The Agency will cooperate with the Company to obtain and preserve the tax exempt status of the Project, including the preparation and filing of the Exemption Form.

2. During the period the Project is leased by the Agency pursuant to a lease agreement with the Company, the Company agrees to pay to the Agency, in lieu of taxes, the amounts set forth on Exhibit "B" attached hereto. The Agency will, in turn, distribute such payments to the affected taxing jurisdictions. Commencing with the expiration of the tax exemption for each parcel, and until such time as the Agency's lease agreement with the Company is terminated, the Company shall pay the actual taxes that would have been levied on

the Project if not for the Agency's tax exemption.

3. During the term of this Agreement, the Company has the right to contest the assessment(s) on the Project.

4. The Agency shall bill the Company for the total PILOT payments due as set forth in Exhibit "B" attached hereto.

5. Should the Company use the Project for other than a casino floor, restaurant, expansion of existing space, an upgrade to the farmers market site as well as the new construction of a hotel, restaurant, convention and amenity center, water slide, swimming pool, and outdoor concert venue or allied purposes such as defined in Article 18-A of the General Municipal Law, fail to retain substantially the number of jobs anticipated by the Project, or acquire title during the term of this Agreement to the leased Project from the Agency, this Agreement shall terminate immediately and the premises shall be returned to the non-exempt portion of the tax roll and be subject to taxation thereafter, including any portion of a tax year not otherwise covered by this Agreement.

6. If any default shall be made in the payment referred to in Paragraph 2, supra, the Company hereby agrees to pay the same to the extent above specified:

A. Without requiring any notice of non-payment or of default to the Company, the Agency, or to any other person; and

B. Without proof of demand.

7. The Parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law and Section 412-A of the Real Property Tax Law does not entitle the Agency to an exemption from special assessments and special ad valorem levies such as, but without limitation, charges for metered water and sewer rent. The Company hereby agrees to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project.

8. Pursuant to Section 858 (15) of the General Municipal Law, the Agency agrees to give the Town, the School District and the County a copy of this PILOT agreement within fifteen (15) days of the execution and delivery hereof, together with a request that a copy thereof be given to the appropriate officer or officers with respect to each taxing jurisdiction responsible for preparing the tax rolls for said jurisdiction, together with a request that said officer or officers submit to the Agency and the appropriate receiver of taxes periodic statements specifying the amount and due date or dates of the payments due to each hereunder. Such periodic statements to be submitted to the Agency at approximately the times that tax bills are mailed by such jurisdictions.

9. The Company agrees to pay the amounts due hereunder to each particular taxing jurisdiction in any calendar year to the appropriate receiver of taxes within the period that such taxing entity allows the payment of taxes levied in such calendar year without penalty. The Company shall be entitled to receive receipts for such payments.

10. Pursuant to Section 874(5) of the General Municipal Law, if the Company shall fail to make any payment required by this PILOT Agreement when due, the Company shall pay the same, together with a late-payment penalty equal to five percent (5%) of the amount due, which shall not be charged to the Company. If the Company shall remain in default beyond the first month after such payment is due, the Company shall hereafter pay a late-payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due thereunder is delinquent beyond the first month plus interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would have been payable if such amount were delinquent taxes, until so paid in full.

11. Pursuant to Section 874(6) of the General Municipal Law, if the Company should default in performing any of its obligations, covenants or agreements under this PILOT Agreement and the Agency or any taxing jurisdiction should employ attorneys or incur other

expense for the collection of any amounts payable hereunder, or for the enforcement or performance or observation of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefore, pay to the Agency or such taxing jurisdiction, as the case may be, not only the amounts adjudicated due hereunder, together with the late-payment penalty and interest due thereon, but also reasonable, actual fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred whether or not an action is commenced.

12. No remedy herein conferred upon or reserved to the Agency or any taxing jurisdiction is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this PILOT Agreement or now and hereafter existing at law or in equity or by statute. No delay or admission in exercising any such right or power accruing upon a default hereunder shall impair any such right or power or be construed as a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

13. The Agency reserves the right to recapture benefits provided through the abatement of real property taxes in the event that the Company's performance is substantially different than anticipated as defined below:

- A. Sale or closure of the Project and/or departure of the Company from Tioga County;
- B. Significant change in the use of the Project and/or business activities of the Company; and
- C. Significant employment reductions from the anticipated one hundred fifty (150) FTE jobs to be created by the Project, which are not reflective of the Project's normal business cycle and/or local and national economic conditions.

In cases deemed to meet one or more of the above conditions, the following recapture schedule will apply:

<u>Period</u>	<u>Accumulative Amount of Recapture</u>
During Year 1	100%
During Year 2	75%
During Year 3	50%
During Year 4	25%
After Year 4	0%

The time period above is from the effective date of the PILOT Agreement. Imposition of this recapture policy is at the sole discretion of the Agency and will be considered on a case by case basis.

14. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE AGENCY: Tioga County Industrial Development Agency
56 Main Street
Owego, New York 13827
Attn: Chairman

With a Copy to. Joseph B. Meagher, Esq.
Thomas, Collison & Meagher
1201 Monroe Street
P.O. Box 329
Endicott, New York 13761-0329

IF TO THE COMPANY: Tioga Downs Racetrack, LLC
2384 West River Road
Nichols, New York 13812
Attn: Scott Freeman, President and General Manager

Copy to: Edwin J. Kelley, Jr., Esq.
Bond Schoeneck & King
One Lincoln Center
110 West Fayette Street
Syracuse, New York 13202-1355

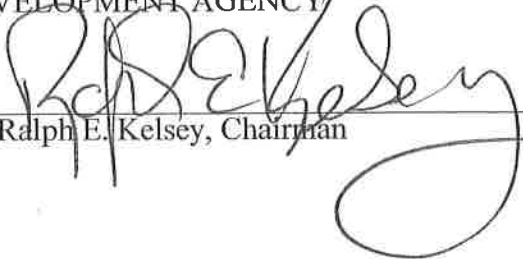
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly

executed the date set forth hereinabove.

TIOGA DOWNS RACETRACK, LLC

By: _____
Scott Freeman, President and General

TIOGA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:  _____
Ralph E. Kelsey, Chairman

One Lincoln Center
110 West Fayette Street
Syracuse, New York 13202-1355

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly
executed the date set forth hereinabove.

TIOGA DOWNS RACETRACK, LLC

By: 

Scott Freeman, President and General

TIOGA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Ralph E. Kelsey, Chairman

STATE OF NEW YORK :
: ss.:
COUNTY OF Tioga :

On this 6th day of October, 2016, before me, the undersigned, personally appeared SCOTT FREEMAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Debbie A. Gerould
Notary Public

DEBBIE A. GEROULD
Notary Public, State of New York
No. 01GE6223129
Qualified in Chemung County 18
Commission Expires June 7, 2018

STATE OF NEW YORK:
: ss.:
COUNTY OF BROOME:

On this 6th day of October, 2016, before me, the undersigned, personally appeared RALPH E. KELSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK :
 : ss.:
COUNTY OF _____ :

On this _____ day of October, 2016, before me, the undersigned, personally appeared SCOTT FREEMAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK:
 : ss.:
COUNTY OF BROOME:

On this 6th day of October, 2016, before me, the undersigned, personally appeared RALPH E. KELSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public


JOSEPH B. MEAGHER
Notary Public, State of New York
Broome County 02ME4974837
Commission Expires Nov. 26, 2017 

EXHIBIT "A-1"

PLEASE SEE ATTACHED CASINO AND RESTAURANT EXPANSION
LEGAL DESCRIPTION

WILLIAMS & EDSALL LAND SURVEYORS, P.C.

The Turner House, Suite 101
24 NYS Rte. 96 Owego, NY 13827
Telephone/Fax: (607)687-8953

Suggested Description

BEGINNING at a point at the southwest corner of a new building delineated as *Casino and Restaurant Expansion*, said point being N 61°17'39" E a distance of 113.28 feet from a highway monument located on the north line of New York State Route 17. Thence the following courses running along the face of the new *Casino and Restaurant Expansion* building;

THENCE N 04°57'39" W for a distance of 71.50 feet to a point;

THENCE N 85°02'21" E for a distance of 165.07 feet to a point;

THENCE S 04°57'39" E for a distance of 13.00 feet to a point;

THENCE N 85°02'21" E for a distance of 94.59 feet to a point;

THENCE S 04°57'39" E for a distance of 53.34 feet to a point;

THENCE N 85°02'21" E for a distance of 93.28 feet to a point;

THENCE S 04°57'39" E for a distance of 41.19 feet to a point;

THENCE S 85°02'21" W for a distance of 89.90 feet to a point;

THENCE S 04°57'39" E for a distance of 1.00 feet to a point;

THENCE S 85°02'21" W for a distance of 48.37 feet to a point;

THENCE S 04°57'39" E for a distance of 1.83 feet to a point;

THENCE S 85°02'21" W for a distance of 43.15 feet to a point;

THENCE N 04°57'39" W for a distance of 1.83 feet to a point;

THENCE S 85°02'21" W for a distance of 48.38 feet to a point;

THENCE N 04°57'39" W for a distance of 9.94 feet to a point;

THENCE S 85°02'21" W for a distance of 19.69 feet to a point;

THENCE S 40°02'21" W for a distance of 1.78 feet to a point;

THENCE N 50°15'14" W for a distance of 34.36 feet to a point;

THENCE N 40°02'21" E for a distance of 1.74 feet to a point;

THENCE N 04°57'39" W for a distance of 2.95 feet to a point;

THENCE S 85°02'21" W for a distance of 79.00 feet to the Point of Beginning;

CONTAINING 0.626 Acres as shown on a survey map prepared by Williams and Edsall Land Surveyors titled Survey for Tioga Downs Racetrack, LLC located at 2384 West River Road dated July 15, 2016.

EXHIBIT "A-2"

PLEASE SEE ATTACHED HOTEL EXPANSION LEGAL DESCRIPTION

WILLIAMS & EDSALL LAND SURVEYORS, P.C.

The Turner House, Suite 101
24 NYS Rte. 96 Owego, NY 13827
Telephone/Fax: (607)687-8953
Web Site: www.williamsandedsall.com

TIOGA DOWNS RACETRACK, LLC

Suggested Description
Proposed Expansion for Hotel

Beginning at a point at the northwest corner of lands of Tioga County Industrial Development Agency (TCIDA) as recorded at Deed No. 2015-00000709;

THENCE N 05°00'22" W 68.08 feet to a point;

THENCE S 85°14'16" W 59.85 feet to a point;

THENCE N 05°37'27" W 13.65 feet to a point;

THENCE N 84°59'46" E 102.18 feet to a point;

THENCE N 05°00'05" W 31.16 feet to a point;

THENCE N 66°35'07" E 248.98 feet to a point;

THENCE N 49°27'22" E 130.85 feet to a point;

THENCE N 31°45'08" E 131.76 feet to a point;

THENCE N 78°59'41" E 40.17 feet to a point;

THENCE S 75°26'00" E 85.84 feet to a point;

THENCE S 14°34'00" W 109.00 feet to a point;

THENCE N 75°26'00" W 37.97 feet to a point;

THENCE S 30°56'14" W 346.79 feet to a point on the boundary of lands of the aforementioned TCIDA;

THENCE N 44°01'44" W 28.14 feet along lands of the aforementioned TCIDA to a point;

THENCE S 85°00'05" W 291.01 feet along lands of the aforementioned TCIDA to the **Point of Beginning**;

CONTAINING 2.080 Acres as shown on a survey map prepared by Williams and Edsall Land Surveyors titled Survey for Tioga Downs Racetrack, LLC dated September 6, 2016.

EXHIBIT "B"

PILOT SCHEDULE

I. CASINO AND RESTAURANT EXPANSION PARCEL

Until the Casino and Restaurant Expansion Parcel is fully assessed, the Company will pay the actual taxes that would have been levied on this parcel if not for the Agency's tax exemption.

Upon full assessment, the Company will pay the following percentages of the actual taxes that would have been levied on this parcel if not for the Agency's tax exemption:

<u>Year 1:</u>	Five (5) percent
<u>Year 2:</u>	Ten (10) percent
<u>Year 3:</u>	Fifteen (15) percent
<u>Year 4:</u>	Twenty (20) percent
<u>Year 5:</u>	Twenty-Five (25) percent
<u>Year 6:</u>	Thirty (30) percent
<u>Year 7:</u>	Thirty-Five (35) percent
<u>Year 8:</u>	Forty (40) percent
<u>Year 9:</u>	Forty-Five (45) percent
<u>Year 10:</u>	Fifty (50) percent
<u>Year 11:</u>	Fifty-Five (55) percent
<u>Year 12:</u>	Sixty (60) percent
<u>Year 13:</u>	Sixty-Five (65) percent
<u>Year 14:</u>	Seventy (70) percent
<u>Year 15:</u>	Seventy-Five (75) percent
<u>Year 16:</u>	Eighty (80) percent
<u>Year 17:</u>	Eighty-Five (85) percent
<u>Year 18:</u>	Ninety (90) percent
<u>Year 19:</u>	Ninety-Five percent
<u>Year 20:</u>	One Hundred (100) percent

II. HOTEL EXPANSION PARCEL

Until the Hotel Expansion Parcel is fully assessed, the Company will pay the actual taxes that would have been levied on this parcel if not for the Agency's tax exemption.

Upon full assessment, the Company will pay the following percentages of the actual taxes that would have been levied on this parcel if not for the Agency's tax exemption:

<u>Year 1:</u>	Five (5) percent
<u>Year 2:</u>	Ten (10) percent
<u>Year 3:</u>	Fifteen (15) percent
<u>Year 4:</u>	Twenty (20) percent
<u>Year 5:</u>	Twenty-Five (25) percent
<u>Year 6:</u>	Thirty (30) percent
<u>Year 7:</u>	Thirty-Five (35) percent
<u>Year 8:</u>	Forty (40) percent
<u>Year 9:</u>	Forty-Five (45) percent
<u>Year 10:</u>	Fifty (50) percent
<u>Year 11:</u>	Fifty-Five (55) percent
<u>Year 12:</u>	Sixty (60) percent
<u>Year 13:</u>	Sixty-Five (65) percent
<u>Year 14:</u>	Seventy (70) percent
<u>Year 15:</u>	Seventy-Five (75) percent
<u>Year 16:</u>	Eighty (80) percent
<u>Year 17:</u>	Eighty-Five (85) percent
<u>Year 18:</u>	Ninety (90) percent
<u>Year 19:</u>	Ninety-Five percent
<u>Year 20:</u>	One Hundred (100) percent