

This was a Special Meeting of the Boyd County Fiscal Court held on June 3, 2022. Meeting was held at the Boyd County Courthouse, Fiscal Court Room at 6:00pm.

Present Were:

Eric Chaney, County Judge Executive
Keith Watts, County Commissioner
Larry Brown, County Commissioner
Randy Stapleton, County Commissioner

Meeting was opened by Eric Chaney, County Judge.
Larry Brown was called upon to deliver the invocation.
Keith Watts led the pledge of Allegiance

Amend Agenda

Motion was made by Keith Watts and seconded by Randy Stapleton to amend the agenda to move Community Comment before the reading of the Property Lease Agreement.

Property Lease Agreement – County Owned Property

Motion was made by Keith Watts and seconded by Eric Chaney to approve the Lease Agreement for County Owned Property located at the former KYOVA Mall.

Lease Agreement begins on following page

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made and entered into on this the 3rd day of June, 2022, by and between BOYD COUNTY KENTUCKY, a governmental entity having a principal address of PO BOX 421, Catlettsburg, Kentucky 41129 (hereinafter referred to as "Landlord"), and REVOLUTIONARY RACING KY, LLC, a Delaware limited liability company with an address of 75 Arlington Street, Ste 500, Boston Massachusetts 02116 (hereinafter referred to as "Tenant").

WITNESSETH:

In consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt, mutuality and sufficiency of which are hereby acknowledged, the Landlord and Tenant hereby agree as follows:

1. **Lease of Premises.** The Landlord hereby demises and leases to the Tenant, and the Tenant hereby leases and accepts from the Landlord, for the Rent as provided herein, those premises (the "Premises") located at U.S. HWY 60, Boyd County, Kentucky and as more particularly depicted as Parcel One and Parcel Two on Exhibit A attached hereto, including all appurtenances furnishings, appliances and other contents, if any, located on said Premises.

2. **Lease Term.** The term of this Lease shall commence on the 3rd day of June 2022 (the "Commencement Date") and shall end on the day preceding the second (2nd) anniversary thereof, being the 3rd day of June 2024 (the "Initial Lease Term"); provided that Tenant shall have the option to renew the Lease in successive ten (10) two (2) year terms (each "Extended Lease Term(s)") which shall renew automatically unless written notice of termination is provided by Tenant not less than six (6) months prior to the end of the then current Lease Term (said Initial Lease Term and Extended Lease Term(s) collectively the "Lease Term").

3. **Commencement of Construction.** Within six (6) months from the execution of this Lease by Tenant, Tenant shall commence and continue construction of the horse racing track and equine event center described in the letter from Prentice Salter, CEO of Revolutionary Racing Kentucky, LLC to Hon. Eric Chaney, Boyd County Judge Executive, dated May 10, 2022, a copy of which is attached hereto and incorporated herein. Construction of the track and event center as anticipated shall be in Boyd County, Kentucky and shall continue regularly until completed.

4. **Payment of Rent.** Landlord and Tenant acknowledge that Tenant intends to apply to the Kentucky Horse Racing Commission ("KHRC") for a license to operate a horse racing track and related pari-mutuel or other lawful wagering operations and facilities. From the Commencement Date until said license is awarded by KHRC, but no longer than six (6) months, (the "Licensure Period") Tenant shall pay total monthly rent (the "Licensure Period Rent") at the monthly rate of \$10,000.00. After the Licensure Period and during the Lease Term, the Tenant shall pay total monthly rent (the "Rent") at the monthly rate of \$89,000.00, in advance on the first (1st) day of each calendar month during the Lease Term and without demand, delay or offset for any reason. It is understood by the Tenant that time is of the essence for the payment of the monthly Rent and that if the monthly Rent is not received on or before the first day of each calendar month,



the Tenant shall be considered to be in default of the Lease and the Landlord shall be entitled to terminate the Lease pursuant to the terms of this Lease and applicable law. In the event that more than one person is identified above as the Tenant, said persons shall be jointly and severally liable for the payment of the Rent and any of the aforementioned fees, as set forth herein.

5. **Utilities.** The Tenant agrees to be responsible for and pay his/her pro rata share of ALL utilities and user fees for the Premises, including, without limitation, water, sewer, landfill user fees, trash disposal, electricity, cable, phone and/or gas service. In the event the Tenant fails to comply with this provision, the Landlord may, but is not required, to pay such utilities and/or service fees; provided, however, that, in the event the Tenant fails to comply with this provision, the Tenant shall be considered to be in default of the Lease and the Landlord shall be entitled to terminate the Lease pursuant to the terms of this Lease and applicable law. If any such fees are paid by the Landlord, the Tenant shall reimburse the Landlord for the same within ten (10) days of receipt of proof of payment from the Landlord.

6. **Condition of the Premise.** The Tenant has thoroughly inspected and accepts the Premises in its "AS-IS" condition and acknowledges that Landlord has not made any representations, promises, or warranties (actual or implied) respecting the condition of the Premises other than is set forth herein.

7. **Tenant's Improvements.** Landlord hereby agrees and consents to Tenant altering, remodeling, or improving the property as Tenant desires, in Tenant's discretion, to fit Tenant's intended purpose of use of the Premises (the "Tenant's Improvements").

8. **Termination of the Lease.** To terminate this Lease, the Tenant must give the Landlord six months written notice before the end of the then current Lease Term. Upon said termination or the end of the Lease Term, Tenant shall have the right but not the obligation to remove any or all of the Tenant's Improvements, including but not limited to, all of Tenant's trade fixtures, ceiling grid, and flooring, provided that should any such removal result in material damage to the Property, the same will be repaired by Tenant.

Any termination of this Lease by the Landlord must be carried out in accordance with federal, state and local law, and pursuant to the terms of this Lease. The Landlord may terminate this Lease for any of the following reasons:

- (a) The Tenant's failure to pay Rent or other payments pursuant to the terms of this Lease when due.
- (b) The Tenant's failure to pay any utility bills which the Tenant is responsible for paying pursuant to Paragraph 7 above.
- (c) The Tenant's noncompliance with or violation of any of the terms of this Lease;
- (d) The Tenant's failure to comply with any applicable federal, state or local laws related to the Tenant's lease of the Premises.

If the Landlord proposes to terminate this Lease, the Landlord shall give the Tenant written notice of the proposed termination via mail and/or hand-delivery. The Landlord must provide thirty (30) days written notice in the event that the Landlord seeks to terminate the Lease due to nonpayment of Rent. If the total amount of Rent due is not paid within the thirty (30) day period,

A handwritten signature, possibly 'J. P.', is written in blue ink within a blue oval.

then the Lease shall terminate and the Landlord may proceed with eviction proceedings. In the event of non-compliance with any of the terms of the Lease by the Tenant, the Landlord must provide thirty (30) days written notice. If the Tenant is able to correct or remedy the non-compliance within thirty (30) days from the date of the written notice, then the Lease shall not terminate; provided, however, that should the same or similar violation occur within six (6) months thereafter, the Lease shall be terminated by the Landlord upon thirty (30) days written notice with no opportunity for corrective action. Should the Tenant fail to correct or remedy the non-compliance within the thirty (30) day period, then the Lease shall terminate and the Landlord may proceed with eviction proceedings.

Any written notice as required herein shall state the specific grounds for termination, shall provide date of termination of the Lease, and shall advise the Tenant of his/her right to defend the action in court.

9. Insurance and Indemnity The Tenant acknowledges and agrees that the risk of loss for all contents and property belonging to the Tenant shall be on the Tenant. The Tenant is required to obtain his/her own renter's insurance policy against fire, theft, or other disasters, as the Landlord carries insurance on the building(s) only. Additionally, Tenant agrees to carry casualty insurance in amounts necessary to cover the value of the building in the event of loss caused by the Tenant's negligence or misconduct and agrees to name the Landlord as an additional insured on such policies. Tenant further agrees to carry general liability insurance in amounts of not less than \$1,000,000, and that said policy will name Landlord as an additional insured. Tenant shall provide to Landlord evidence or certificate showing such policy or policies to be in place, timely renewed, and that said policy or policies shall have provisions requiring 30 days' notice to Landlord of cancellation.

The Tenant hereby agrees to indemnify, compensate and forever hold harmless, the Landlord, its successors and assigns, any parent affiliate and subsidiary entities, its insurers, its assigns, its successors, its legal representatives, officers, directors, employees, agents, or any others who may be acting on behalf of it from any and all claims, damages, actions, causes of action or liability whatsoever, resulting from or arising out of injury to or death of any guest, agent, employee, licensee or invitee of the Tenant in or about the Premises, or damage or destruction of any property owned by the Tenant or any guest, agent, employee, licensee or invitee of the Tenant, unless such injury, death or damage only and directly results from the intentional or grossly negligent acts of the Landlord.

10. Damage to Premises and/or Destruction of the Premises. The Landlord shall be responsible for major repairs not due to the default, negligence, or willful conduct of the Tenant or the Tenant's family members, guests, invitees, employees or agents, which the Landlord is required to make pursuant to applicable federal, state and local law. The Tenant shall notify the Landlord immediately upon first discovering any signs of serious structural or systematic building problems.

The Tenant shall be responsible for all other repairs, including, without limitation, damage to the exterior and interior walls, fixtures, cabinets, or appurtenances of the leased Premises, and any other repairs in or about the Premises due to the default or negligence or willful conduct of the

Tenant or the Tenant's family members, guests, invitees, employees or agents. The Tenant shall, at his/her own expense, keep the Premises in good condition.

If the Premises is made unfit for occupancy by fire or other casualty, in whole or in part, the Landlord or the Tenant, or either of them, may elect (i) to terminate this Lease as of the time when the Premises is made unfit for occupancy by giving notice to the other party within fourteen (14) days after that date; or (ii) if the Landlord elects to repair or restore the Premises and its improvements, the parties may agree to continue this Lease. In the event that the Tenant is not able to occupy and utilize the Premises before or during any period of reconstruction or repair, then the Rent due pursuant to this Lease shall abate until the Premises is again fit for full occupancy, or, if the Tenant agrees to occupy part of the Premises during repair, the Rent shall abate in proportion to the useable area compared to the area useable prior to destruction.

11. Remedies. The specified remedies to which any party may resort under the terms hereof are cumulative and are not intended to be exclusive of any other remedy or means of redress to which any party may be lawfully entitled in case of any breach by any other party of any provision or provisions of this Lease.

No term, covenant or condition of this Lease shall be deemed waived by the Landlord unless waived in writing. The waiver by the Landlord of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or of any other term, covenant or condition hereof.

12. Condition Precedent. The Licensure Period notwithstanding, this Tenant's obligations under this Lease are expressly conditioned upon Tenant's unconditional approval and grant of license from the KHRC to operate Tenant's intended purpose. In the event Tenant does not obtain the intended license from the KHRC, this lease shall be terminable at Tenant's option.

13. Miscellaneous.

(a) *Covenant of Quiet Enjoyment.* The Landlord covenants that upon payment of the Rent and observing all terms and conditions hereof, the Tenant may peaceably and quietly enjoy the leased Premises during the Lease Term and any extensions thereof without any hindrance or molestation.

(b) *Assignment and Subleasing.* The Tenant shall not assign this Lease or sublet any portion of the Premises without first obtaining the written consent of the Landlord.

(c) *Landlord and Tenant.* The term "Landlord" refers collectively to the owner of the Premises, any property manager, agent, and any other person or entity that may be designated in writing to act on its behalf, and each of them is authorized to give notice, and to do any act contemplated hereunder, and in so doing, it shall be deemed that they have acted on behalf of the Landlord. The term "Tenant" refers collectively to each of the persons who have signed this Lease, and each of them is authorized to give notice and receive notice, and to do any act contemplated hereunder, and in so doing, they shall be deemed to have acted on behalf of all of them. All persons

who have signed this Lease as a Tenant shall be jointly and severally liable for all of the obligations of the Tenant hereunder.

(d) ***Applicable Law.*** This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

(e) ***Covenants Binding on Heirs and Assigns.*** All the covenants, agreements, terms, conditions, provisions and undertakings in this Lease, or any amendments hereto shall be enforceable by and be binding upon the respective heirs, executors, administrators, successors, and assigns of the Tenant, and the Landlord.

(f) ***Modification.*** This Lease sets forth the entire understanding of the parties hereto with respect to the subject matter hereof, supersedes all other existing agreements among them concerning such subject matter, and may be modified only by a written instrument duly executed by the parties hereto.

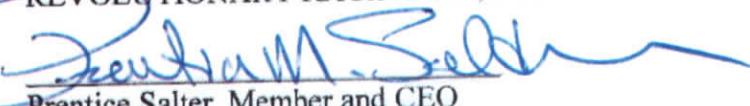
(g) ***Partial Invalidity.*** If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby; and such term, covenant or condition of this Lease shall be valid and be enforceable to the fullest extent permitted by law. Provided, however, if such partial invalidity materially impairs the benefit sought by any party, then said party may terminate this Lease upon ten (10) days prior written notice.

(h) ***Authority to Act.*** By executing this Lease on behalf of the parties hereto, each person so executing represents and affirms that this Lease has been approved by their respective governing bodies and execution has been duly authorized.

IN WITNESS WHEREOF, the Landlord and the Tenant have duly executed this Lease on the day and year first above written.

TENANT:

REVOLUTIONARY RACING KY, LLC


Prentice Salter, Member and CEO

LANDLORD:

BOYD COUNTY KENTUCKY

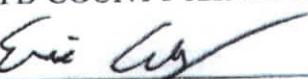
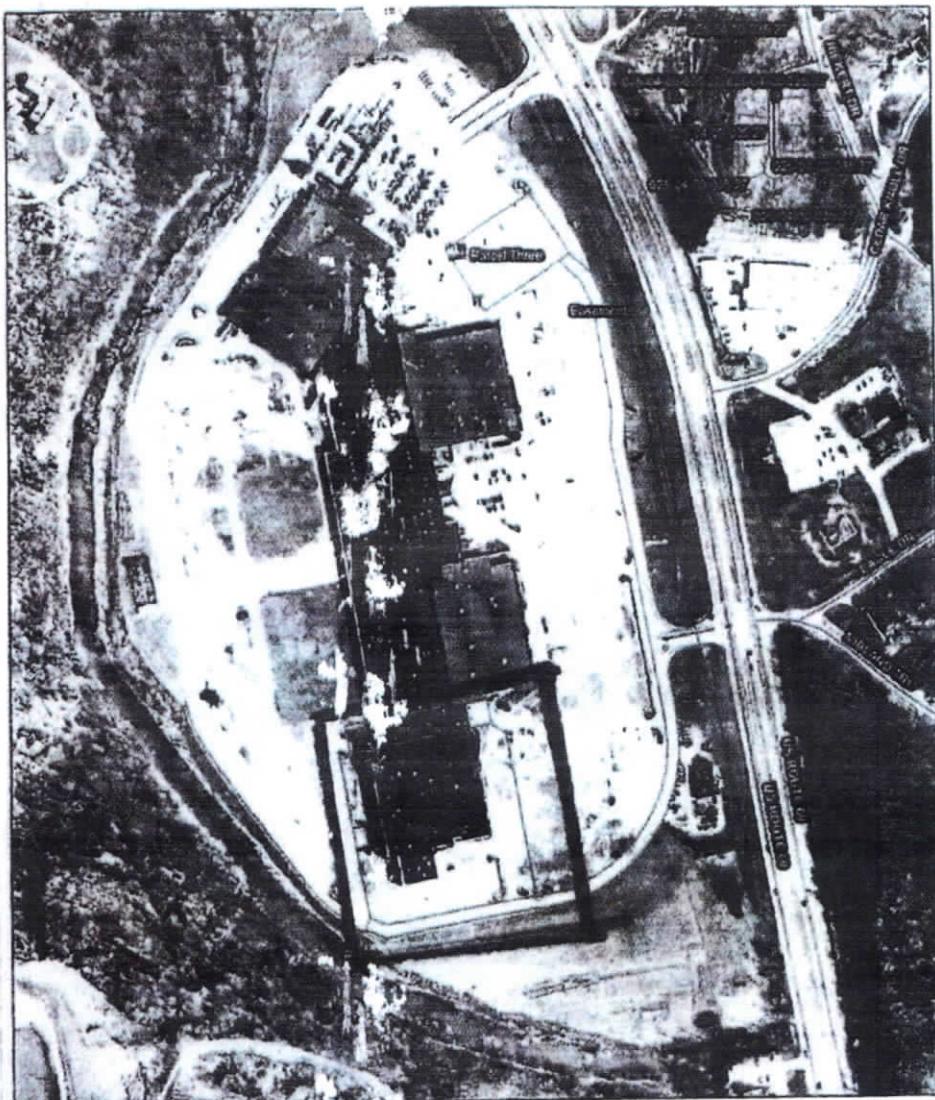

Eric Chaney, Judge Executive

Exhibit A

EXHIBIT A



PVA Office is not responsible
for Validity of Map!
Maps are NOT survey grade!
Not intended for Deed Convey
Use at your own Risk!

Boyd County PVA
2600 Louisa Street
Old Courthouse, Suite 302
Cynthiamburg, Ky 41129
Phone: (606)739-5173
Fax: (606)739-4188

N 1 inch = 274 feet
Date: 7/13/2021



Aerial Flight: April 2019

3

Vote as Follows: **Eric Chaney** **Yes**
 Keith Watts **Yes**
 Larry Brown **Yes**
 Randy Stapleton **No**

Motion was made by Larry Brown and Seconded by Keith Watts to have this meeting stand adjourned.

Vote as Follows: **Eric Chaney** **Yes**
 Keith Watts **Yes**
 Larry Brown **Yes**
 Randy Stapleton **Yes**

Eric Chaney, County Judge Executive