

# CITY COUNCIL REPORT



Meeting Date: April 5, 2016  
 General Plan Element: *Economic Vitality*  
 General Plan Goal: *Support a diversity of businesses*

## **ACTION**

**Consider approval of an application for a new Teletracking Establishment License for K O'Donnell's Bar and Grill located at 14850 N. Northsight Blvd.**

## **BACKGROUND**

K O'Donnell's Bar and Grill (K O'Donnell's), located at 14850 N. Northsight Blvd., has requested approval of a Teletrack Wagering Establishment license. The proposed use requires a license from the City pursuant to Scottsdale Revised Code, Chapter 16, Article XVI, Pari-Mutuel Wagering on Telecast Racing Events (Teletracking), and would be renewable every three years.

The ordinance regulating pari-mutuel wagering was established in the City Code in 1993 and revised in 2009. The application must include full disclosure of the applicant's background as to felony convictions or any judicial findings relating to gaming. The application for K O'Donnell's is attached (Attachment 1). K O'Donnell's opened for business in March of 2005 and has a valid Liquor and Transaction Privilege Sales Tax License with the City.

The applicant has entered into a Teletrack Wagering Facility Agreement with TP Racing LLLP, usually referred to as Turf Paradise, a horse racing track. A copy of TP Racing LLLP's application for the K O'Donnell's location is attached (Attachment 2). This agreement outlines the responsibility of all parties. TP Racing LLLP currently has a valid license to operate an off track betting operation.

## **ANALYSIS & ASSESSMENT**

Scottsdale City Code requires that this license type be approved or denied by City council during a public hearing. Staff review of this application included the following:

- Obtaining a criminal history report of the applicants from the Department of Public Safety (DPS).
- Verification of valid State of Arizona permits and licenses and all other license application requirement documents (plan of operation, maps, drawings, parking and security plan, etc.).
- Verification of vicinity ownership and proximity to other Teletrack establishments, schools, parks, day nursery or preschool, and specified zoning boundaries.

- Scheduling a public hearing and issuing notice of that hearing thirty (30) days prior to all owners and tenants listed on the vicinity ownership list.
- Publishing the notice of public hearing in a newspaper and posting the information on the subject property at least thirty (30) days prior to the public hearing.

**Operations** – The applicant is proposing to install four off track betting windows that will be operated by licensed off track betting operators from Turf Paradise. This area is marked on the attached floor plan as “Proposed OTB” (Attachment 3). Turf Paradise is responsible for the operations of the wagering windows; the applicant is responsible for providing all necessary security.

**Security** – The applicant is subject to the requirement of the Arizona Department of Racing and the Arizona Racing Commission to protect the public and the facility from unlawful and improper conduct. The teletrack wagering facility agreement with Turf Paradise includes provisions for security, including the use of uniformed or plain clothed security personnel as necessary. The cost of the security is the responsibility of the teletrack establishment.

City Code requires that teletrack wagering establishments be 1000 feet apart. The closest teletrack establishment to K O'Donnell's is at 13610 N. Scottsdale Rd. in the City of Phoenix, approximately 3 miles away. The Code also prohibits a teletrack wagering establishment within 500 feet of any public/private school, park or day nursery/preschool. The closest facility in these categories is Northsight Park which is approximately 2200 feet to the south. A map of the proposed site is included in the attachments (Attachment 4).

This property is zoned C-2, Central Business, Commercial and Industrial

### **Recent Staff Action**

The Police Department reviewed the criminal history reports on the applicants for the Teletrack Wagering Establishment at K O'Donnell's and reported that there was not a concern for public health, safety and welfare. K O'Donnell's has filed their Security Maintenance and Operations Plan. Based on their findings the Police Department has no opposition to the applications.

The Business Services department completed their review of the application documents and verified that Code requirements have been met.

### **Policy Implications**

The policy for this process is already in place by ordinance. No further policy impacts are expected.

### **Community Involvement**

A public notice was published in a newspaper of general circulation in the City and a public notice was posted on the subject property in such a manner as to be legible from the public right-of-way and to each owner and tenant within 500 feet (Attachment 5 and 6). In addition, information about the public hearing was provided in a letter sent to all property owners, businesses and residents within 500 feet of this property. As of March 22<sup>nd</sup>, no public comments were received.

## RESOURCE IMPACTS

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### Staffing, Workload Impact

Establishing and maintaining regulatory licenses are part of Business Services current responsibilities. No additional resources are needed in order to process this application and license.

### Future Budget Implications

No significant impacts.

## OPTIONS & STAFF RECOMMENDATION

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### Option A

Approve Teletracking license for K O'Donnell's

### Option B

Deny Teletracking license for K O'Donnell's

## RESPONSIBLE DEPARTMENT(S)

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Business Services

City Manager

## STAFF CONTACTS (S)

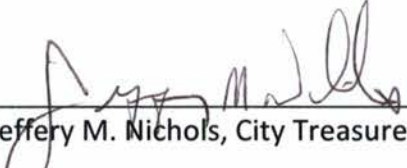
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Dennis Enriquez, Business Services Director, [denriquez@scottsdaleaz.gov](mailto:denriquez@scottsdaleaz.gov)


Terry Hoglund, Business Services Manager, [thoglund@scottsdaleaz.gov](mailto:thoglund@scottsdaleaz.gov)

## APPROVED BY

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\_\_\_\_\_  
Jeffery M. Nichols, City Treasurer  
480-312-2364, [jenichols@scottsdaleaz.gov](mailto:jenichols@scottsdaleaz.gov)

3/17/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Brian K. Biesemeyer, Acting City Manager  
480-312-5683, [bbiesemeyer@scottsdaleaz.gov](mailto:bbiesemeyer@scottsdaleaz.gov)

3/21/16  
\_\_\_\_\_  
Date

**ATTACHMENTS**

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1. K O'Donnell's Teletrack Establishment Application
2. TP Racing, LLLP's Teletrack Operator Application
3. Floor Plan
4. Map of Site
5. Public Notice in newspaper
6. Public Notice posted at location

Customer Service Division  
 Office location - 7447 E. Indian School Road, #110  
 Scottsdale, AZ 85251  
 Mailing Address - 3939 N. Drinkwater Blvd.  
 Scottsdale, AZ 85251  
 Telephone - (480) 312-2400  
 Fax - (480) 312-4806  
 Web - www.ScottsdaleAZ.gov/licenses



PC-2001

**APPLICATION  
 TELETRACK WAGERING  
 ESTABLISHMENT LICENSE**

FOR CASHIER USE ONLY	
Application Fee:	500.00
License Fee:	600.00
Total Due:	1100.00

1123357  
 Account Number

Teletracking Ord. (date & initial)

General Provisions (date & initial)

SC 1/26/10

**BUSINESS NAME, BUSINESS TELEPHONE, BUSINESS LOCATION**

ROT, LLC DBA K O'DONNELL'S SPORTS BAR + GRILL 480 922-7200  
 BUSINESS NAME (Individual, Company or "DBA", first name first) Area Code Business Telephone No.  
14850 N NORTHSIGHT E BLVD  
 STREET NO. (N,E,S,W) STREET NAME Type STE./APT. NUMBER  
 (ST,DR,AV)  
SCOTTSDALE AZ 85260-  
 City State ZIP

**BUSINESS MAILING ADDRESS, EMERGENCY TELEPHONE AND APPLICANT NAME**

14850 N NORTHSIGHT BLVD  
 STREET NO. (N,E,S,W) STREET NAME Type STE./APT. NUMBER  
 (ST,DR,AV)  
SCOTTSDALE AZ 85260- 480 922-7200  
 City State ZIP Area Code Emergency Number

ROT, LLC DBA K O'DONNELL'S SPORTS BAR + GRILL  
 APPLICANT NAME (Individual or Corporation/Partnership operating business. (first name first)).

EMERGENCY CONTACT PERSON

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ PHONE: \_\_\_\_\_

**BUSINESS OWNERSHIP AND RECORDS LOCATION**

TYPE OF OWNERSHIP: INDIVIDUAL  LLC PARTNERSHIP  CORPORATION   
 DATE INCORPORATED 07/17/13  
 STATE INCORPORATED ARIZONA

CORPORATE STATUTORY AGENT OR AGENT AUTHORIZED TO RECEIVE SERVICE OF PROCESS:  
 NAME JENNIFER O'DONNELL ADDRESS 14850 N. NORTHSIGHT BLVD. PHONE: 480-922-7200

DESCRIBE NATURE OF BUSINESS RESTAURANT / BAR WITH SPORTS THEME, SERIES 12 LIQUOR LICENSE

LIQUOR LICENSE: STATE# 12079644 SCOTTSDALE# 1096509

**Name(s) of owner(s), partner(s), officer(s), shareholder(s) of 10% or more, and person(s) who participate in management, control or policy:**

Legal Name: O'DONNELL JENNIFER MARIE MANAGING PARTNER \_\_\_\_\_  
 Last First Middle Title Date of Birth  
 Residential Address: \_\_\_\_\_  
 Street City State Zip Telephone Shareholder % 50

Legal Name: NOYES ROGER THOMAS MEMBER \_\_\_\_\_  
 Last First Middle Title Date of Birth  
 Residential Address: \_\_\_\_\_  
 Street City State Zip Telephone Shareholder % 50

Legal Name: \_\_\_\_\_  
 Last First Middle Title Date of Birth  
 Residential Address: \_\_\_\_\_  
 Street City State Zip Telephone Shareholder%

(PLEASE USE ADDITIONAL PAPER IF NECESSARY)

**CONVICTIONS**

Has anyone listed ever had any felony conviction in any jurisdiction, within the last 5 years ?  Yes  No

If yes, you must provide specific information describing:

WHO	OFFENSE	WHERE OFFENSE OCCURRED	DATE OF OFFENSE	COURT(S) ENTERED INTO

Have you or your business ever had any judicial or administrative finding of violation of any law or regulation relating to racing, wagering or gaming in any jurisdiction ?  Yes  No

If Yes, please give explanation: \_\_\_\_\_

(please use additional paper if necessary)

Have you or your business ever had any license or permit relating to pari-mutuel betting or teletrack activities revoked or suspended?  Yes  No

If Yes, please give explanation: \_\_\_\_\_

(please use additional paper if necessary)

**ADDITIONAL INFORMATION REQUIRED**

- (1) Written proof of age.
- (2) Proof of a current bar (Series 6) or restaurant (Series 12) liquor license.
- (3) Accurate drawings to scale indicating the floor plan of all buildings on the premises and the precise location of all teletracking facilities and activities.
- (4) Site plan for all buildings and associated parcel lines, including evidence of compliance with Scottsdale Revised Code, Chapter 16, Article XVI, Section 16-500.
- (5) Proof of an agreement between the applicant and each operator for use of the establishment by the operator for teletrack wagering purposes.

**ADDITIONAL INFORMATION REQUIRED**

- (6) A vicinity ownership map showing and labeling all lots within five hundred (500) feet of the exterior boundaries of the parcel, not including public property or right of way.
- (7) A vicinity ownership list and mailing labels property addressed, containing names and mailing addresses, with correct zip codes, of owners of all parcels shown on the vicinity ownership map..
- (8) A parking plan showing all parking spaces available for the site, and traffic flow patterns.
- (9) A security plan which may include security guards and other appropriate measures for the protection of patrons, employees and the public.
- (10) Proof that a teletrack operator license has been issued or applied for with respect to each operator who will conduct teletrack wagering activities at the establishment.

I HEREBY CERTIFY THAT ALL ANSWERS TO QUESTIONS ON THIS APPLICATION ARE TRUE AND COMPLETE, AND I AGREE AND UNDERSTAND THAT ANY FALSIFICATION OF MATERIAL FACTS MAY CAUSE FORFEITURE ON MY PART OF ALL RIGHTS TO, AND CONSIDERATION TO BE LICENSED IN THE CITY OF SCOTTSDALE, COUNTY OF MARICOPA, STATE OF ARIZONA.

Date: 01/25/2010

Jennifer Donnell  
Applicant Signature

**FOR OFFICE USE ONLY**

Recommendation:

\_\_\_\_\_  
Approval/Denial                      Date                      Police Department

STATE OF ARIZONA  
DEPARTMENT OF LIQUOR LICENSES  
AND CONTROL  
ALCOHOLIC BEVERAGE LICENSE

License 12079644

Issue Date: 12/13/2013

Expiration Date: 3/31/2016

Issued To:

JENNIFER MARIE O'DONNELL, Agent  
ROJ LLC, Owner

Restaurant

Mailing Address:

JENNIFER MARIE O'DONNELL  
ROJ LLC  
K O'DONNELL'S BAR & GRILL  
14850 N NORTHSIGHT BLVD  
SCOTTSDALE, AZ 85260

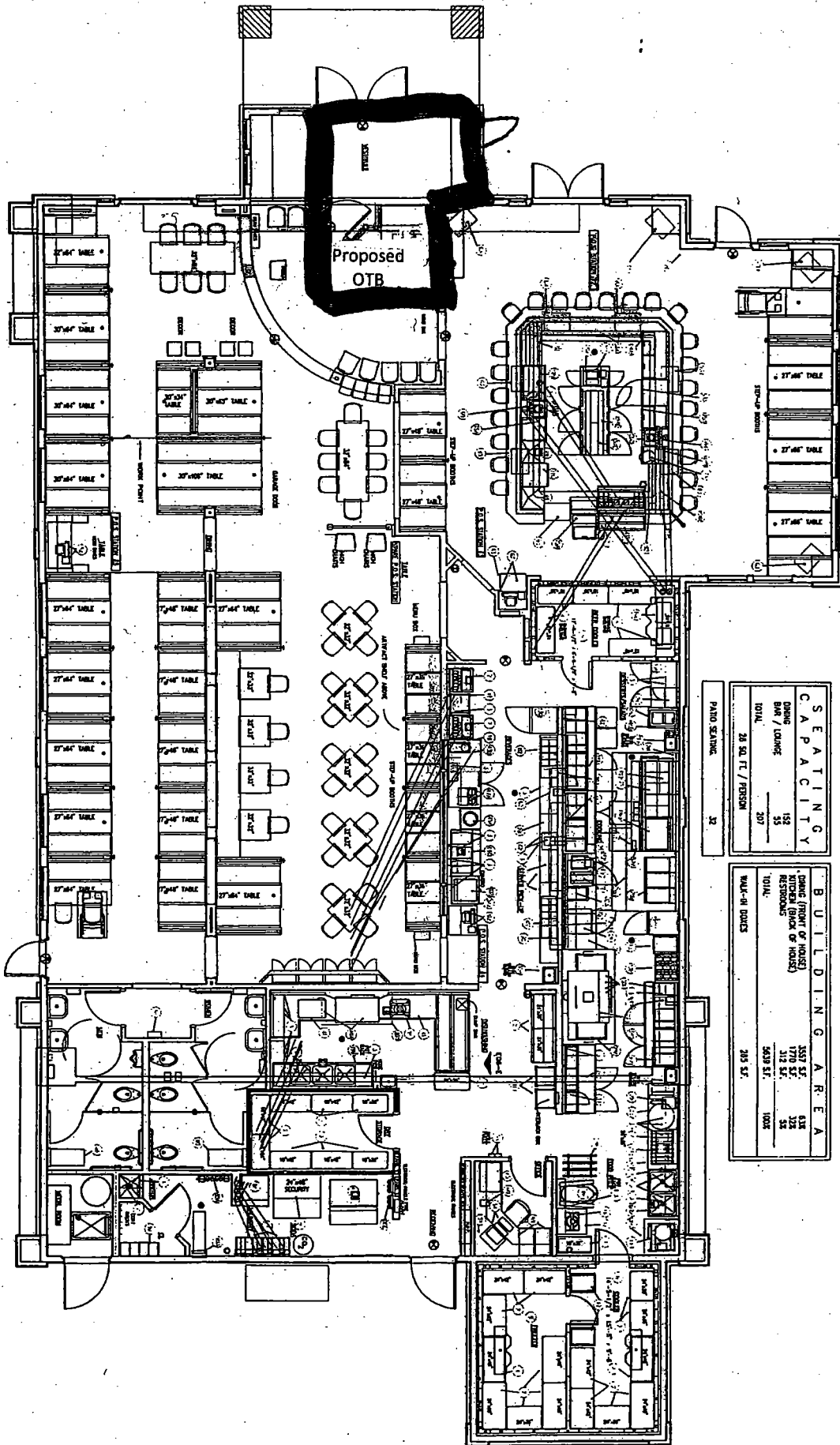
Location:

K O'DONNELL'S BAR & GRILL  
14850 N NORTHSIGHT BLVD  
SCOTTSDALE, AZ 85260

EXP 3/31/2016

DO NOT TRIPLE ENFORCE IN CONVICTION STATE





SEATING CAPACITY	
DINING	132
BAR / LOUNGE	33
TOTAL	207
28 SQ. FT. / PERSON	

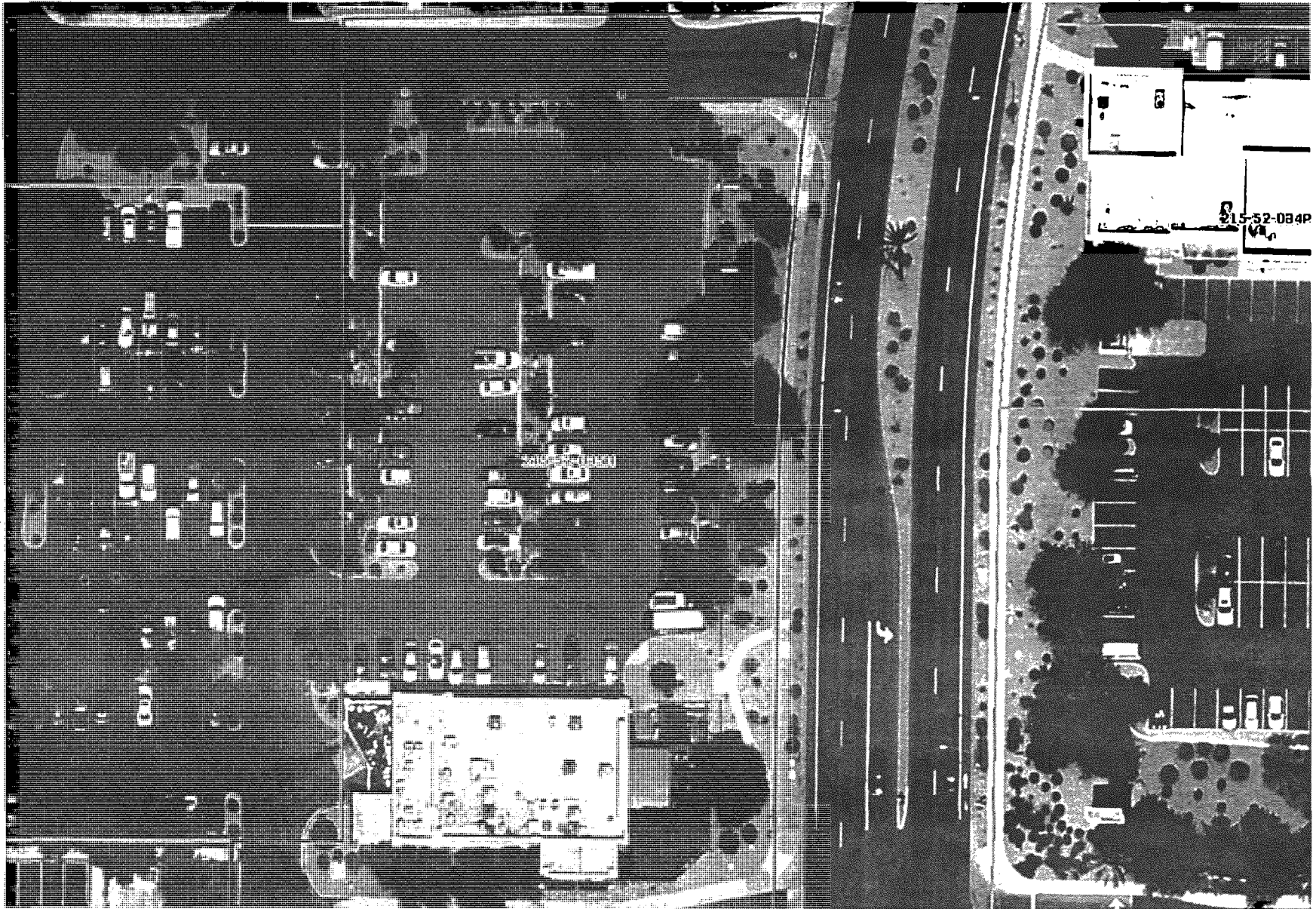
BUILDING AREA	
DINING (INCL. OF NOISE)	183 S.F.
BAR / LOUNGE (INCL. OF NOISE)	177 S.F.
RESTROOMS	112 S.F.
TOTAL	472 S.F.
WALK-IN COOLERS	205 S.F.

PAID SEATING 32

# PARCEL LIST & SITE PLAN



# PARKING PLAN



**TURF PARADISE  
TELETRACK  
WAGERING FACILITY  
AGREEMENT**

Date: December 21, 2015

- Parties:
1. TP Racing, L.L.L.P. dba Turf Paradise, an Arizona Limited Liability Limited Partnership, hereinafter referred to as "Track".
  
  2. ROJ, LLC dba K O'Donnell's Sports Bar and Grill hereinafter referred to as "Lessor".

- Terms:
- A. Date of Commencement, January 1, 2016
  
  - B. Date of Termination, May 31, 2018

Premises: A portion of the facility known as K O'Donnell's Sports Bar & Grill, located at 14850 N. Northsight Blvd, Scottsdale, AZ 85260 as more fully described in Exhibit A attached hereto.

This Agreement is made by and between TP Racing, L.L.L.P. dba Turf Paradise, an Arizona Limited Liability Limited Partnership (hereinafter sometimes referred to as "Track") and Lessor, as more fully described on the first page of this Agreement.

**WHEREAS**, Arizona Revised Statutes 5-111 (A) permit the operation of additional wagering facilities (hereinafter sometimes referred as "Teletrack Wagering Facilities") for wagering on the races composing the racing program of Track; and Track and Lessor desire to establish an additional wagering facility pursuant to the provisions of A.R.S. 5-111 (A) and to memorialize their various rights, duties and obligations by this Agreement; and

**WHEREAS**, Lessor is the owner of or leases from the owner that certain premises described on the first page of this Agreement (hereinafter sometimes referred to as "the Premises" of which the additional wagering facility is a part; and

**WHEREAS**, Track is the holder of a permit to conduct a horse racing meeting at Turf Paradise Race Track in the State of Arizona and desires its program to be transmitted to the additional wagering facility for teletrack wagering pursuant to the provisions of A.R.S. 5-111 (A) as more fully set forth in Exhibit A attached hereto; and

**WHEREAS**, Track desires to lease that certain portion of the premises as more fully described in Exhibit "A" attached hereto and hereinafter referred to as the "Facility" on a non-exclusive basis for the purpose of conducting teletrack wagering.

**NOW THEREFORE**, it is agreed as follows:

1. **Term and Premises**

(a) **Term**. The term of this Agreement shall be for the period commencing as set forth on the first page of this Agreement or as soon thereafter as is practicable after receiving necessary approvals, permits and licenses pursuant to Section 3(a) and 11(d) of this Agreement, through the termination date and for such additional periods as the parties may from time to time agree in writing.

(b) **Premises**. Lessor, for and in consideration of the mutual covenants and agreements of the parties, hereby leases, on a non-exclusive basis, to Track and Track hereby leases from Lessor those portions of the facility referred to herein as the Additional Wagering Facility more fully described in Exhibit "A" attached hereto. The leased portion of the Premises is limited to the areas specifically designated and described as the leased area, which area shall also be known as the "Facility." The parties acknowledge that the Facility is occupied by Track on a non-exclusive basis and Lessor reserves to itself all other rights of use, occupation and entry of the Facility and the parties agree that all other rights except the right of non-exclusive occupancy and use as provided herein are reserved to Lessor.

2. **Duties and Responsibilities of Lessor.**

(a) **Additional Wagering Facility.** Lessor shall maintain the Premises of which the leased facility is a part, in a manner suitable for the operation of an additional wagering facility and shall open the facility to the public for purposes of teletrack wagering each day that a racing program conducted by Track is transmitted to the facility unless otherwise agreed to by Track and Lessor.

(b) **General Obligations of Lessor.** Lessor shall furnish or maintain or cause to be furnished or maintained, at the teletrack wagering facility, at no expense to Track:

(1) Reasonable physical protection at all times of the teletrack wagering system components installed or present on the Premises of Lessor which are owned by Track or leased by Track from third parties from loss, harm, damage or destruction by any cause whatsoever including, but not limited to, theft, removal, trespass, damage, interference by other person, vandalism or water damage. Such protection shall be afforded on a reasonable best efforts basis and shall, among other things, provide such protection from elements and fire extinguishing methods as are reasonably required to protect the same. Lessor further waives any claim or right of ownership, possession or lien against all components, equipment, trade fixtures, materials or supplies owned by Track or placed or installed by Track in or upon the premises or facility. Lessor further agrees that all such components, equipment, trade fixtures, materials and supplies shall remain the property of Track, free of any claim of any kind whatsoever, regardless whether the same are fixed or attached thereto.

(2) Necessary electrical power, telephone cabling, outlets and voltage regulation for the proper, normal and emergency operation of the teletrack wagering system equipment, including without limitation a dedicated circuit to the pari-mutuel wagering terminals for teletrack operations.

(3) Secure space for the storage and care of printer ribbons, ticket materials and other supplies of Track reasonably necessary for the conduct of teletrack wagering operations as well as secure areas for the storage of spare or additional pari-mutuel wagering machines.

(4) Lessor shall permit the officers, directors, employees, agents and authorized representatives of Track access to the teletrack wagering system located at the Premises at all reasonable times for the proper supervision, maintenance, repair or operation of the system and to permit removal by Track or its designated agents or contractor's of the removable parts of the system when not required or necessary for teletrack wagering.

(5) Pay all taxes, fees, impositions or assessments levied or imposed by any governmental agency whether state or local by reason of the Lease, occupation, use or operation of the teletrack wagering facility and the conduct of business therein including without limitation all ad valorem real or personal property taxes, special taxes, sales, gross receipts, use or transaction privilege taxes, city, county and state permit or license fees or other excise taxes or fees.



(c) **Gates and Admissions.** Lessor shall be responsible for and shall control the admission of the public to the teletrack wagering facility. The cost of labor, materials and supplies associated with maintaining the facility in a clean and orderly manner shall be the sole responsibility of Lessor. Lessor further agrees not to charge admission to the Teletrack Wagering Facility. Lessor shall be responsible for compliance with and enforcement of laws and regulations of the State of Arizona or any local governmental entity and shall, at all time, maintain safe, orderly Premises and shall be responsible for control of any interfering activities on or about the Premises.

(d) **Parking.** Lessor shall provide for parking space reasonably necessary to accommodate the anticipated patrons at the teletrack wagering facility. The cost of labor, materials and supplies associated with construction, maintenance and operation of parking facilities shall be the sole responsibility of Lessor. Lessor further agrees not to charge for parking at the teletrack wagering facility.

(e) **Food and Beverage.** Lessor shall maintain and establish appropriate food and beverage service at the teletrack wagering facility. The costs of labor, materials and supplies associated with construction, maintenance and operation of food and beverage service shall be the sole responsibility of Lessor. Lessor shall be solely responsible for compliance with all requirements imposed on the facility in connection with any required beverage or liquor licenses or permits.

(f) **Amenities and Facilities**. Lessor shall be responsible for providing and maintaining a first-class, clean, safe and habitable teletrack wagering facility suitable for public attendance and adequate facilities for patrons to permit handicapping and appropriate seating areas sufficient to accommodate all patrons. Appropriate facilities for handicapped patron access shall also be provided. The facility shall not be used for any other purposes during the time teletrack wagering is being conducted. Lessor shall provide suitable furnishings and fixtures approved by Track for the tellers' stations or positions located in the Premises. Lessor shall be entitled to all revenues from food and beverage services and all other commercial enterprises conducted by Lessor. The cost of labor, materials and supplies associated with construction, maintenance and operation of the facility shall be the sole responsibility of Lessor.

(g) **Security**. Lessor shall provide adequate security for the protection of the public and all employees, including such uniformed or plainclothes security personnel as shall be reasonably necessary and as required by the Arizona Department of Racing to protect the public and teletrack wagering facility from unlawful and improper acts or conduct. The cost of labor, materials and supplies associated with security of the teletrack wagering facility shall be the sole responsibility of Lessor.

(h) **Utilities**. Lessor shall provide such air conditioning, electrical service, water, heat, telephone service and light as are reasonably necessary to maintain a proper first-class teletrack wagering facility for the comfort of the patrons and for the operation of the facility. The cost of such utility services shall be the sole responsibility of Lessor.

(i) **Maintenance**. Lessor shall be responsible for all repairs, maintenance and janitorial services necessary for the facility and all equipment therein, except the pari-mutuel and other equipment installed by Track. In the event Lessor shall fail or refuse to provide such repairs, maintenance and janitorial services in a first-class manner, Track shall be permitted to perform such repairs, maintenance and janitorial services at the expense of Lessor.

(j) **Price Lists**. Lessor shall furnish Track prior to the commencement of the Racing meeting, a price list setting forth the amounts to be charged to the public for food and beverage services and all other vended items.

3. **Duties and Responsibilities of Track.**

(a) **Permits and Licenses**. Track shall apply for and secure at its sole cost and expense all necessary approvals, licenses or permits required by the State of Arizona or any other governmental entity to conduct and operate a teletrack wagering operation under Arizona law and shall maintain such approvals, licenses or permits in good standing at all times during the term of this Agreement, provided however, that Lessor shall be responsible and shall pay for all taxes, fees, impositions or assessments by all such governmental entities as provided in Paragraph 2(b)(5) of this Agreement.

(b) **Receiving and Display Equipment**. The cost of all labor, materials, supplies and services associated with the transmission reception or display of the audio-video signal to Lessor shall be the sole responsibility of Track. Track shall have the absolute right to remove any or all

equipment, materials, supplies, fixtures owned by or installed in the teletrack wagering facility by Track during the term of this Agreement and/or for a reasonable period of time after the termination of this Agreement for any reason.

(c) **Pari-mutuel Operations**. Track shall employ and supervise such qualified pari-mutuel operations management and personnel together with such equipment as is reasonably necessary for the proper operation and management of the Teletrack wagering system given the reasonably anticipated attendance and pari-mutuel wagering handle at the Premises. The cost of all materials and supplies associated with the maintenance and operation of the pari-mutuel wagering equipment at the Premises shall be the sole responsibility of Track. The cost of labor to operate pari-mutuel equipment (mutuel clerks) at the Premises shall be the sole responsibility of the Track. Track reserves the right to designate a managing agent, to supervise, operate and manage the pari-mutuel operations at the Teletrack wagering facility on behalf of track. Track shall notify lessor, in writing, of the designation of such managing agent. Track shall be responsible and pay for all pari-mutuel taxes levied or assessed by the state of Arizona on pari-mutuel wagering conducted at the facility.

4. **Programs**. For the purposes of this Agreement, Track shall have the exclusive right to distribute and sell all forms, tip sheets or other written materials for handicapping and the racing programs relating in any way to the teletrack wagering program.

5. **No Commission Fee.** Lessor shall not be entitled to receive any commission fee or payment from Track from or related to the wagers accepted and received at Facility on races which are telecast to the Facility by Track.

6. **Insurance.**

(a) **Track.** Track shall, on request, provide certificates of insurance for, and will maintain, at its expense, insurance coverage with companies having an A.M. Best rating of A, XIII or better as follows:

(1) All risks of physical damage coverage on its operations and facilities subject to normal exclusions;

(2) Workers' Compensation on Track's employees providing statutory benefits and an employer's liability limit of \$100,000; and

(3) Comprehensive general liability coverage of not less than \$1,000,000 combined single limit, which shall include extensions of coverage for products, complete operations, personal injury and specified contract coverage.

(4) Track shall also maintain an excess line of comprehensive general liability coverage in such amounts that Track may deem appropriate.

(5) In each and all such policies, save and except the Workers' Compensation policy, Lessor shall be an additional insured.

(b) **Lessor.** Lessor shall, on request, provide certificates of insurance for, and will maintain, at their expense, insurance coverage with insurance companies having an A.M. Best rating of A, XIII or better as follows, or if governmental entities, said entities may, after giving notice to Track, self-insure some or all of the following coverage's or be covered by an insurance pool, where the risk is born by insurance companies acceptable to Track:

(1) All risks of physical damage coverage on the facility, including the leased Premises, subject to normal exclusions;

(2) Workers' Compensation on Lessor's employees providing statutory benefits and an employer's liability limit of \$100,000; and

(3) Comprehensive general liability coverage of not less than \$1,000,000 combined single limit, which shall include extensions of coverage for products, complete operations, personal injury and blanket contract covering the entire facility.

(4) Liquor liability coverage of not less than \$1 million combined single limit.

(5) Lessor shall also maintain an excess line of comprehensive general liability coverage in such amounts that Lessor and Track may deem appropriate.

(6) In each and all such policies, save and except the Workers' Compensation policy, Track shall be an additional insured.

7. **Interruption or Interference with Signal.** Track shall not be liable to Lessor, its agents or employees or third persons claiming through Lessor for any losses occasioned by interruption or loss of the audio-video or pari-mutuel signal or transmission, for whatever duration, except that Track shall save and hold Lessor harmless from and against any claims of patrons or third parties relative to wagers made or claimed to be made and accepted through the pari-mutuel system. Any recovery of commission losses from the contractor or services supplier of Track, incurred as a result of interruption or loss of the audio-video or pari-mutuel signal or transmission, shall be for the sole benefit of Track.

8. **No Competing Teletrack Wagering.** The parties agree that because of the costs incurred by Track in establishing teletrack wagering and implementing this Agreement and the various factors affecting the patrons of pari-mutuel wagering involving horse racing that it shall be a material breach of this Agreement justifying the termination of this Agreement forthwith or the suspension of the audio-video signal to Lessor by Track for all or part of the remaining term of this Agreement in the sole discretion of Track in the event Lessor accepts an audio-video signal for pari-mutuel wagering purposes of any racing program which is not transmitted to Lessor by Track during the time period that Track transmits its signal to Lessor.

9. **Right to Lease.** Lessor represents and warrants that Lessor has the requisite power, authority and right to lease the facility to Track as provided for in this Agreement. In the event

that Lessor is not the owner of the Premises of which the facility is a part and is the lessee under a valid lease of the premises, then Lessor shall secure and deliver to Track a consent and approval to sublease the facility as provided in this Agreement duly executed by an authorized agent or officer or the owner of the premises, as the case may be, in a manner and form acceptable to Track and Track's legal counsel, as a condition precedent to Track's obligation under this Agreement.

10. **Termination.** The parties agree that Track and Lessor shall at all times have the right to terminate this Agreement, upon fifteen (15) days written notice to the other party, provided that in the event of the condemnation or destruction of all or any part of the facility which renders the facility unsuitable or unusable in Track's sole opinion, or in the event Lessor shall fail to comply with any or all of the laws, rules or lawful orders of the Arizona Department of Racing and the Arizona Racing Commission or the State of Arizona or other governmental entity, then Track may, in Track's sole discretion, terminate this Agreement immediately upon written notice to Lessor and Track shall not be responsible for any costs, expenses or damages incurred by Lessor by reason of any such termination under this Paragraph. Lessor acknowledges and agrees that in the event of the sale or transfer of any interest in the business or of any license or permit required to operate the business located in the premises in which the teletrack wagering facility is located or any change in management or control are a violation of the rules of the Arizona Department of Racing and that all such transfers must be subject of a pre clearance of such transfer by the Department prior to the completion such transfer or of the completion or execution of any agreement providing for such transfer or sale.



11. **Miscellaneous Provisions.**

(a) **Prohibition of Pari-mutuel Wagering.** If at any time during the term of this Agreement pari-mutuel wagering on racing or teletrack wagering or the operation of the teletrack wagering facility contemplated by this Agreement is made, declared, or held to be illegal or prohibited by statute or decision of a court of last resort, which decision has become final, or by any competent public authority whose decision is final and not appealable, or in the event the teletrack race permit issued by the Arizona Department of Racing is canceled; revoked, not renewed or otherwise terminated for any reason, this Agreement shall thereupon be deemed terminated and the parties hereto shall be released from any and all further liability or obligation hereunder, provided however that such termination shall not relieve Track or Lessor from any obligation or liability that accrued under the terms of this Agreement prior to the date of such termination.

(b) **Third Party Liability.** This agreement is not intended to benefit any third party and no person or entity other than Track and Lessor shall have any right of action arising under any of the terms and provisions of this agreement.

(1) **Track Liability.** Track shall assume responsibility for the defense of, and will indemnify and hold harmless Lessor, its directors, officers, shareholders, employees, representatives and agents from and against any losses, claims, damages, costs, suits, penalties, demands or liabilities, except claims of Lessor's employees for personal injuries arising in the scope of their employment, including reasonable legal counsel fees, occasioned by

or arising out of, in whole or in part, any willful or negligent act or omission of Track or any of its officers, directors, contractors, subcontractors, agents, servants or employees, provided that prompt written notice of such claim or suit is given to Track by Lessor, and provided Track is given full control over all negotiations and litigation in connection therewith, including selection of counsel. Track shall not be responsible for settlements made or costs or expenses incurred without its prior written consent.

(2) **Lessor Liability**. Lessor will assume the responsibility for the defense of, and shall indemnify and hold harmless Track, its directors, officers, shareholders, employees, representatives and agents from and against any losses, claims, damages, costs, suits, penalties, demands or liabilities, except claims of Track's employees for personal injuries arising in the scope of their employment, including reasonable legal counsel fees, occasioned by or arising out of, in whole or in part, by any willful or negligent act or omission of Lessor or any of its officers, directors, contractors, subcontractors, agents, servants or employees, and for any and all expenses for injury to or death of any person or loss of or damage to property in or about the Premises or in or about the facility of which the premises is a part that arises out of or in connection with the use or occupancy of the facility, provided that prompt written notice of any such claim or suit shall be given to Lessor by Track and Lessor shall be given full control over all negotiations and litigation in connection therewith including selection of counsel; and Lessor further agrees to indemnify and hold Track harmless from and against all claims, liabilities, losses, damages, fines, penalties or clean-up costs incurred in connection with either the removal or containment of any hazardous or toxic substance in or about the Premises or in or about the facility of which the premises is a part that arises out of or in connection with the use

or occupancy of the facility, provided that prompt written notice of such claim or suit shall be given to Lessor by Track, and Lessor shall be given full control over all negotiations and litigation in connection therewith, including selection of counsel. Track shall not be responsible for settlements made or costs or expenses incurred without its prior written consent.

(c) **Independent Contractor**. Track and Lessor each agree that they are not joint ventures or partners and that their status as to one another is, for the purpose of this Agreement, independent contractors and that neither they nor any of their contractors, subcontractors, agents or employees shall, at any time, constitute agents or employees of the other. Neither Track nor Lessor are granted any rights or authority to assume or create any obligation or liability, express or implied, on behalf of each other or to bind each other in any manner or thing whatsoever.

(d) **Approval**. The parties agree that their obligations under this Agreement are subject to the approval of the Arizona Department of Racing and Arizona Racing Commission and that in the event the Arizona Department of Racing or the Arizona Racing Commission fails or refuses to approve this Agreement or to authorize Track to conduct teletrack wagering at the teletrack wagering facility contemplated in this Agreement, then this Agreement shall be terminated and neither party shall be entitled to compensation for losses or damages arising out of or as a result of such termination.

(e) **Compliance with Law**. The parties agree that they will comply with any and all applicable laws, rules and regulations of the United States of America, the State of Arizona, the

Rules of the Arizona Department of Racing and the Arizona Racing Commission, all agencies of the State of Arizona, including, without limitation, all applicable anti-discrimination, affirmative action, and conflict of interest provisions. During the term hereof, both Track and Lessor shall at all times be in good standing with the Arizona Department of Racing and the Arizona Racing Commission.

(f) **Governing Law.** The laws of the State of Arizona and the applicable rules promulgated thereunder by the Arizona Department of Racing and Arizona Racing Commission shall govern as to the interpretation, validity and affect of this Agreement. No principle of conflict of laws shall make the substantive law of any other state or jurisdiction applicable hereto. In the event of any further amendments to the Arizona Revised Statutes as they relate to Horse Racing or Pari-mutuel Wagering, or the Rules promulgated by the Arizona Department of Racing or the Arizona Racing Commission after the date hereof, the parties hereto agree to negotiate in good faith any necessary or advisable modifications to this Agreement.

(g) **Attorneys' Fees.** In the event suit is brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover as an element of its cost of the suit and not as damages, reasonable attorneys' fees to be fixed by the Court.

(h) **Notices.** All notices required by provisions of this Agreement shall be in writing and sent, postage prepaid, by registered or certified mail; return receipt requested, personal delivery or via telefax.

In the case of Track to:

Turf Paradise  
ATTN: Dave Johnson, Assistant General Manager  
1501 W. Bell Road  
Phoenix, Arizona 85023

With copies to:  
John K. Mangum  
Law offices of John K. Mangum, P.C.  
340 E. Palm Lane, Suite 100  
Phoenix, Arizona 85004

In the case of Lessor to:

Jennifer O'Donnell  
K O'Donnell's Bar & Grill  
14850 N. Northsight Blvd.  
Scottsdale, AZ 85260

With copies to:

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(l) **Entire Agreement**. This Agreement shall be deemed to include and incorporate the entire Agreement between the parties and may be amended, modified or superseded only by an instrument in writing signed by duly authorized officers of both parties.

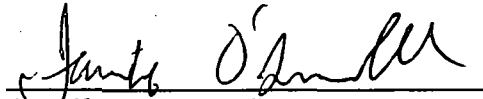
(j) **Counterparts.** This Agreement may be executed by any number of counterparts, each of which may be deemed an original and all of which shall constitute a single document.

(k) **Titles and Captions.** Section titles, captions and numbers are provided for each section or subsection only as a matter of reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision herein.

12. **Authority.** The persons executing this Agreement on behalf of Track, by their respective signatures hereon, certify and represent that they are the duly authorized and acting corporate officers of Track and that they are authorized and empowered by the Board of Directors of Track to execute this Agreement on behalf of said corporation, and that this Agreement has been duly approved and they are authorized to obligate and to take such other and further action as may be necessary or appropriate to effectuate and carry out this Agreement. The persons executing this Agreement on behalf of Lessor, in the event that Lessor is a sole proprietorship or is a partnership, by their respective signatures certify and represent that they are duly authorized to execute this Agreement on behalf of Lessor and, in the event that Lessor is a corporation, that they are the duly authorized and acting corporate officers of Lessor and that they are authorized and empowered by the Board of Directors, or Managing or General Partner, if a partnership or Limited Liability Company, of Lessor to execute this Agreement on behalf of said corporation, and that this Agreement has been duly approved and they are authorized to obligate the corporation and to take such other and further action as may be necessary or appropriate to effectuate and carry out this Agreement.

WHEREFORE, the parties hereto have set their hand the date first above written.

**K O'Donnell's Bar & Grill**

  
\_\_\_\_\_  
Jennifer O'Donnell

OWNER  
Title

**TP RACING LLLP dba TURF PARADISE**

  
\_\_\_\_\_  
David W. Johnson  
Vice President/Assistant General Manager

January 13, 2016

## **PLAN OF OPERATION**

**TP Racing, L.L.L.P. hereinafter referred to as Turf Paradise**

### **Teletrack Wagering Facility Site:**

**ROJ, LLC. dba K O'Donnell's Sports Bar & Grill, located at 14850 N. Northsight Blvd, Scottsdale, AZ 85260.** This site is to be operated on Turf Paradise dates now or hereafter approved by the Arizona Racing Commission.

### **Types of Wagering:**

Any or all types of wagering offered at Turf Paradise will be offered at all teletrack-wagering facilities to which the teletrack signal is transmitted.

### **Number of Races:**

Turf Paradise will conduct not less than nine (9) live races per day, with the exception of Breeders' Cup Day, on an average of five (5) days per week during the period beginning October 1 and ending on the first full week in May as required by ARS 5-112. In addition, is authorized to conduct wagering on all simulcast races received at the Turf Paradise facility. Racing dates, which are identified as part of the Application for Commercial Racing Permit, are attached as Exhibit 2. Teletrack wagering will be conducted on any or all days that Turf Paradise operates racing programs at Turf Paradise as approved by the Commission. In addition, "Dark Day" simulcasting will be conducted on each day that there is no live racing and on which the teletracking of dark day simulcasting is approved by the Commission, subject to the limitation on the number of dark day simulcast programs permitted by law.



**Hours Pari-mutuel Windows Open:**

The teletrack facilities will operate within the same hours that the pari-mutuel wagering is conducted at Turf Paradise on any or all days that Turf Paradise operates racing programs at Turf Paradise. Teletrack wagering transmissions to the Teletrack facilities will provide for operation from at least thirty (30) minutes prior to post time at Turf Paradise until approximately thirty (30) minutes after the last race on the program is made official at Turf Paradise for racing programs offered at the teletrack facility.

**Anticipated Level of Attendance**

Attendance is estimated at 34 persons average per day.

**Anticipated Level of Wagering:**

The handle is estimated at \$7,500.00 average per day.

**Sources of Additional Revenue, Anticipated Revenue Other Than Wagering:**

All income from food and beverages is to be retained by **K O'Donnell's Sports Bar & Grill**. Sales of tip sheets, programs, and the *Daily Racing Forms* are the sole responsibility of Track and revenue from programs, tip sheets, *Daily Racing Forms*, and other racing-related materials will be retained by Track.

**Cost to Operate Facility:**

The site will require a Site Supervisor as provided by Turf Paradise (\$11.25 per hour) a Relief Supervisor (\$10.75 per hour) clerks (\$9.00 per hour) Downlink equipment daily fees are estimated to be thirty dollars (\$30.00) per day.

**Site Financing, Repayment Plan:**

No financing for the costs of operating the teletrack sites is anticipated.

**Proof of Financial Stability and Assets to Cover Costs:**

See Financial Statements of Turf Paradise on file with the Racing Commission.

**Anticipated Revenue to the State of Arizona:**

The State's total share of the pari-mutuel revenues is estimated to be \$16,335.00 based on .60% of the total handle.

**Names and Background of Management Groups for Operating the Site:**

Operation of the teletrack wagering facility will be conducted by Turf Paradise; (see records on file with the Arizona Racing Commission). The additional wagering facility is located in a restaurant/lounge operated by **Jennifer O'Donnell & Roger Noyes**. The pari-mutuel wagering facility portion of the facility is leased by Turf Paradise; a copy of the Lease will be filed with the Department prior to commencement of operations.

**Organization Chart:**

**K O'Donnell's Sports Bar & Grill** is owned by and operated by **Jennifer O'Donnell & Roger Noyes**. They are the principal operator of the establishment.

**Information Pertaining to Financial Background and Persons Associated with the Teletrack Facility:**

See information on file with the Arizona Racing Commission for Turf Paradise and **K O'Donnell's Sports Bar & Grill**.

**Security Measures to Protect the Site, the Public from Interception of the Satellite Signal and Pari-mutuel Data:**

During the operation of teletrack wagering, Applicant will provide for adequate security at each of the Teletrack Wagering Facilities to maintain order and exclude from the facility all handbooks, touts, operators of gambling devices, or others whose conduct is objectionable to the public or contrary to the best interest of racing, including all persons ruled off by any racing authority and generally for the enforcement of all applicable rules of the Department and the Commission.

**Listing of Pari-mutuel and Communication Equipment Onsite:**

Totalisator equipment will be provided by Sportech Racing LLC.; satellite uplink, audio/video transmission equipment, satellite downlink and audio/visual receiving equipment will be supplied by Roberts Communications Network. Copies of those contracts have been or will be filed with the Department of Racing.

**Description of Back-Up System for Forwarding Wagers:**

The system is backed up by multiple teller equipment on site and the availability of additional communication facilities.

**Identification of Satellite, Coordinates:**

The identification of the satellite, descriptive coordinates, and other required information will be filed with the Department of Racing prior to commencement of operations.

**Building Plans and Specifications:**

Facility plans are on file with the Department of Racing.

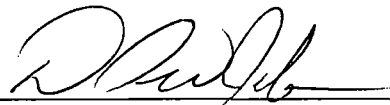
**OTHER DOCUMENTS NEEDED:**

The following documents are attached, are on file or will be filed with the Department:

1. Proof of Compliance with the FCC requirements
2. Copy of Concession Contract to Provide Service within Arizona
3. Copy of Contract with Satellite Vendor
4. Copy of Contract with Totalisator Vendor
5. Copy of approval from Governing Body of City or Town site in which the facility is located

Respectfully submitted on the date first above written.

TP Racing L.L.L.P.

By:   
David Johnson  
Assistant General Manager

Customer Service Division  
 Office location - 7447 E. Indian School Road, #110  
 Scottsdale, AZ 85251  
 Mailing Address - 3939 N. Drinkwater Blvd.  
 Scottsdale, AZ 85251  
 Telephone - (480) 312-2400  
 Fax - (480) 312-4806  
 Web - www.ScottsdaleAZ.gov/licenses



PC-2001

**APPLICATION  
 TELETRACK OPERATOR LICENSE**

FOR CASHIER USE ONLY	
Application Fee:	500.00
License Fee:	3600.00
Total Due:	4100.00

1123359  
 Account Number

Teletacking Ord. (date & initial)

General Provisions (date & initial)

se 1/26/16

**BUSINESS NAME, BUSINESS TELEPHONE, BUSINESS LOCATION**

TP RACING L.L.P. 602 942-1101  
 BUSINESS NAME (Individual, Company or "DBA", first name first) Area Code Business Telephone No.  
1501 W BELL RD  
 STREET NO. (N,E,S,W) STREET NAME Type STE./APT. NUMBER  
 (ST.DR.AV.)  
PHOENIX AZ 85023  
 City State ZIP

**BUSINESS MAILING ADDRESS, EMERGENCY TELEPHONE AND APPLICANT NAME**

1501 W BELL RD  
 STREET NO. (N,E,S,W) STREET NAME Type STE./APT. NUMBER  
 (ST.DR.AV.)  
PHOENIX AZ 85023 602 942-1101  
 City State ZIP Area Code Emergency Number

APPLICANT NAME (Individual or Corporation/Partnership operating business. (first name first)).

EMERGENCY CONTACT PERSON

NAME VINCENT A. FRANCIA ADDRESS 1501 W. BELL RD, PHOENIX, AZ PHONE: 602-941-1101

**BUSINESS OWNERSHIP AND RECORDS LOCATION**

TYPE OF OWNERSHIP: INDIVIDUAL  PARTNERSHIP  CORPORATION

DATE INCORPORATED 3/16/2000  
 STATE INCORPORATED ARIZONA

CORPORATE STATUTORY AGENT OR AGENT AUTHORIZED TO RECEIVE SERVICE OF PROCESS:

NAME GERALD ALSTON ADDRESS 201E WASHINGTON, 11th Floor PHOENIX, AZ PHONE: 602-262-5966

DESCRIBE NATURE OF BUSINESS HORSE RACING

NUMBER OF PARI-MUTUEL WINDOWS OR TOTE MACHINES: 4

**Name(s) of owner(s), partner(s), officer(s), shareholder(s) of 10 % or more, and person(s) who participate in management, control or policy:**

Legal Name: PLEASE SEE ATTACHED LIST  
 Last First Middle Title Date of Birth

Residential Address: \_\_\_\_\_  
 Street City State Zip Telephone Shareholder %

Legal Name: FRANCIA VINCENT ACRI GENERAL MANAGER [REDACTED]  
 Last First Middle Title Date of Birth

Residential Address: [REDACTED]  
 Street City State Zip Telephone Shareholder %

Legal Name: \_\_\_\_\_  
 Last First Middle Title Date of Birth  
 Residential Address: \_\_\_\_\_  
 Street City State Zip Telephone Shareholder%

(PLEASE USE ADDITIONAL PAPER IF NECESSARY)

**CONVICTIONS**

Has anyone listed ever had any felony conviction in any jurisdiction, within the last 5 years ?  Yes  No

If yes, you must provide specific information describing:

WHO	OFFENSE	WHERE OFFENSE OCCURRED	DATE OF OFFENSE	COURT(S) ENTERED INTO

Have you or your business ever had any judicial or administrative finding of violation of any law or regulation relating to racing, wagering or gaming in any jurisdiction ?  Yes  No

If Yes, please give explanation: \_\_\_\_\_

(please use additional paper if necessary)

Have you or your business ever had any license or permit relating to pari-mutuel betting or teletrack activities revoked or suspended?  Yes  No

If Yes, please give explanation: \_\_\_\_\_

(please use additional paper if necessary)

**ADDITIONAL INFORMATION REQUIRED**

- (1) Written proof of date of birth.
- (2) Proof that the applicant holds a valid license from the Arizona Racing Commission to conduct pari-mutuel races within the state of Arizona.
- (3) Proof that a teletrack wagering establishment license has been issued or applied for with respect to the facility in which the teletrack operator license will be utilized.
- (4) A plan of operation in accordance with the specifications of Arizona Administrative Code, Title 4, Chapter 27, Section R 4-27-404.
- (5) Proof of an agreement for use of the establishment by the applicant for teletrack wagering purposes.

I HEREBY CERTIFY THAT ALL ANSWERS TO QUESTIONS ON THIS APPLICATION ARE TRUE AND COMPLETE, AND I AGREE AND UNDERSTAND THAT ANY FALSIFICATION OF MATERIAL FACTS MAY CAUSE FORFEITURE ON MY PART OF ALL RIGHTS TO, AND CONSIDERATION TO BE LICENSED IN THE CITY OF SCOTTSDALE, COUNTY OF MARICOPA, STATE OF ARIZONA.

Date: 01/13/14

*Ernest Francis*  
 Applicant Signature

**FOR OFFICE USE ONLY**

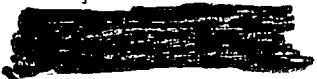
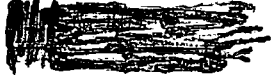
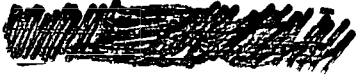
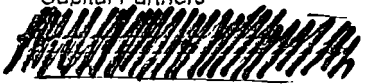
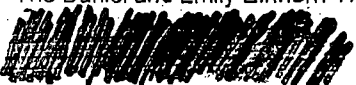
Recommendation:

Approval/Denial

Date

Police Department

TP Racing, LLLP  
Partner's Equity  
As of January 31, 2014

General Partner	<u>% Interest</u>
Bell Racing, LLC 1501 West Bell Road Phoenix, AZ 85023	0.67339%
Limited Partners Jerry Simms 	81.86499%
Maxine S. Gellens, Trustee under the Gellens Investment Company Retirement Savings Plan and Trust 	5.82054%
Ron Donn 	5.23654%
Capital Partners 	0.58400%
The Daniel and Emily Einhorn Trust of 1994 	5.82054%
	100.00000%

# ARIZONA DEPARTMENT OF RACING

DOUGLAS A. DUCEY  
GOVERNOR



RUDY CASILLAS  
INTERIM DIRECTOR

VIA CERTIFIED MAIL

June 3, 2015

Vincent Francia  
TP Racing L.L.C.  
1501 West Bell Road  
Phoenix, AZ 85023

Re: Notice of Administrative Completeness as required by A.A.C. R19-2-103(f) (1) (b)

**Applications for Renewal of Permit to Conduct a Horse Racing Meeting and Teletrack  
Wagering and ADW Wagering for TP Racing, L.L.C.**

Dear Mr. Francia:

This letter is to inform you that the applications for renewal of commercial, teletracking and Advance Deposit Wagering permits have been determined to be administratively complete per Arizona Administrative Code R19-2-103 (f)(1)(b).

As of June 4, 2015, the Department of Racing will begin the substantive review portion of the renewal permit application process as required by A.A.C. R19-2-103(f)(2). During the substantive review timeframe, the Department may make one comprehensive written request for additional information, per A.R.S. §§41-1075(a) and 5-107(b). The Department and applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information per A.R.S. §41-1075(a). The substantive review timeframe is 30 days. Under the provisions of A.R.S. §41-1092.11, your existing permits do not expire until the Commission has made a final determination, or if the applications are denied, until a later date fixed by the reviewing court.

Thank you for your cooperation during the application process. Please contact Greg Stiles at 602-364-1709 or [gstiles@azracing.gov](mailto:gstiles@azracing.gov), if you need information in complying with the statutory and regulatory requirements.

Sincerely,

Greg Stiles  
Arizona Department of Racing

cc: Rudy Casillas, Interim Director

1110 West Washington, Suite 260, Phoenix, AZ 85007  
Ph (602) 364-1700 Fax (602) 364-1703  
[www.azracing.gov](http://www.azracing.gov) [ador@azracing.gov](mailto:ador@azracing.gov)

**TELETRACK WAGERING PERMIT**

**STATE OF ARIZONA TO:**

**TP RACING, L.L.L.P.  
FY 2013, 2014 & 2015  
TURF PARADISE RACE COURSE  
VINCENT FRANCIA, GENERAL MANAGER**

By virtue of the authority vested in the Arizona Racing Commission (Commission) pursuant to the provisions of Arizona Revised Statutes Title 5, Chapter 1, the Commission has considered and approved your application for a Teletrack Wagering Permit and Plan of Operation to conduct teletrack wagering concurrently with the Turf Paradise racing program. The Permittee shall conduct the teletrack wagering operation pursuant to Racing Commission Rules, Title 4, Teletracking, as they now exist or hereafter may be adopted or amended, and only according to the provisions of the Commission-approved Plan of Operation. Any change to the Plan of Operation will be allowed only when approved in writing by the Director of the Arizona Department of Racing (Department). This permit shall remain in effect for the 2013, 2014 and 2015 fiscal year racing seasons as set forth in the three-year commercial racing permit issued TP Racing, L.L.L.P.

Teletracking is to be conducted under the following terms and conditions:

1. In all aspects, teletracking shall be conducted in accordance with the laws of the State of Arizona and the rules of the Commission as they now exist or hereafter may be amended or adopted and any directive or policy issued by the Commission or the Director of the Department.
2. A separate application and plan of operation must be submitted for each facility in accordance with the Laws of the State of Arizona, and the Rules of the Commission.
3. Number of races to be conducted daily shall be those races on the daily program of Turf Paradise that have been approved by the Commission and those out-of-state simulcasts that have been approved by the Director of the Department.
4. The Permittee or additional facility operator shall maintain order and prevent bookmaking and other forms of illegal gambling from occurring on the premises. A Permittee shall not knowingly permit a person excluded from the track, either by the Permittee's own action or by order of the Department or Commission, to patronize the pari-mutuel system of wagering through an additional wagering facility. The Department shall give the Permittee a reasonable period of time, after direct notice, to remedy an alleged violation.
5. The mutuel department shall be under the supervision of the State Mutuel Supervisor, Auditor, Investigator, or other official designated by the Director.
6. It shall be the responsibility of the Permittee to provide the Department with copies of the insurance carried on the additional wagering facilities.
7. The insurance, deposit and performance bond under the permit issued to TP Racing, L.L.L.P. for racing at Turf Paradise are part of this permit.
8. The Permittee must provide a system capable of ensuring that money wagered on a particular race is included in the pari-mutuel pool of the racetrack conducting the race.



9. The Permittee must provide a system capable of ensuring those pari-mutuel machines at each additional facility lock upon the ringing of the off-bell or upon the closing of wagering for any reason.

**Temporary Permit Approved: June 22, 2012**

**Permit Approved: February 18, 2014**

WITNESS THE ARIZONA RACING COMMISSION at Phoenix, Arizona, this 17<sup>th</sup> day of March, 2014.

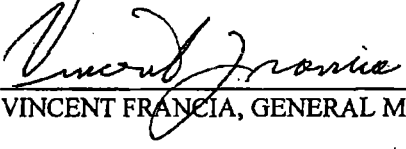
BY ORDER OF THE COMMISSION  
ARIZONA DEPARTMENT OF RACING

  
\_\_\_\_\_  
WILLIAM J. WALSH, DIRECTOR

ACCEPTANCE

The foregoing permit is accepted as written and we further agree to abide by the terms and conditions contained herein.

TP RACING, L.L.L.P.

  
\_\_\_\_\_  
VINCENT FRANCIA, GENERAL MANAGER

**PERMIT TO CONDUCT A HORSE RACING MEET**

**STATE OF ARIZONA TO:**

**TP RACING, L.L.L.P.  
2012-2013, 2013-2014 & 2014-2015  
TURF PARADISE RACE COURSE  
VINCENT FRANCLA, GENERAL MANAGER**

By virtue of the authority vested in the ARIZONA RACING COMMISSION pursuant to the provisions of Arizona Revised Statutes Title 5, Chapter 1, the Commission has considered and approved your application to conduct a horse racing meeting for the period detailed below. The Permittee is authorized to conduct racing only by pari-mutuel wagering and only on those days indicated on the approved schedule of performances identified in "Schedule A." The Permittee shall obtain prior approval of the Commission to modify "Schedule A."

This permit to conduct a race meet is deemed personal in nature, is nontransferable and shall terminate upon a substantial change of ownership of the Permittee, as provided in Chapter 1 of Title 5, § 5-107, Arizona Revised Statutes. In addition, pursuant to ARS § 5-108.02(B), the Commission may revoke the permit to hold a racing meeting of any corporate permittee which transfers ten percent of its stock after a permit to hold a racing meeting is issued, and before the termination of the permit period, except as authorized in ARS § 5-108(A)(2)(d).

**Permit Term:** June 1, 2012 through May 31, 2013; June 1, 2013 through May 31, 2014; and June 1, 2014 through May 31, 2015.

**Cash Bonds:** Pursuant to ARS § 5-107(C), a commercial Permittee shall deposit a cash bond with the Department in an amount set by the Director to ensure the payment of fees and the amount due the State as the percentage of pari-mutuel receipts payable to the State by law.

**Amount Set:** Five Thousand Dollars (\$5,000). The \$5,000 cash bond previously paid by this Permittee is carried forward to this permit term.

**Performance Bonds:** ARS § 5-107(D) requires the Permittee to deposit a bond in an amount determined by the Director and payable to the State for the benefit of the State and any person covered by this statute. The bond shall be effective for the period of the racing permit granted by the Commission.

**Amount Set:** Three Hundred Thousand Dollars (\$300,000)

**Horsemen's Bookkeeper.** A horsemen's bookkeeper shall be employed by the permittee and shall be on duty during regular hours throughout the term of this permit. The horsemen's bookkeeper shall keep and preserve records which will reflect deposits, withdrawals, credits or any other charge that may be made by an owner and other such records as may be required by the Department, and shall deposit funds daily to the horsemen's account. The horsemen's bookkeeper shall furnish the Department a financial statement or permit an audit of the horsemen's account upon request.

The only signature which shall be authorized on checks withdrawing funds from the horsemen's account shall be the signature of the licensed horsemen's bookkeeper; except that, in the event of the incapacity of the bookkeeper, the Arizona Department of Racing may authorize another person to sign checks. The horsemen's bookkeeper shall give bond to TP RACING, L.L.L.P., on behalf of the horsemen, in an amount set by the Director, guaranteeing the faithful performance of their duties.

**Amount Set:** Three Hundred Thousand Dollars (\$300,000) is due prior to the first day of live racing and shall be maintained during the Permittee's live racing schedule for the duration of the racing permit.

**Indemnification Clause:** Permittee shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Permittee or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Permittee to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Permittee from and against any and all claims. It is agreed that Permittee will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Permittee agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Permittee for the State of Arizona.

*This indemnity shall not apply if the Permittee or Permittee contractor(s) and subcontractor(s) is/are an agency, board, commission or university of the State of Arizona.*

**Insurance Requirements:** Permittee and Permittee contractors and subcontractors shall procure and maintain until all of their obligations have been discharged, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work by the Permittee, his agents, representatives, employees, contractors or subcontractors.

The *insurance requirements* herein are minimum requirements for this Permit and in no way limit the indemnity covenants contained in this Permit. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Permittee from liabilities that might arise out of the performance of the work by the Permittee, its agents, representatives, employees, contractors or subcontractors, and Permittee is free to purchase additional insurance.

1. **Minimum Scope and Limits of Insurance:** Permittee shall provide coverage with limits of liability not less than those stated below.

a. **Commercial General Liability - Occurrence Form**

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

- |  |             |
|--|-------------|
| • General Aggregate                                | \$2,000,000 |
| • Products - Completed Operations Aggregate        | \$1,000,000 |
| • Personal and Advertising Injury                  | \$1,000,000 |
| • Blanket Contractual Liability - Written and Oral | \$1,000,000 |
| • Each Occurrence                                  | \$1,000,000 |

i. The policy shall be endorsed to include the following additional insured language: *"The State of Arizona, its departments, agencies, boards,*

*commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Permittee".*

- ii. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Permittee.
- iii. For any Permittee selling alcoholic beverages on their premises, the policy shall also cover Liquor Liability for the full limits of the policy.

b. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease - Each Employee	\$ 500,000
Disease - Policy Limit	\$1,000,000

- i. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Permittee.

- ii. This requirement shall not apply to: Separately, EACH Permittee, Permittee contractor or subcontractor exempt under A.R.S. 23-901, and when such Permittee, Permittee contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

- c. Property Insurance - Policy shall cover all risk of physical loss to real and personal property, including loss from flood and earthquake. Insured property shall include the real and personal property owned by the Permittee, and extend to cover all non-owned personal property in the care, custody and control of the Permittee, including personal property owned by the State of Arizona, Arizona Department of Racing on the premises of the Permittee. The policy shall name the State of Arizona, Arizona Department of Racing as Loss Payee as their interests may appear.

Policy Limits shall be:

- i. Real Property -- Replacement Cost
- ii. Personal Property -- Actual Cash Value

2. Additional Insurance Requirements: The policies shall include, or be endorsed to include, the following provisions:

- a. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Permittee, even if those limits of liability are in excess of those required by this Permit.
- b. The Permittee's insurance coverage shall be primary insurance with respect to all other available sources.
- c. Coverage provided by the Permittee shall not be limited to the liability assumed under the indemnification provisions of this Permit.

3. Notice Of Cancellation: Each insurance policy required by the insurance provisions of this Permit shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to (State of Arizona Department of Racing, Joyce Cozby, Assistant Director/Management Review, 1110 West Washington, Suite 260, Phoenix, Arizona, 85007) and shall be sent by certified mail, return receipt requested.
4. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Permittee from potential insurer insolvency.
5. Verification of Coverage: Permittee shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Permit. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before 30 days. Each insurance policy required by this Permit must be in effect at or prior to commencement of work under this Permit and remain in effect for the duration of the permit. Failure to maintain the insurance policies as required by this Permit, or to provide evidence of renewal, is a material breach of Permit.

All certificates required by this Permit shall be sent directly to (State of Arizona Department of Racing, Joyce Cozby, Deputy Director, 1110 West Washington, Suite 260, Phoenix, Arizona, 85007). The State of Arizona permit name and permit term shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Permit at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

6. Subcontractors: Permittee's certificate(s) shall include all Permittee contractors and subcontractors as insureds under its policies or Permittee shall furnish to the State of Arizona separate certificates and endorsements for each Permittee contractor and subcontractor. All coverages for Permittee contractors and subcontractors shall be subject to the minimum requirements identified above.
7. Approval: Any modification or variation from the *insurance requirements* in this Permit shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Permit amendment, but may be made by administrative action.
8. Exceptions: In the event the Permittee or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the Permittee, Permittee contractor(s) or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

**Simulcasting:** Simulcasting shall be in compliance with A.R.S. §§ 5-110 and 5-112. The Permittee shall obtain prior approval from the Director for all simulcasts sent or received, either on live racing days or on dark days. Simulcast signals or teletracking of simulcast signals does not prohibit live racing or

teletracking of that live racing in any county at any time. Simulcasting may only be authorized for the same type of racing authorized by a permittee's live racing permit.

**Purse Calculation and Payment:** Purses shall be calculated and paid pursuant to ARS §§ 5-111, 5-111.01, 5-112 and 5-114.

**Permittee Responsibilities:** The racing meetings are to be conducted in accordance with the laws of the State of Arizona, the rules and regulations of the Arizona Racing Commission as they now exist or as hereafter may be amended or adopted and any directive or policy issued by the Arizona Racing Commission or the Department of Racing. The Department will consider the Permittee General Manager as the representative of the Permittee, and as such, may be held responsible in all matters of Permittee responsibility as set forth in statute, rule, policy or directive. Permittee responsibilities include, but are not limited to: adequate security, maintenance of the track and grounds; providing officials, certification of equipment, pre-employment screening, compliance with off-track betting requirements, special events compliance, and compliance with information and data submission filing and submittal requirements. Pursuant to AAC R19-2-104 and R19-2-304, the Permittee shall provide and maintain within its grounds: an office for the exclusive use of and to be at the disposal of Department employees and officials, and the office shall be adequately furnished with desks, tables, chairs, files and other office furnishings and equipment; suitable quarters to accommodate the judges; and adequate space and facilities for testing personnel.

**Notes To Permit:** None

**Temporary Permit Approved:** June 22, 2012

**Approved:** February 18, 2014

WITNESS THE ARIZONA RACING COMMISSION at Phoenix, Arizona, this 26<sup>th</sup> day of March, 2014.

BY ORDER OF THE COMMISSION  
ARIZONA DEPARTMENT OF RACING

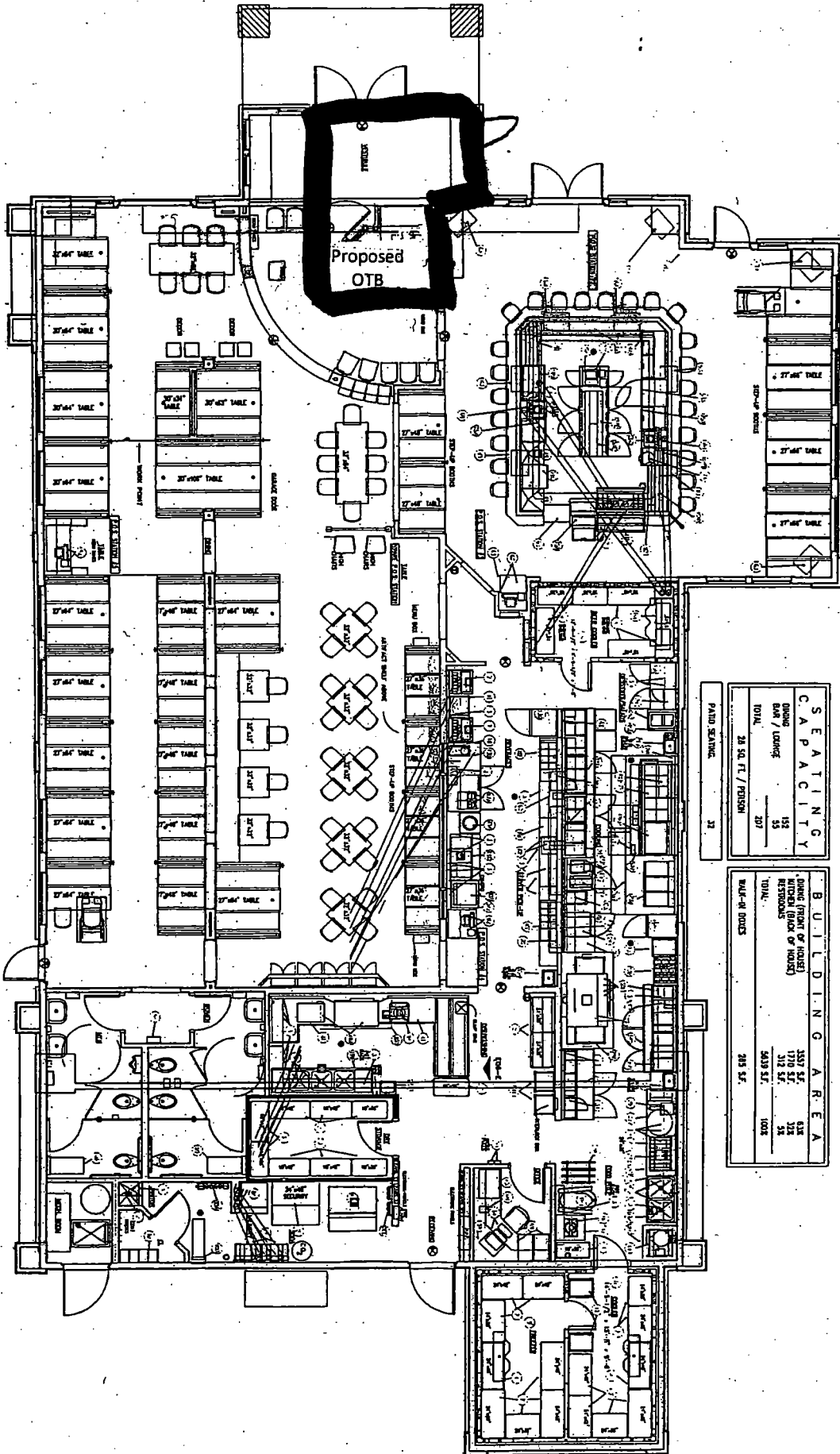
  
\_\_\_\_\_  
WILLIAM J. WALSH, DIRECTOR

ACCEPTANCE

The foregoing permit is accepted as written and we further agree to abide by the terms and conditions contained herein.

TP RACING, L.L.P.

  
\_\_\_\_\_  
VINCENT FRANCIA, GENERAL MANAGER



SEPARATING CAPACITY	
GRAND DINING	152
BAR / LOBBY	33
TOTAL	207
20 SQ. FT. / PERSON	

BUILDING AREA	
DINING (FRONT OF HOUSE)	1453 S.F.
KITCHEN (BACK OF HOUSE)	1770 S.F.
RESTROOMS	312 S.F.
TOTAL	3535 S.F.
HALF-40 DOORS	
203 S.F.	

PAID SEATING 21







## NOTICE OF CITY COUNCIL HEARING

APPLICATION TO PROVIDE OFF TRACK BETTING  
DATE POSTED: February 22, 2016

NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD BEFORE THE SCOTTSDALE CITY COUNCIL AT, **CITY HALL, 3939 N. DRINKWATER BLVD., SCOTTSDALE, AZ** ON **April 5, 2016 AT 5:00 P.M.** FOR THE PURPOSE OF HEARING:

THE TELE-TRACK WAGERING LICENSE APPLICATION FOR K O'DONNELL'S BAR AND GRILL.

THE LOCAL GOVERNING BODY WILL RECOMMEND TO EITHER GRANT OR DENY THE LICENSE. ANY BUSINESS OR PERSON RESIDING, OWNING, OR LEASING PROPERTY WITHIN A 500 FOOT RADIUS OF THE PROPOSED SITE, WHO OPPOSES THE ISSUANCE OF THIS LICENSE, MAY SUBMIT A PROTEST IN WRITING TO THE CITY OF SCOTTSDALE BUSINESS REGULATIONS OFFICE AT 7447 E. INDIAN SCHOOL RD. SUITE 230, SCOTTSDALE, AZ 85251. WRITTEN PROTESTS MUST BE RECEIVED PRIOR TO THE PUBLIC HEARING. DATES ARE SUBJECT TO CHANGE. TO VERIFY THE HEARING DATE, CALL (480) 312-2412.



Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting The City Clerks' office at (480) 312-2412. Requests should be made as early as possible to allow time to arrange accommodation.

The newspapers of **Arizona** make public notices from their printed pages available electronically in a single database for the benefit of the public. This enhances the legislative intent of public notice - keeping a free and independent public informed about activities of their government and business activities that may affect them. Importantly, Public Notices now are in one place on the web ([www.PublicNoticeAds.com](http://www.PublicNoticeAds.com)), not scattered among thousands of government web pages.

**County:** Maricopa

**Printed In:** Arizona Republic (Phoenix)

**Printed On:** 2016/02/23

CITY OF SCOTTSDALE NOTICE OF PUBLIC HEARING Notice is hereby given, pursuant to Scottsdale Revised Code Article XVI. Sec 16-508, that the Scottsdale City Council will hold a public hearing in the Scottsdale City Hall, 3939 N Drinkwater Boulevard, Scottsdale, for the purpose of receiving written and oral comments on and considering K O'Donnell's Bar and Grill's, 14850 N Northsight Boulevard, Scottsdale, application for a Tele-track Wagering Establishment license. The hearing will be held on April 5, 2016 beginning at 5:00 PM. For questions, contact Terry Hoglund, Business Services Manager 480-312-2463. Pub: February 23, 2016

**Public Notice ID:**

ATTACHMENT 5