

TEXAS RACING COMMISSION

MEETING

10:30 a.m.
Wednesday,
August 16, 2023

Texas Department of Public Safety
Criminal Law Enforcement Auditorium
6100 Guadalupe Street
Building E
Austin, Texas 78752

COMMISSIONERS:

ROBERT C. PATE, Chair
CONNIE McNABB, D.V.M., Vice Chair
MARGARET MARTIN (absent)
ARIEL "A.J." WAIGHT (absent)
MICHAEL "MIKE" MOORE
REBECCA CONTRERAS (absent)

EX OFFICIO MEMBERS:

SID MILLER, Texas Dept. of
Agriculture (absent)
STEVEN P. MACH, Public Safety Commission

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Pettigrew as Vice President and
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- | | | |
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The following items may be discussed and considered in executive session or open meeting, with any action taken in the open meeting:

- | | | |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| A. | Under TEX. GOV'T CODE §551.071(1), the Commission may enter an executive session to seek the advice of its attorney regarding pending or contemplated litigation or regarding a settlement offer. | |
| B. | Under TEX. GOV'T CODE §551.071(2), the Commission may enter an executive session to discuss all matters identified in this agenda where the Commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act. | |
| C. | Under Texas Government Code § 551.074(a)(1), the Commission may enter an executive session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee. | |
| D. | Under TEX. OCC. CODE §2025.005, the Commission may enter an executive session | |

to review security plans and management,
concession, and totalisator contracts.

- IX. NEXT COMMISSION MEETING
Wednesday, September 5, 2023, 10:30 a.m. --
- X. ADJOURN 81

P R O C E E D I N G S

1
2 CHAIRMAN PATE: It's 10:30 by the Commission's
3 clock. Thank you, ladies and gentlemen. Please take your
4 seats. We are ready to start the meeting.

5 Dinorah, please call roll.

6 MS. CHIU: Chairman Pate.

7 CHAIRMAN PATE: Here.

8 MS. CHIU: Vice Chair McNabb.

9 COMMISSIONER McNABB: Here.

10 MS. CHIU: Commissioner Mach.

11 COMMISSIONER MACH: Here.

12 MS. CHIU: Commissioner Moore.

13 COMMISSIONER MOORE: Here.

14 MS. CHIU: Commissioner Kleinschmidt.

15 COMMISSIONER KLEINSCHMIDT: Kleinschmidt?

16 MS. CHIU: Kleinschmidt.

17 COMMISSIONER KLEINSCHMIDT: Here.

18 CHAIRMAN PATE: All right. Dinorah, do we have
19 a quorum?

20 MS. CHIU: We have a quorum.

21 CHAIRMAN PATE: All right. Thank you. Again,
22 good morning, everyone.

23 Commissioners, I want to welcome you all to the
24 August '23, meeting. Please stand and join in the Pledge
25 of Allegiance.

1 (Whereupon, the Pledge of Allegiance was
2 recited.)

3 CHAIRMAN PATE: And now, please join and recite
4 the pledge of allegiance to the Texas flag.

5 (Whereupon, a pledge to the Texas flag was
6 recited.)

7 CHAIRMAN PATE: Please be seated. All right.
8 I welcome you all to the August meeting of the Texas
9 Racing Commission. As usual, there are a number of items
10 that deserve mention this morning that I am going to bring
11 to the attention of all the Commissioners.

12 Today's meeting will largely focus on several
13 items related to the continuity of business operations for
14 the horsemen's organizations and licensed racetracks.
15 There were two key decisions that the Legislature made
16 during the session this year that will affect the
17 operations of the Commission over the next two years.

18 First, although the Agency staff requested
19 contingency funding to regulate greyhound racing, should
20 that activity continue in this state, there was no funding
21 appropriated for the regulation of greyhound racing. In
22 effect, there can be no greyhound racing as there are no
23 funds to support the required regulation of any pari-
24 mutuel betting related to it.

25 Second, the Agency, beginning September 1,

1 2023, will now be funded with 20 percent General Revenue,
2 which is a promising development in our efforts to create
3 sustainable and transparent governance practices at the
4 Agency. This will lessen the Agency dependence on track
5 fees, and we think improve and properly context the
6 relationship between the Agency as regulator and the
7 various regulated parties.

8 Also, many of you may not be aware. But before
9 and early in the legislative session, there was great
10 interest in the various racetrack license, and the
11 ownership of those license as a result of proposed
12 legislation which was tied to licensure to possible new
13 investment opportunities and casino gambling in Texas.

14 Several legislators made specific inquiry of
15 the Racing Commission before the session on various
16 license ownerships as part of their legislative effort.
17 In an attempted response, the Texas Racing Commission
18 staff discovered the poor condition of the Agency's
19 license records. It necessarily spurred our interest to
20 obtain answers to questions requested, which also ties
21 into the racing and required review of all licenses.

22 Our focus this fall, then, is on several items,
23 including the review of the eight active and inactive
24 racetrack license, as required by our statute. Director
25 Cook and General Counsel Virginia Fields have been working

1 with our racetrack licensee representatives since last
2 fall to review the Agency records to determine whether all
3 documents that should be at the Agency for each license
4 are actually on file, ahead of the scheduled reviews.

5 And I don't think it is any secret, we are
6 missing some papers. And we're fixing that problem. In
7 each and every case, our primary concern will be that the
8 Commission has, with respect to each license, a designated
9 individual who will bear responsibility for assuring
10 compliance with the Texas Rules of Racing and can serve as
11 a designated point of contact when the Racing Commission
12 through its veterinarians, stewards, or enforcement
13 personnel or management had an issue.

14 Beyond clarifying communications and
15 responsibility, we anticipate some technical issues may
16 arise, all of which we intend to resolve as such arise.
17 Accordingly, I have asked Director Cook to schedule these
18 reviews in every case, first for discussion by the staff,
19 and licensed representatives provide the Commission
20 necessary background, such as will be provided here today.

21 And then later, for decision, as appropriate.

22 It is critical for all of us as we rebuild the
23 Agency that we have worked with our interested parties to
24 gather all pertinent records for each licensed racetrack,
25 so that the Commissioners can make informed decisions.

1 Today, we will hear from the staff and
2 representatives of Penn Entertainment and the Retama
3 organization about the two licenses scheduled for
4 discussion this month. In the last several weeks, the
5 Agency staff has had a number of meetings with Penn
6 Entertainment representatives, as well as the Retama Park
7 interested parties, to develop solutions to certain
8 operational problems which have occurred at Retama Park.

9 Penn Entertainment management has been engaged
10 and helpful in this review. We appreciate very much the
11 constructive approach to resolving these issues. And we
12 are confident that this will continue.

13 Now, at this time, I would like to invite
14 Director Cook to come forward. I am going to ask
15 Commissioner Kleinschmidt to join her at the podium,
16 please.

17 We would like to recognize Commissioner
18 Kleinschmidt, for his service to the Commission.
19 Commissioner Kleinschmidt has indicated that he will be
20 retiring from the Agriculture Commission at the end of
21 this month, and will no longer be able to serve as the Ag
22 Commissioner Sid Miller's designated representative on the
23 Racing Commission.

24 Tim has had a career in public service,
25 including service as a State Representative. And his

1 knowledge was especially helpful to the Racing Commission
2 when we were handed the HIEA, with little legislative
3 direction.

4 Hold on a second. You are going to make those
5 presentations when I finish. Seriously.

6 Tim has had a career in public service,
7 including service as a State Representative. And his
8 knowledge was especially helpful to the Racing Commission
9 when we were handed the HIEA with little legislative
10 direction on exactly how to administer that \$25 million
11 annual program.

12 Tim stepped in and made the good offices of the
13 Agricultural Commission, its grant administrators, and the
14 legal staff to help Racing Commission personnel design the
15 funding applications and assure compliance with all Texas
16 grant laws that apply with dealing with taxpayer money.
17 His efforts largely designated the procedures which we did
18 put in place to administer that program.

19 His talents and political experience were a
20 great benefit to our efforts as a Commission, and we wish
21 him a restful and prosperous retirement. So, you make
22 your presentation now.

23 (Applause.)

24 CHAIRMAN PATE: Thank you. You will be missed.
25 We will now move to today's agenda. The next

1 Agenda Item 3(b) recognizes Vice Chair Commissioner Doctor
2 Connie McNabb for her remarks.

3 Commissioner McNabb, you have the floor.

4 COMMISSIONER McNABB: Thank you, Chairman.
5 Welcome everyone. This looks like quite the robust group,
6 so I will be brief. Time is trauma; get in and get out,
7 is what my surgeon dad used to say.

8 There are a couple of things. Just these are
9 my observations, because I had the honor and privilege of
10 having a front row seat to this industry and how we do
11 things in Texas, with the HIEA money, you know, and
12 everything that happened that made this happen. And I
13 think that the money that comes into the purses has been a
14 godsend for racing in Texas, especially during the last
15 several years.

16 However, I do want to remind folks that by the
17 statute, and with a legislative review or a letter of
18 intent that was requested by Senator Kolkhorst in 2019 --
19 and those of you who know Senator Kolkhorst, she is a very
20 sharp lady. And she watches how the state's money is
21 being spent.

22 In the statute, 70 percent of what comes to the
23 breeds goes into purses. The other 30 percent goes to
24 activities that advance the horse industry in Texas. From
25 where we sit, we make sure that the money is flowing

1 through as programmed.

2 But what I would offer is, now we are just
3 coming down off of a legislative session. And I would
4 say, for the most part, we were helped greatly. And those
5 of you in the industry who had helped us, thank you so
6 much.

7 But I would say you might want to take a long
8 hard look at what you're doing with that 30 percent so
9 that when you have to answer to someone like Senator
10 Kolkhorst or others, because they do put a pin to things,
11 make sure that you can say, this thing that we do with
12 this 30 percent actually benefits the horse industry in
13 Texas.

14 I do have to commend the AQHA. I know they
15 take it seriously. They put on -- and the HIEA was not
16 the only money. But it contributed.

17 And it was a great event up at College Station,
18 Bryan-College Station for the World Youth equine
19 competition. But nevertheless, you know, horse shows, you
20 name it. But if people are using money for things that
21 don't really stimulate the industry, I would say, be ready
22 to answer to to state senators and other legislators.

23 So, you know, I think we just need -- we can do
24 a better job and we can stimulate the industry. Because
25 that is why the Legislature made this money available.

1 And we don't want it to go down. We would like to see it
2 go up.

3 My only other observation, and as we talk about
4 race days, we have charity days. Our role, and when I
5 came in, we required that any charity that you all list as
6 being one of your recipients for charity days be a valid
7 non-profit with a current 990.

8 Race track chaplaincy is always one, and they
9 need every penny they have. And they do God's work on the
10 back side of the racetrack.

11 I would offer to you, as business people,
12 because really, that is the business we are in, there are
13 lots of charities out there. And I am not saying that any
14 of your selections are bad. I am just saying, a lot of
15 charities can also drive attendance, and get people who --
16 you know, good will in the community.

17 So, from where we sit, a valid 990, yea verily.

18 And that is our job. But I think that since this
19 industry is really making a big turn, I think that there
20 are opportunities, and doing good is good business.

21 That is all I have for today. Thank you, sir.

22 And I look forward to the rest of the meeting.

23 CHAIRMAN PATE: All right. Thank you,
24 Commissioner McNabb.

25 The next item, Item 3(c) opens the floor to any

1 Commissioner who wishes to make remarks. Are there any
2 Commissioners who wish to make remarks?

3 COMMISSIONER MACH: Yes. I just want to thank
4 Commissioner Kleinschmidt for his service. Thank you.

5 CHAIRMAN PATE: Press the button and talk.

6 COMMISSIONER KLEINSCHMIDT: I just want to
7 thank all you folks. I know that when I started years ago
8 that the industry, everybody from the horse breeders to
9 the racetracks, there were a lot of you all that helped
10 me, you know, learn a lot about what is going on in this
11 particular business.

12 I want to thank you for your patience, and for
13 the help you gave in helping the Racing Commission move
14 forward. But again, thank you for your patience. I have
15 enjoyed working with the industry over these last few
16 years. So, thank you for the opportunity.

17 (Applause.)

18 CHAIRMAN PATE: All right. Now, Agenda Item 4.
19 Public comments.

20 Dinorah, has anyone signed up for public
21 comment?

22 MS. CHIU: No, Chairman.

23 CHAIRMAN PATE: All right. Staff reports. We
24 now move to item, Agenda 5(a), and the Executive
25 Director's Report.

1 General Cook, give us your report, please?

2 MS. COOK: Good morning, Commissioners. Ladies
3 and gentlemen. First, I do have to apologize for that
4 flub on the presentation. We haven't given a lot of
5 presentations here.

6 Now, I come from a military background where it
7 is very regimented. And we rehearse it. We did not
8 rehearse it, and so I apologize. But we certainly
9 appreciate your service and we do want to do more
10 recognition.

11 I mean, we have done a few here. And we need
12 to do many, many more. I have looked at other Commission
13 meetings across the state, particularly on the part of
14 public safety, to try to see what best practices are. And
15 they always recognize great folks when they have their
16 meetings.

17 So what I would like to do quickly in my report
18 this morning is cover three key items: Agency operations
19 for '23 and '24, horse racing industry efforts, and the
20 greyhound industry future.

21 First, as we close out fiscal year 2023 at the
22 end of this month, I want to call your attention to the
23 work being placed in the Agency. Since our last Committee
24 meeting, every employee has worked long hours, not only to
25 support continuity of Agency operations on an

1 administrative level, but also in supportive of live
2 racing.

3 As Sam Houston closed down, Lone Star closed
4 down, Retama Park started up, and Gillespie County Fair
5 started up. For example, Jill Ward.

6 Please stand up, Jill.

7 (Applause.)

8 MS. COOK: Jill Ward is our contract management
9 specialist who has worked diligently to apply the
10 additional funding we received through SB30 to purchase
11 items required for admission with an accelerated timeline,
12 while also traveling to Gillespie County Fair live racing
13 events on the weekends to support licensing.

14 Jill, who was our Employee of the Month for
15 August 2023, is but one of the examples of the willingness
16 to set aside a job title and tackle any task required to
17 support the Agency mission.

18 I would also like to recognize Ernesto
19 Palacios, who is our financial examiner. Who also went
20 out to Gillespie to help with licensing.

21 Leonard Buchanan, who set up all the IT today,
22 who is our CIO, and went out at a moment's notice and
23 filmed the races at Retama on a Friday night with an hour
24 and a half notice, so that we could run live racing when a
25 camera failed.

1 Dinorah Chiu, who is the CFO and also is
2 running a licensing program, who is filling in for Phil
3 today. And we'll talk about that in a moment.

4 Vanessa Zuniga, whose job title is legal
5 assistant, who helps me run payroll every month, so we can
6 all get paid.

7 Charlie Hallam, who recently lost his wife, has
8 come back to work, raring to go and is really supportive.

9 Great investigations, being the only senior investigator
10 that we have right now.

11 And John Ferarra, who is one of our stewards,
12 has spent countless hours at Retama, assisting the safety
13 inspections.

14 We also celebrate the return of Virginia
15 Fields. We welcome her back to this Commission meeting.

16 And we also welcome our new Deputy General
17 Counsel, Mary Winston. Mary.

18 (Applause.)

19 MS. COOK: Mary brings incredible experience
20 from the Texas Department of Licensing and Regulations to
21 our legal team.

22 As some may know, our Chief of Staff Phil
23 Fountain suffered a broken arm and a fracture to his hand
24 while traveling overseas for the military department. We
25 hope to have him back to work soon. And I want to call

1 your attention to the great work that he did during the
2 legislative session that provided members with the
3 critical information required to make decisions that
4 assist us in bringing the Agency to a fully functional
5 organization.

6 In addition to the recognition of the Agency
7 staff, which, you know, all of them live up to the motto,
8 excellence starts here. We are starting a safety campaign
9 that we'll launch next month. The hashtag will be
10 #SafetyStartsHere.

11 And our focus will be to catch people, i.e.,
12 licensees doing something right that reduces risks, or
13 furthers the safety aspect of our mission. We expect to
14 begin recognizing great folks who exemplify the safety
15 champions we hope to create next month. More to follow on
16 that.

17 In terms of the Agency planning for 2024,
18 included in your meeting materials, pages 3 through 7, are
19 the Texas Racing Commission '24-'25 budget. What is
20 important to understand about this budget is -- although
21 20 percent of the funding is now General Revenue, and that
22 is a major step in changing the funding mechanism for the
23 Agency -- we still have far to go to be able to realize
24 our strategic call of bringing the Agency to full
25 functionality.

1 You will note on page 4 that the Legislature
2 provided an additional 18 FTEs for the Agency, bringing
3 our total to 57. In the past few years, including 2023,
4 the Agency did not have sufficient available budget to
5 fully fund the existing 39 FTEs.

6 Although the supplemental funding we received
7 provided us the ability to hire an additional eight FTEs
8 this year, we did not receive the funding until about a
9 month ago. Therefore, we only had sufficient time to
10 recruit and hire one FTE, the mighty Mary Winston.

11 So we'll end this year with 32 FTEs on board.
12 We have three additional new hires starting on our
13 investigations team that will start on 1 September, which
14 will increase our capability to address integrity and
15 safety issues across the state as in live racing
16 operations.

17 And we are also recruiting for other critical
18 positions, should anybody be looking for a job, including
19 veterinarian, med techs, stewards, as well as several
20 staff support positions in IT and Finance to support
21 Agency operations. The reality of our GR dedicated budget
22 is that we are not positioned to fully fund the 57 FTEs
23 allocated by the Legislature since our available budget
24 authority after deductions for the DIR-shared technology
25 services program, the DPS criminal background checks, and

1 the Texas.gov services leave us with \$4.9 million in 2024.

2 You might recall that in 2023, we had \$3.4
3 million, which was not enough to fund the 39.3 FTEs. So
4 what I am saying is, we can afford 45 FTEs of the 57
5 allocated, based on the math equation that we have done.
6 And the fact that we have converted our funding model
7 where the senior staff positions are few and the live
8 racing operations get 70 percent of the manpower, so the
9 same manpower model that I implemented when I got here.
10 That is my estimate of what we can afford.

11 So in addition to that, hiring additional FTEs
12 requires the IT support and travel costs as well. So my
13 intent will be, when we go back to the next legislative
14 session, is ask for supplemental. And then try to see if
15 we can get to the 57 and fully execute those FTEs in 2025.

16 Independent of the FTEs, we should still be
17 able to employ some contract staff to support veterinary
18 operations, including drug testing. And I want to
19 recognize the mighty Texas Veterinary Medical Diagnostic
20 Team that is here today.

21 We are grateful for the great work that they do
22 on behalf of Texas every day, their professionalism, and
23 the challenges that we have overcome this year. Because
24 they have their own funding challenges, as we do.

25 And I would hope that anyone that was in

1 support of all of the things that we are trying to do for
2 the great State of Texas at the Commission level, at the
3 Agency level, or at the lab level, would take a look at
4 donating to the lab to provide them additional funding for
5 FTEs and equipment.

6 Now on to horse racing. As we work toward
7 returning to our rule review project, our main focus is
8 drafting the new Safety and Health chapter for our rule
9 set.

10 The next meeting will take place October 10th
11 at Lone Star Park. Thank you very much for Leonard
12 Gonzalez for the place. It was Vice Chair Connie McNabb;
13 Dr. Peter Caldwell, our Medical Review Officer; and Mr.
14 John Beech, the jockey's field representative for Texas.

15 Since I come from a profession that focuses on
16 the safety of people involved in high risk operations, it
17 gives me a unique perspective on horse racing that I
18 really don't see in other states. The focus in this
19 industry has been for many years on the horses, and their
20 readiness, and their soundness, and their injury rates;
21 not on the human athletes that ride them, or those that
22 train and care for them.

23 When an accident occurs at a track, our focus
24 on the human factors now is informing the way we conduct
25 safety inspection and how we view integrity. There have

1 been at least three instances of horses injured during
2 morning training hours when an inexperienced human being
3 put that horse on the track when the horse is not ready or
4 healthy to run.

5 Now we have hired Dr. Peter Caldwell in the
6 role of Medical Review Officer, we have the subject matter
7 expertise to actually review jockey physicals, follow up
8 on jockey injuries, and conduct an effective human drug
9 testing program, and inspect our paramedic capabilities,
10 to make sure that we are prepared for all instance.

11 Look no further than the performance metrics in
12 our budget that have been modified for 2024. And this was
13 not a request that we changed -- a request that we made;
14 it was one that was given to us by the Legislature on page
15 6.

16 So, our metric used to be -- our breakdown
17 proportion was 2 percent, so 2 percent of the total number
18 of horses at the start. Now it has been dropped to .8
19 percent. So that is a reduction in the number of
20 breakdowns that we are expected to have. And I would tell
21 you that I think that everyone in the industry is working
22 very hard to determine what the factors are that lead to
23 that.

24 I am focused right now on the human factors,
25 whether the humans can see if the track is holding water

1 or if the humans will call it when they see that the track
2 is unsafe. Whether the humans are making the right
3 decision in terms of putting that horse on the track. And
4 I think that is paying off in big dividends.

5 As of today, we are meeting this metric. But
6 this is a challenge that we all have, to continue that.

7 What you will also notice on the same page, is
8 that the greyhound metrics have been zeroed out. And I
9 will talk about that in just a moment.

10 Since most metrics are gathered by calendar
11 year, not fiscal year, as we are required to do here, our
12 goal will not be limited by time or calendar. Rather, our
13 goal will be to continue to review the factors of each
14 accident, and determine which, if any, were preventable
15 and use that information to improve our safety protocols.

16
17 Our ultimate goal should be no horse or human
18 injuries. But given the high risk nature of horse racing,
19 we can certainly work together to mitigate risk for all
20 participants. Safety is, after all, a shared
21 responsibility for the Agency and the industry. If
22 everyone takes their part in it, everyone will stay safe.

23 On the greyhound industry, stepping back for
24 moment. In April of 2022, I sat down with the greyhound
25 track representative for three licensed greyhound tracks,

1 as well as the Texas Greyhound Association, informed the
2 group that I would not be requesting greyhound funding as
3 a part of the Agency base budget. The budget request that
4 we presented as a line item for greyhound racing, should
5 it return to Texas, was ten FTEs and \$700,000. That
6 request was not adopted by the Legislature.

7 As we saw over the past year, and through
8 session, both the industry, public in rules committee
9 meetings and Commission meetings, and the Legislature did
10 not approve and actually vetoed that line for greyhound
11 regulation in our budget. Having acknowledged that
12 greyhound racing is essentially winding down in our
13 country, and in the State of Texas.

14 If you turn back to page 6, you will see that
15 greyhound metrics, as I noted before, have been zeroed
16 out. It is my understanding that the House Appropriations
17 Committee made that decision, because they were not
18 assured that greyhound racing would ever again take place
19 in Texas.

20 So what that means is the adopted budget for
21 the Racing Commission for '24-'25 provides no funding to
22 regulate greyhound racing in the State of Texas.
23 Therefore, it is critical that the racing associations
24 responsible for the three greyhound tracks, whose licenses
25 will be reviewed this fall, communicate early and often

1 with the staff at the Agency and the Commission on their
2 future intent with respect to those licenses.

3 Critical priorities this fall include devoting
4 time for rule review efforts, supporting industry efforts
5 to get ready for the 2024 live racing season and
6 recruiting additional staff to provide as much capability
7 as possible for Agency operations. What I believe will
8 benefit the Commission, the Agency, and the industry most
9 in this time of continued and dramatic change, while we
10 are still transforming our agency, is to keep our focus
11 not on the issues we disagree on, but on the main effort,
12 the safety and integrity of horse racing.

13 Thank you.

14 CHAIRMAN PATE: Thank you, Amy. I have got a
15 couple of questions. We are talking about the TVMDL here
16 in a few minutes, but my understanding is sometime in this
17 last year, they had an equipment problem. And as a
18 result, testing slowed down, because there is no
19 redundancy with respect to that equipment. And the
20 testing equipment we are talking about is quite expensive.

21 What is it --

22 MS. COOK: It was. Two of the machines are a
23 million dollars each.

24 CHAIRMAN PATE: A million dollars each. And
25 so, just kind of putting that out there. If anybody is

1 really interested in giving that wonderful lab -- and if
2 you have never toured it, I advise you to go see it.

3 It is really a remarkable place. It is a great
4 place that somebody could give some money to. And what
5 they are doing out there, testing and trying to get ahead
6 of what the cheats are doing in trying to drug animals and
7 that kind of thing.

8 And it is remarkable. But they have a funding
9 issue there, like everybody does. And that redundancy of
10 equipment would be a wonderful supplement, obviously.

11 And also, you didn't say the most important
12 thing about Phil is he fell off a horse. So that is how
13 he was hurt. What he was doing in the military in Chile
14 on a horse, I don't know.

15 MS. COOK: So Phil has a public affairs
16 assignment in his military department role. And he
17 thought it would be a great photo op. So, he got on the
18 horse, and the horse bolted. He got thrown off.

19 So, I told him he was fortunate it didn't
20 happen in the Great State of Texas where we could all take
21 a picture. So he is doing well. But we hope to have him
22 back soon.

23 CHAIRMAN PATE: All right. Commissioners, do
24 you all have any questions for Amy?

25 (No response.)

1 CHAIRMAN PATE: All right. Thank you, Amy.

2 All right. The next agenda item is 6(a),
3 general business discussion and possible action to approve
4 the interagency agreement with the Texas Veterinary
5 Medical Diagnostic Lab, the TVMDL, for fiscal year 2024
6 under Texas Occupations Code Section 2034.002.

7 Virginia, please address this item. And
8 welcome back.

9 MS. FIELDS: Thank you, Chair.

10 Commissioners, Virginia Fields for the record.

11 I am here this morning on Agenda Item 6(a), presenting
12 the interagency agreement with TVMDL for fiscal year 2024.

13

14 This agreement is part of your meeting
15 materials, beginning on page 8 and it goes through page
16 17. And it is brought before you today to approve the
17 reasonableness of the fees associated with the agreement
18 to be executed by the Directors of both the Racing
19 Commission and TVMDL.

20 In the past, there has been a memorandum of
21 understanding. But since 2022, the agreement outlines the
22 fees specifically. In addition to the fees before you,
23 hair testing fees are also included in the agreement.

24 The cost of services begin on page 13, through
25 page 15 of the agreement. It contains provisions for

1 TVMDL to now store both the specimens and cells, as well
2 as split samples. The cost for storage of specimens is
3 also contained in the agreement. The cost for sending
4 split samples to another agency-approved laboratory is
5 also in this agreement.

6 Finally, the Texas Racing Act provides that the
7 charges for the services must be "forwarded to the
8 Commission for the approval of the reasonableness of the
9 charges." Those charges include expenses incurred for
10 travel, lodging, testing, and processing of test results.

11
12 The Commission should "determine whether those
13 laboratory charges are reasonable in relation to industry
14 standards by periodically surveying drug testing,
15 laboratory charges comparable through the United States."

16 Staff today, prior to the meeting, made such comparisons,
17 which were drawn with the Veterinary Diagnostic Laboratory
18 at the University of Missouri, industrial laboratories,
19 and the Laboratory at UC Davis. All were found to be
20 comparable with the laboratory charges.

21 Dr. Mays is with TVMDL and here today as a
22 resource witness should there be any questions for TVDML
23 by the Commission. Staff would recommend that the
24 Commission on motion find these charges in the 2024
25 interagency agreement are reasonable in relation to

1 industry standards and approve the reasonableness of those
2 charges for that motion.

3 CHAIRMAN PATE: Thank you, Virginia.

4 Commissioners, do any of y'all have any
5 questions?

6 (No response.)

7 CHAIRMAN PATE: All right. Dinorah, has
8 anybody signed up for public comment on discussion and
9 possible action to approve the interagency agreement with
10 the TVMDL for fiscal year 2024 under Texas Occupational
11 Code 2034.002?

12 MS. CHIU: No, Chairman.

13 CHAIRMAN PATE: All right. If there's no
14 further discussion or public comment, the chair will now
15 entertain a motion on staff's recommendation to approve
16 the interagency agreement for the TVMDL for 2024 under
17 Texas Occupational Code 2034.002.

18 COMMISSIONER McNABB: So moved.

19 COMMISSIONER MACH: Second.

20 CHAIRMAN PATE: Motion by McNabb. Second by
21 March. Any further discussion?

22 (No response.)

23 CHAIRMAN PATE: Hearing none. All those in
24 favor, signify by saying aye.

25 (A chorus of ayes.)

1 CHAIRMAN PATE: Any opposed.

2 (No response.)

3 CHAIRMAN PATE: All right. The motion carries.

4 Next is Agenda Item 7(a) on the Horse Industry
5 Escrow Account and the Texas Breeders Incentive Fund for
6 discussion and possible action to approve to distribute --
7 approve the distribution allocation percentages to state
8 horse breed registries and licensed racetracks for 2024
9 under Texas Occupation Code 2028.204 and 2028.301.

10 Virginia, please address this item.

11 MS. FIELDS: Thank you, Chair. Again, Virginia
12 Fields, General Counsel for the record, presenting Item
13 7(a), discussion and possible action to approve the
14 distribution allocation percentages for horseman state
15 horse breed registries and racetracks under the Texas
16 Racing Act. All three agreements are contained in your
17 meeting materials, and they begin at page 18 through page
18 35.

19 The allocation of purses and funds for the
20 Texas Breeders Incentive Program is one of those
21 agreements that begins on page 19, and includes the
22 simulcast, import, and purse funds distributions. And on
23 page 18 is the accredited Texas bred agreement by the
24 breeds.

25 The motion today recommended by staff was that

1 you approve these three agreements.

2 CHAIRMAN PATE: All right. Thank you,
3 Virginia.

4 Commissioners, do any of you have any
5 questions?

6 (No response.)

7 CHAIRMAN PATE: Dinorah, is there anyone signed
8 up for public comment on the possible action to approve
9 the distribution allocation percentages to state horse
10 breed registries for fiscal year 2024?

11 MS. CHIU: No, Chairman.

12 CHAIRMAN PATE: All right. If there is no
13 further discussion or public comment, the Chair will now
14 entertain a motion on staff's recommendation to approve
15 the distribution allocation percentages to the state horse
16 breed registries for fiscal year 2024, under Texas
17 Occupation Code Section 2028.204 and 16 Texas
18 Administrative Code 303.311.

19 COMMISSIONER KLEINSCHMIDT: So moved.

20 COMMISSIONER McNABB: Second.

21 CHAIRMAN PATE: Motion by Kleinschmidt. Second
22 by McNabb. Is there any further discussion?

23 (No response.)

24 CHAIRMAN PATE: Hearing none, all those in
25 favor, signify by saying aye.

1 (A chorus of ayes.)

2 CHAIRMAN PATE: Any opposed.

3 (No response.)

4 CHAIRMAN PATE: Thank you. The motion carries.

5 The next item is Agenda Item 8(a), Racetrack
6 proceedings, discussion and possible action to approve
7 officer and management change for Sam Houston Race Park,
8 Manor Downs, and Valley Race Park, Texas Occupation Code,
9 Section 2026.153.

10 Number one, Sam Houston Race Park, LLC, to
11 appoint Bryan Pettigrew as Vice President and General
12 Manager, replacing Dwight Berube. Number two, Valley Race
13 Park, LLC, to appoint Bryan Pettigrew as Vice President
14 and General Manager replacing Dwight Berube. And number
15 three, Hill Lane, LLC, to appoint Bryan Pettigrew as Vice
16 President and General Manager, replacing Dwight Berube.

17 Virginia, please address this item.

18 MS. FIELDS: Thank you, Chair.

19 Commissioners, again, General Counsel Virginia
20 Fields, presenting Item 8(a), which is the officer and
21 management change after the recent retirement of Dwight
22 Berube. The Commission received a request for the
23 approval of the officer management change prior to the
24 scheduled meeting, and it is contained in your materials
25 on page 36.

1 Staff advises Commissioners that Bryan
2 Pettigrew is a current licensee as an Association
3 director, and has been cleared through the normal
4 background check processes.

5 Staff recommends the Commission approve the
6 request for Sam Houston Race Park, Valley Race Park, Hill
7 Lane, LLC, d/b/a Manor Downs, to approve Bryan Pettigrew
8 as Vice President and General Manager for the three
9 facilities, effective June 5, 2023, replacing, again, the
10 newly retired Dwight Berube.

11 CHAIRMAN PATE: Thank you.

12 Commissioners, do any of you have any
13 questions?

14 (No response.)

15 CHAIRMAN PATE: Dinorah, has anybody signed up
16 for public comment on the possible action to approve these
17 three appointments?

18 MS. CHIU: Yes, Chairman. We have got Marnie
19 McCormick. She's representing Penn and she will introduce
20 the rest of the --

21 MS. MCCORMICK: I'm here on Item C. I think
22 we're just a little -- that is a little bit early.

23 CHAIRMAN PATE: All right. So, if you just --
24 all right.

25 If there is no further discussion or public

1 comment, the Chair will now entertain a motion on staff's
2 recommendation to approve officer and management change
3 for Sam Houston Race Park, Manor Downs, and Valley Race
4 Park, under the Texas Occupation Code, 2026.153, and that
5 is in each instance to appoint Bryan Pettigrew as Vice
6 President and General Manager, replacing Dwight Berube.

7 COMMISSIONER MACH: So moved.

8 COMMISSIONER McNABB: Second.

9 CHAIRMAN PATE: Motion by Mach. Seconded by
10 McNabb.

11 Any further questions or discussions?

12 (No response.)

13 CHAIRMAN PATE: All right. Hearing none, all
14 those in favor, signify by saying aye.

15 (A chorus of ayes.)

16 CHAIRMAN PATE: Any opposed.

17 (No response.)

18 CHAIRMAN PATE: The motion carries.

19 Next is Agenda Item 7(b), Racetrack
20 proceedings, discussion and possible action to ratify the
21 two-year extension of the Penn Entertainment and Global
22 Tote 2013 Master Agreement on behalf of Sam Houston Race
23 Park in accordance with 16 Texas Administrative Code
24 Section 309.162.

25 Virginia, please address this item.

1 MS. FIELDS: Thank you, Chair.

2 Commissioners, Virginia Fields again. On page
3 37 of your meeting materials is a short Executive Summary
4 of the changes to the two-year extension agreement before
5 you today.

6 Under the Texas Racing Act, specifically
7 2025.054 and 2026.151 and 152, the racetrack association
8 must advise the Commission of any change to the
9 association's tote contracts. These contracts are not
10 part of the public meeting materials because they are not
11 public records under the Texas Racing Act, or Chapter 552
12 of the Texas Government Code. Because the agreements are
13 confidential, the extension agreement and underlying
14 master services agreement were provided to you in advance
15 of the meeting.

16 Item B is a request made by Sam Houston Race
17 Park to approve the two-year extension to a contract
18 between Penn Entertainment and Global Tote Company. The
19 agreement is standard in the industry.

20 Staff recommends the approval of the two-year
21 extension agreement dated June 1, 2023, to that Master
22 Service Agreement between Penn Entertainment and Global
23 Tote that was originally dated July 18 of 2013.

24 CHAIRMAN PATE: All right. And staff's
25 recommendation is to approve this. Correct?

1 MS. FIELDS: Yes, sir, it is.

2 CHAIRMAN PATE: All right. Commissioners, any
3 of you have any questions?

4 (No response.)

5 CHAIRMAN PATE: All right. Dinorah, is there
6 anyone signed up for public comment on possible action to
7 ratify the two-year extension of the Penn Entertainment
8 and Global Tote 2013 Master Agreements on behalf of Sam
9 Houston Race Park?

10 MS. CHIU: No, sir.

11 CHAIRMAN PATE: All right. If there is no
12 further discussion or public comment, the Chair will now
13 entertain a motion on staff's recommendation to ratify the
14 two-year extension of the Penn Entertainment and Global
15 Tote 2013 Master Agreement on behalf of Sam Houston Race
16 Park in accordance with 16 Texas Administrative Code
17 309.162.

18 COMMISSIONER McNABB: So moved.

19 COMMISSIONER MACH: Second.

20 CHAIRMAN PATE: Motion by McNabb. Second by
21 Mach. Is there any further discussion?

22 (No response.)

23 CHAIRMAN PATE: Hearing none. All those in
24 favor, signify by saying aye.

25 (A chorus of ayes.)

1 CHAIRMAN PATE: Any opposed.

2 (No response.)

3 CHAIRMAN PATE: The motion carries.

4 MS. FIELDS: Thank you, Commissioners.

5 CHAIRMAN PATE: Thank you. All right. The
6 next item is Agenda Item 8(c), (1) and (2): Racetrack
7 proceedings; a discussion on the ownership and management
8 of active racetrack licenses scheduled for review under 16
9 Texas Administrative Code 309.53.

10 Amy, would you please address the first item,
11 Valley Race Park, please.

12 MS. COOK: Thank you, Judge Pate,
13 Commissioners, ladies and gentlemen.

14 So, we have eight racetrack license reviews
15 scheduled this fall. Just a little background -- Judge
16 Pate had mentioned it in his intro -- was that
17 Representative Kuempel asked the Agency staff in August of
18 2022 for a status on all of the current racetrack
19 licenses, there being ten total.

20 What we found when we tried to write a letter
21 and respond was that I wrote him one letter, and then we
22 went through more records, and found some context in paper
23 records. Corrected that record, corrected that letter, and
24 sent back another letter. And then found out that letter
25 was wrong.

1 And then actually just went over to his office
2 and said, we are going to do a racetrack license review.
3 So there is a typical yearly or annual, or five-year
4 review on licenses. What we found is we have a real need
5 to bring our records up to date, and make sure they have
6 clarity.

7 One of the items that I think it is important
8 for all the folks who have business interests in this
9 community to know is that one of the practices that
10 Virginia and I were not comfortable with, and we changed
11 when we took our positions was when the Commission votes,
12 as you just said, on the tote agreement, we do a
13 Commission order that you sign. And so it is a great
14 practice that Virginia recommended.

15 In the past, what had happened was the
16 Executive Director would sign a document saying this is
17 what the Commission said. And that is where we have lost
18 some clarity in terms of motions and orders from the
19 Commission. And that is not something we can't overcome.

20 But it does make it more difficult, as the Agency staff
21 looks at a record for a business license or anything else,
22 to make sure we have that clarity.

23 So I am really appreciating it, although it has
24 been quite a lot of paper that we have asked for and paper
25 that has been sent to the Agency. We were missing key

1 documents. For example, the Retama Race Park license,
2 actual license from 1993, which Mr. Straus provided us.
3 We had everything else, but we didn't have that.

4 So we really appreciate being able to get that
5 from you. Our intent is, bring the paper records to where
6 they should be historically and then scan them in
7 digitally so then it isn't so difficult to figure out, you
8 know, what is the history on some of these licenses.

9 So we are treating some of the licenses as
10 active, for a lot of different reasons. The greyhound
11 licenses in particular are all being treated as active
12 right now, because there is no record that they were ever
13 inactive or in any other status.

14 So if you have questions about why their
15 status, that is erring on the side of the licensee, in
16 terms of going through the review. And it is really meant
17 to not impair any business interests.

18 So the first racetrack license that we are
19 going to review, and of course, as Judge Pate mentioned,
20 these are all for presentation and discussion, not for
21 decision by the Commission yet -- in the interest of
22 allowing the parties that are interested in the license to
23 present anything they would like to the Commission for
24 consideration.

25 So the Valley Race Park license is located in

1 Harlingen, Texas. And you will see up on the screens what
2 the factors are that need to be considered. It is also in
3 the Commission meeting materials.

4 And I thought it was helpful for the full body
5 to be able to see that you really have four criteria that
6 you look at: the financial stability, the ability to
7 conduct live racing, the ability to construct and maintain
8 a racetrack, and other good faith efforts to get back live
9 racing.

10 Because fundamentally, live racing, and doing
11 live racing well and safely and with integrity is sort of
12 the main thing with respect to a racetrack license. So
13 those are the factors to be considered.

14 With respect to Valley Race Park, they did
15 request live race dates for 2023. And then Dwight Berube,
16 who has now been replaced by Mr. Pettigrew, notified me on
17 April 11, 2023, they would be unable to bring those live
18 race dates.

19 At this point, Valley Race Park holds an active
20 operating greyhound track. And as we noted earlier, the
21 Legislature has not appropriated any funds to regulate
22 greyhound racing.

23 So I am going to turn it over now to a
24 representative of Penn Entertainment. They have a
25 presentation they would like to provide. And then, we

1 will come back up.

2 So, Marnie.

3 MS. MCCORMICK: Good morning, Chair and
4 Commissioners. My name is Marnie McCormick, and I am a
5 lawyer here in Austin. I practice with the firm of
6 Duggins Wren Mann & Romero.

7 And over the last twelve years, I have had the
8 privilege and pleasure of representing Penn Entertainment
9 and its affiliates in several Texas Racing Commission
10 proceedings that affected racing licenses, both active and
11 inactive in the State of Texas. And so today, I have the
12 privilege of introducing our team who has come, put
13 together a presentation on the Valley Race Park license
14 for you all.

15 And we have several people who are going to
16 speak, and other folks who are in attendance here. And I
17 just wanted to point them out to you, and orient you so
18 you know who is here to give you information and answer
19 the questions that have come out in our discussions with
20 staff, leading up to this meeting.

21 The first person I would like to introduce is
22 Todd George, who is Executive Vice President of Operations
23 for Penn Entertainment. And he is here on the second row.

24 Thank you.

25 Next is Chris Rogers, Executive Vice President

1 and Chief Strategy Officer. Next, Erin Chamberlin, Senior
2 Vice President of Operations.

3 We also have Bryan Pettigrew here, Vice
4 President and General Manager of Texas racing operations.

5 And finally, Chris McErlean, Vice President of Racing
6 Operations.

7 And I won't take up more of your time right
8 now. We will get right to it.

9 And Mr. George, if you want to come up and kick
10 things off. Thanks.

11 MR. GEORGE: Thank you, Marnie. I'm Todd
12 George. I oversee operations for Penn.

13 Judge Pate, Vice Chair McNabb, Commissioners.
14 And a special thank you to Commissioner Kleinschmidt,
15 Executive Director Cook, Deputy Director Grigsby, General
16 Counsel Fields and staff.

17 Thank you all very much for the opportunity to
18 present to you today. We will go quickly, so we can get
19 back outside and enjoy some more heat. It has just been
20 too nice in here.

21 So a brief history of Penn Entertainment. We
22 were founded in 1972 as the Mountainview Thoroughbred
23 Racing Association. Over the years, through development,
24 both greenfield and brownfield development as well as
25 various acquisitions, we have grown into the largest

1 racing and regional gaming operator in the U.S.

2 Today, Penn -- our NASDAQ symbol is PENN. We
3 operate 33 properties in 20 states, including eleven
4 racetracks. A collection of unique and differentiated
5 brands across the U.S., including multiple casinos and
6 integrated racinos. Next slide, please.

7 Our racing operations specifically, nationwide,
8 we are the leader in operations and management of
9 pari-mutuel racing operations. We have eleven racetracks
10 in eight jurisdictions. We have over 1,200 live racing
11 events in '22, thoroughbred and Quarter horse as well as
12 harness racing.

13 We had \$1.1 billion in pari-mutuel wagering in
14 '22, including live import and export simulcasting. As
15 well as five off-track wagering locations in three states,
16 with a national advance deposit wagering operating in 24
17 states.

18 To date -- you probably recently saw our
19 agreement with ESPN. We will be doing more in the field
20 of sports betting as that expands throughout the country.

21 But exciting times for Penn, as well as getting back to
22 our roots with horse racing.

23 So with that, I am going to turn it over to
24 Erin Chamberlain, who oversees regional operations in the
25 northeast, as well as horse racing.

1 MR. ROGERS: Thanks, Todd.

2 Erin is actually going to be after me. I am
3 Chris Rogers. I am the Chief Strategy Officer for Penn.
4 And I wanted to start by just giving a little bit of
5 background on our history in Texas.

6 So it started in 2011, when we joined a joint
7 venture with an entity called MAXXAM. It is backed by
8 Charles Hurwitz. And we acquired ownership ventures in
9 three racing licenses at that time: Sam Houston, Valley,
10 and then Laredo Downs -- the latter of which we no longer
11 hold.

12 And since this initial investment, we have been
13 able to leverage our experience as a racing operator
14 across the country to bring new innovations to racing in
15 Texas. Including establishing the Houston Racing Festival
16 and the Houston Ladies' Classic, among many other things
17 that we have done.

18 In 2016, we acquired the former Manor Downs
19 license, which will be subject to review at a later date.

20 And then in 2018, we acquired one of our competitors in
21 the regional gaming space called Pinnacle Entertainment.
22 And through that, we assumed management of the contract
23 for Retama Park, which we'll be discussing later today.

24 As you all know, COVID was devastating for the
25 racing industry. We were shut down nationwide. I think

1 we showed significant nimbleness in reacting to that.

2 And an example is at Retama Park, we just
3 shifted to an all Quarter horse race meet calendar, as a
4 result of that. And then, in 2021, it is hard for me to
5 believe sitting here today, but there was actually winter
6 storm damage at Retama Park. And we were able to shift
7 the race dates into Sam Houston, which I think was a
8 really good outcome for racing.

9 Later in 2021, we did acquire the remainder of
10 our joint venture with MAXXAM. So as a result of that, we
11 are now the full owner of three racing licenses: Sam
12 Houston, Valley, and Hill Lane, which is the former Manor
13 license, which is now inactive. And of course, we also
14 have the management contract at Retama which we will speak
15 to later.

16 Bringing us forward to today, we do have a full
17 calendar of races at both Sam Houston and Retama. And we
18 are very much looking forward to continuing to further the
19 great tradition of racing in Texas going forward.

20 And so with that, I will now turn it over to
21 Erin.

22 MS. CHAMBERLIN: Thank you. So thank you,
23 Chris. Thank you, Todd. And thank you, Judge Pate and
24 Commissioners, Executive Director. It is great to be here
25 today.

1 So our investment in Texas, as Chris said,
2 based on our acquisition costs, our capital costs that
3 we've funded in, we have invested well over \$110 million
4 into the State of Texas in just over that decade. We have
5 also funded nearly \$11 million in operating losses since
6 2011.

7 But I think even more importantly, we employ
8 nearly 550 team members here in Texas. And we spend about
9 \$7-1/2 million every year on salaries and benefits for
10 those team members. Nearly 50 percent of whom are female,
11 and more than 60 percent of who are minority. So we are
12 really proud of that.

13 We are also really proud of our commitment to
14 local organizations. As a company, Penn Entertainment is
15 highly focused on making sure that our properties that we
16 operate across all these jurisdictions are really attuned
17 to the jurisdictions in where they live. The communities
18 where they operate, and where their team members live.

19 And so Texas is no different for us. And so
20 our team members and our property leadership in Texas have
21 been great supporters of many local organizations.

22 In fact, one that was just mentioned, the
23 Racetrack Chaplaincy of America, the permanent League of
24 Disabled Jockeys fund and many others here in Texas. So
25 we are really proud of that commitment and intend to

1 continue to do that.

2 With that, I am going to turn it back over to
3 Chris, who is going to be able to address some future
4 questions.

5 MR. ROGERS: Yes. So I would just like to
6 conclude by addressing the elephant in the room here,
7 which is that Valley, as you know, is a greyhound track.
8 And we are unable to conduct live racing there today on
9 the greyhound side.

10 As a result, we have been evaluating all of our
11 potential options, including the potential of converting
12 into a Class 2 track. It is worth noting that Cameron
13 County has approved horse track racing by majority vote, a
14 really strong majority vote. So we think potentially that
15 could be an option.

16 And what we would like to do is be able to
17 continue to evaluate our options with the Commission and
18 staff to see what is the best potential outcome for this
19 license. And with that, I will open it up for questions.

20 CHAIRMAN PATE: I have a question. Are y'all
21 doing simulcast at the Valley?

22 MR. ROGERS: No.

23 CHAIRMAN PATE: All right.

24 COMMISSIONER McNABB: I have something quick.
25 If you have an intent, as your negotiations and the plans

1 proceed, we are very interested. I mean, the health and
2 welfare of the racing animals, and that includes training,
3 as well as racing, so where, how, what kind of service.
4 You know, all of those things, we would like to see some
5 intent.

6 Because as far as we are concerned, whether you
7 have an active license or an inactive license or
8 relinquished -- are you actively involved or not? So we
9 do look forward to hearing from you, and what your plans
10 are, and how you plan to move forward.

11 MR. ROGERS: Understood.

12 CHAIRMAN PATE: All right. Thank you very
13 much, Chris.

14 MR. ROGERS: Thank you.

15 CHAIRMAN PATE: Let me get back to my script
16 here.

17 MS. COOK: So I have a recommendation for the
18 Commission. And that is that given the uncertainty -- and
19 anybody that knows me, or that has gotten to know me in
20 this position knows I like to create predictability and
21 lessen the uncertainty, because that helps great things
22 happen in the industry.

23 I would recommend to the Commission that you
24 consider -- the Chair consider appointing an ad hoc
25 committee of two Commissioners and three industry

1 representatives -- and those could be chosen later. And
2 that ad hoc committee would look at the greyhound industry
3 in Texas. And potentially, you know, what is the
4 transition away from the greyhound industry and the
5 potential for looking at the options in terms of what are
6 our statutory needs -- because there was a Committee
7 substitute during the session on greyhound.

8 It didn't pass. But I think the entire
9 industry, horse and greyhound, has a vested interest in a
10 winding-down process that is statutory rule-based and
11 policy-based that then will allow everyone to have that
12 conversation.

13 And then we potentially go into session with
14 the right legislative proposals that will make sure that
15 we mitigate the risk on everyone. So if that would be
16 acceptable to the Commission, then I would put that on the
17 agenda for discussion for the next Commission meeting.

18 CHAIRMAN PATE: Yes. This is something that
19 Amy and I have spoken about. And I think it is
20 appropriate. You know, there are these hanging issues out
21 there.

22 We had a bill in the Legislature, House Bill
23 4115, that did not get a second reading, so it did not
24 pass. It had specific language in it that simply did away
25 with greyhound racing, period.

1 And it also had a resolution of this lingering
2 issue of the some \$2-1/2 or 3 million, whatever it is,
3 that is horse racing money. Just a small piece of it that
4 was placed with the Texas greyhounds to enhance their
5 further racing, which they are not going to do.

6 Last year, I requested an opinion from the
7 Attorney General. The Attorney General gave his opinion
8 in response to a request by the greyhound people for us to
9 make a distribution, that at least the Commission thought
10 that request was outside of the statute. The Attorney
11 General's Office agreed with us.

12 So we cannot make that distribution. But we
13 need to deal with that money. That bill gave the money
14 back to the -- actually gave it back, as I recall, to the
15 Commission for redistributing to the various horse
16 incentive programs and so forth.

17 So I think this needs to be looked at. I have
18 spoken to Commission Moore about chairing this committee.

19 And so we will follow up next meeting, and we will talk
20 with some industry people. It will be open, if anybody
21 wants to come and visit whenever they meet.

22 But I think we need to at least raise the
23 issues so the Legislature can consider what they want to
24 do with this situation. Because again -- I mean, right
25 now, we are continuing, I think, to accrue money in the

1 Texas-bred program. And it is held in trust for the
2 greyhounds.

3 But there is not going to be greyhound -- we
4 can't distribute the money. So it is just kind of a
5 screwed up deal that we need to get worked out.

6 And Commission Moore, I twisted his arm. He
7 said he would do it. So we will be back with some more
8 specifics on that at our next meeting. All right.

9 MS. COOK: Yes, sir. Thank you.

10 CHAIRMAN PATE: Thank you for bringing that to
11 the attention of everybody here. And we invite your
12 ideas. We would like to go in to the next -- here we are
13 just out of the last session.

14 But we'd like to go into the next session with
15 really a firm idea of making sure the Legislature is aware
16 that there is a statutory problem out there that needs to
17 be resolved. Just because of the fact of the matter is,
18 there is no greyhound racing. So, thank you.

19 MS. COOK: So, on to the next agenda item,
20 which is Retama Park. I am sorry.

21 COMMISSIONER McNABB: Can I go backwards to
22 Valley just a moment?

23 MS. COOK: Absolutely.

24 COMMISSIONER McNABB: And please, I didn't
25 sleep at Holiday Inn. And I just went to vet school, so I

1 am not a lawyer, I'm sorry. I'm just an ordinary vet.

2 If you are looking for Valley to have an
3 active, or an active other, or an inactive license, I
4 assume that from a business point of view and entering
5 into a business agreement, you want to have something that
6 says active. But active does then imply that you are
7 asking for race dates, and that is not going to happen for
8 a while.

9 So just help me understand why you would
10 request active as opposed to active other, or inactive.
11 Just so I can understand from your side of the equation.

12 MR. ROGERS: Look, our preference is to
13 continue as an active license. And look, we have made
14 significant investments in the license, and we think in
15 order to further our business interests, that is the best
16 potential outcome.

17 However, we understand the challenges with
18 that, given what we have discussed and the fact that
19 greyhound racing is unbooked today. So our preference
20 would be to continue as an active license while we sort
21 through the potential alternatives.

22 COMMISSIONER McNABB: But for horse racing.
23 You are saying for Class 2 -- an active license for a
24 Class 2 horse track. Would that then imply that you had
25 asked for dates that you would run on one of the other

1 tracks, or just --

2 MR. ROGERS: Understood. In the event we were
3 to apply or convert into a Class 2, yes. We would be
4 seeking an active license, and then going through the
5 process of building the track, an appropriate track, and
6 seeking racing dates.

7 COMMISSIONER McNABB: Helps me understand your
8 thinking.

9 CHAIRMAN PATE: Yes.

10 MS. McCORMICK: Yes. I am sorry. I just
11 wanted to add one thing about timing, is because the
12 license for Valley is currently active, it was our
13 understanding that those licenses are reviewed every five
14 years. And under the Commission's current rules, when a
15 change of control proceeding happens, that resets the
16 five-year clock.

17 And the last change of control proceeding
18 affecting the Valley license was in 2021. So, we are --

19 CHAIRMAN PATE: We are reviewing it. We are
20 reviewing it, okay.

21 MS. McCORMICK: I absolutely understand that,
22 for sure. But I am just explaining why we thought that we
23 had some time to have these discussions about the future
24 of the licensing.

25 CHAIRMAN PATE: I think the change condition --

1 the increasingly clear condition of no greyhound racing
2 kind of begs a solution. And I think if we work with
3 industry and can come up with something reasonable and
4 present it, I think if we have enough interest in
5 appropriate legislators, that they will work something out
6 and pass it.

7 But we need to review all these. And y'all's
8 situation with no simulcast is a little bit different.
9 Where we had simulcast issues, we have this interface of
10 you are being awarded race days for races that are never
11 going to occur, but it is a legal fiction that allows you
12 to open up the simulcast.

13 I mean, we are going to have to address that.
14 And we are not quite clear in reading the statute, our
15 enabling statute, the Texas Racing Act, that that actually
16 is a proper application of the Act. We are not saying it
17 isn't. We are just -- we are looking at it very
18 carefully.

19 We have had these discussions with
20 representatives of all the greyhound people. They know
21 what our thinking and what our concerns are.

22 COMMISSIONER McNABB: No one ever anticipated
23 that we would be in this situation. So, it is just -- as
24 we can better understand you from your business
25 perspective, where you are going, and what you are

1 planning to do.

2 Because then, there are certain regulatory
3 hoops you have to jump through, I am sure, certainly, with
4 all the different states you deal with, all the state and
5 federal entities. We don't want to interfere, but there
6 is also places where we don't want to miss. We don't want
7 to miss those times that we need to have a conversation,
8 because we didn't understand what you were doing or didn't
9 know things got away.

10 CHAIRMAN PATE: Amy, is there anything else
11 that I missed in there that you would add?

12 MS. COOK: I think -- I like to provide hope.
13 So if you have had a local election for horse racing in
14 that county, you can certainly write me a letter that
15 says, we would like to have an Agenda Item for September
16 to ask the Commission whether they would open a race date
17 application for that county, for a Class 2 horse track.

18 So that to me -- rather than waiting, that to
19 me would be a way to start going down that path,
20 independent of the fact that we will then again set for
21 discussion an action by the Commission, the status of
22 Valley Race Park's license.

23 Does that make sense? So you can move. You
24 can run down both tracks at the same time.

25 That would be -- because there is no -- there's

1 an urban legend that converting or redesignating is
2 actually in the statute. Actually, if you Control-F, it
3 is not in there.

4 So I want to provide you some hope. I think
5 that is the path, is to go ahead and start running. If
6 that is really what you want to do, you want to do a Class
7 2 horse track in a county, and there is already a local
8 election, you need to provide the request.

9 And then, I need a Secretary of State
10 certification that that election took place. So, that
11 should be pretty easy to -- with your letter.

12 MS. McCORMICK: We look forward to talking to
13 you about this.

14 MS. COOK: Okay. I look forward to that.

15 MR. ROGERS: I wish we had all the answers
16 here. But what I can say is that we are very much an open
17 book and willing to work with your staff, as well as the
18 Commission, to make sure we find the right --

19 MS. COOK: Great.

20 CHAIRMAN PATE: Yes. I mean, we're in the
21 business of encouraging racing, okay. But we want it to
22 be safe for both the equine athletes as well as the human
23 athletes. That is the bottom line.

24 And we want the pari-mutuel wagering to be
25 fair. So, that is it. All right. Thanks.

1 MR. ROGERS: Thank you.

2 CHAIRMAN PATE: Let's move on to Retama.

3 MS. COOK: All right. So, again, one page on
4 the [inaudible]. The factors that we considered are the
5 same. Retama is also considered inactive, a Class 1 horse
6 track license. Just like you did here in the initial
7 presentation on Valley, I am sure that the Penn folks will
8 address it again. There was a time when Retama had
9 thoroughbred racing and Quarter horse racing, now it only
10 conducts Quarter horse racing.

11 As everyone in this room knows, there have been
12 some recent challenges at Retama. There were 22 race
13 dates granted this year, and it appears that we will
14 successfully conduct 22 live race dates this year, with
15 some rescheduling that we had to do.

16 A review of our records reveals that Retama
17 holds currently an active operating, Class 1 horse track
18 license. Although Retama Park has had some challenges
19 complying with the Texas Racing Act with respect to safety
20 issues, the management team has taken several steps toward
21 achieving compliance during the past years to improve the
22 track's performance in increased racing and training
23 opportunities for horsemen.

24 So with that, I will let the Penn Entertainment
25 folks come up and give their presentation to you.

1 MS. McCORMICK: I'm back just to introduce some
2 additional folks who have come up for your review of the
3 Retama license. And those are, first, members of the
4 management committee and officers and directors of the
5 entity that holds the title to the Retama license, which
6 is called Retama Nominal Holder.

7 And those gentlemen are all here on the front
8 row. The first of whom doesn't really require an
9 introduction, but Mr. Joe Straus, Jr. And then we have
10 Ken Polasek next to him, and Phil Swinney next to him.
11 And Mr. Polasek and Swinney are also Board members of the
12 Retama Development Corporation, which owns the track and
13 the beneficial interest in the license.

14 And so, I will sit down with that. Mr.
15 Polasek, I think, will say a few words. And then that
16 group will be followed by the same group that you heard
17 from --

18 CHAIRMAN PACE: Great.

19 MR. POLASEK: Good morning. Yes. Ken Polasek,
20 citizen of Selma and also President of the Retama
21 Development Board. Mr. Chairman, Commissioners, thank you
22 for the opportunity to present the background in ownership
23 of the Retama Park.

24 As you can see by the diagram, it is probably a
25 different organization than other tracks. The Retama

1 Development Corporation was established in January of
2 1993, formed by the City of Selma as a local government
3 corporation by filings of the corporation with the office
4 of the Secretary of State.

5 Members are appointed by City Council for the
6 board of directors that serve for two-year terms. The
7 Retama Development Corporation, as the slide has
8 mentioned, was formed by the City. It owns pecuniary and
9 beneficial interests in the racing and simulcasting
10 aspects of the license, and owns Retama Park, fixed and
11 other assets, and land under the track. So the RDC is the
12 beneficiary of the operations.

13 The other element of the structure is the
14 Retama Nominal Holder, LLC, which is the owner's nominal
15 interest in the racing and the simulcasting. So pretty
16 much anything.

17 As part of this setup, the RDC meets quarterly,
18 as needed. And day-to-day management, as you can see in
19 the red block, has been delegated to PNK (SAM), LLC, via a
20 management agreement. PNK (SAM), LLC, is a subsidiary or
21 affiliate of Penn Entertainment, Inc.

22 And as part of oversight, the Board typically
23 considers the following. We look quarterly at least, in
24 financial reviews, operational updates, independent
25 auditor review, annual audit, take action as necessary.

1 Annual budgets, capital expenditures, peruse leases and
2 space at the facility. Reviews requests, and authorizes
3 uses of the facility, such as festivities, holiday light
4 shows, and other special events.

5 And so, as members of the Board, I am
6 President. And then, my Secretary is Mr. Phil Sweeney.
7 Other members of the Board who are not here are Mr. Gary
8 Baber, Charles Eads, and James Parma.

9 With Retama Nominal Holder, Mr. Phil Sweeney is
10 also there. Joe Straus, as you've introduced, and then
11 myself. So that is the organization.

12 And let me go to the next -- that is it. And
13 then I am proud to now carry on with Mr. Todd George,
14 Executive Vice President.

15 CHAIRMAN PATE: Can I ask you a question --

16 MR. POLASEK: Yes, sir.

17 CHAIRMAN PATE: -- first, before you give up
18 the podium? So what exactly is the deal with Retama
19 Development Corporation? Under the management contract,
20 are y'all responsible for capital improvements, or is that
21 a responsibility under or by your management company?

22 MR. POLASEK: It is by the management company.

23 CHAIRMAN PATE: Okay. So, that is part of that
24 deal. So, y'all simply are the title owners of the
25 property.

1 MR. POLASEK: That's correct.

2 CHAIRMAN PATE: Correct? Okay. And so -- and
3 we also took a look a one of the financial statements.
4 Y'all issued some revenue bonds originally, whenever --
5 and you've been accruing interest on it. I think there is
6 something -- 630-, \$700 million something owed on it now.

7
8 And those bonds are non-callable. Correct? I
9 am trying to understand the financial stability.

10 MR. POLASEK: Yes. It's a very good question,
11 sir.

12 CHAIRMAN PATE: So, if they are non-callable --

13 MR. SWINNEY: Yes, sir. They are non-callable.

14 CHAIRMAN PATE: So it is just perpetual debt.

15 MR. SWINNEY: There are a few stipulations that
16 would call them. But they are generally considered non-
17 callable.

18 CHAIRMAN PATE: Okay.

19 MR. SWINNEY: If there were, you know, a
20 gift -- yes. To answer your question --

21 CHAIRMAN PATE: Well, what are the stipulations
22 that would call it?

23 MR. SWINNEY: If we make a certain amount of
24 money. If a certain amount of income is received, then
25 they can become called -- certain bonds, certain ones can

1 become called.

2 CHAIRMAN PATE: I see. Okay. So if you
3 suddenly had a windfall of some kind, there is a --

4 MR. SWINNEY: A significant windfall.

5 CHAIRMAN PATE: There is a trigger that would
6 require payment. Okay. All right. Thank you.

7 MR. ROGERS: And if I could just clarify one
8 thing. We heard the Commission loud and clear, as far as
9 the responsibility, and the single point of contact. And
10 although the organizational structure is a little
11 complicated. And I will blame the lawyers for that.

12 When it comes through the operations, it is
13 very clear. Which is, Penn is the operator and the
14 management contract. If there is an issue, Mr. Pettigrew
15 is the single contact for you.

16 CHAIRMAN PATE: Got it. Thank you.

17 MR. ROGERS: And with that, I will turn it over
18 to Todd.

19 MR. GEORGE: Thank you again. So as you heard
20 Executive Director Cook mention before, and this is a
21 great way to frame it. These are the four pillars that we
22 looked at.

23 We are looking at licensibility. So, I will go
24 to financial wherewithal, and then I will turn it back
25 over to Brian and Erin to cover the next three.

1 So we are a publicly held company. All of this
2 information is available publicly through our SEC
3 statements. But we are the primary backstop for all
4 operational costs.

5 We have been doing this since 2013 because of
6 our acquisition of Pinnacle. So we are the largest
7 regional racing and gaming operator, you heard me talk
8 about that before.

9 In 2022, our most recent year end, we had
10 revenue of approximately \$6.4 billion. In 2022, even
11 though our profitability of \$1.94 billion and that our
12 market cap was sitting at \$4.18 billion. So, we feel that
13 with those three data points, we are demonstrating the
14 financial wherewithal to operate the racetrack.

15 With that, I will turn it over to Brian and
16 Erin.

17 CHAIRMAN PATE: So, but what is the commitment
18 of Penn to Retama? I understand y'all are a big company
19 and you have other assets and so forth.

20 But I have toured Retama. I assume you have
21 been out there recently, too. And since I became Chair --
22 I mean, when Amy first came, we took it to her.

23 And there were immediate repairs that were
24 required in the stable area. And then, of course, there
25 has been the freeze. And there has been -- we had the

1 power outage several weeks ago, and all of these
2 developments.

3 So I am just kind of wondering out loud, is the
4 commitment unlimited? Or is there a protocol in your
5 relationship with the Retama Nominal people, or with the
6 City, that requires you to maintain certain things. And
7 then there is discretionary items on others.

8 How does that work?

9 MR. GEORGE: So Bryan and Erin will go through
10 more detail on that. But I can tell you approximately two
11 weeks ago, we had a very productive meeting, I think, with
12 Executive Director Cook. And in the last two weeks, I
13 think, we have demonstrated significant improvement, made
14 some glaringly obvious needed improvements, including red
15 paint. But everything --

16 MS. COOK: Touchdown.

17 CHAIRMAN PATE: I heard that story.

18 MR. GEORGE: So did I. I said, my face turned
19 that color of red.

20 But so as it relates to whether it is unlimited
21 or -- we will make -- there are just some obvious
22 improvements that we will continue to make. And the other
23 thing that you will hear Erin and Bryan talk about -- I am
24 trying not to be a thunder stealer. We have a great -- it
25 really is about the human capital, not just the downward

1 capital improvement, but the human capital.

2 And because of our size and scope of
3 properties, we have a great sister property over in
4 Louisiana that we have mobilized to help with a lot of the
5 facilities operations, making the needed improvements
6 there. So that is already happening now.

7 And then, you will see that continual
8 improvement as we get ready. I think we will have a
9 fairly robust plan between the end of this race session
10 and the next one. And you will hear again -- I'm not
11 trying to steal thunder. But you will hear Bryan and Erin
12 talk about that.

13 CHAIRMAN PATE: Then I have one other question.
14 I don't know whether it is yours or whether it might be
15 Erin's.

16 And that is, is there a marketing plan? I am
17 going to be asking this of every track, not just -- but
18 Sam Houston and also Lone Star. Because this is just an
19 observation. And I don't know the answer.

20 I mean, as I mentioned in my earlier remarks,
21 and particularly as a result of the proposed casino
22 legislation that was filed in this last session, there
23 appears to be for the last 30-something years, a perpetual
24 hope that these licenses are placeholders for casino
25 gambling or expanding gambling in Texas. So far, that has

1 not been a very good bet.

2 MR. GEORGE: That is correct, sir.

3 CHAIRMAN PATE: In 40 years, it hasn't been a
4 good bet. But my observation is that there -- and I don't
5 know whether this is fair or not. But I am asking you.

6 There has been so much focus on that, kind of
7 this hope. As opposed to you know, what we really need to
8 do is figure out if we can get this business that we have
9 of horse racing working, and make it work.

10 You know, and I realize HISA has thrown us a
11 curveball in Texas. And we're not going to go through all
12 that. You all understand where we are on that.

13 But beyond that, I guess I am just kind of
14 interested whether or not there is a commitment to the
15 horse racing as a business enterprise, separate and apart
16 of whatever future promise it might or might not foretell.

17 MR. GEORGE: So, thank you. That is obviously
18 an excellent question and an obvious question.

19 So Erin Chamberlain, her background by trade,
20 she is a marketer. That is one of the reasons why I
21 wanted her over horse racing as well. We are spending an
22 awful lot of time -- and I don't think it is worth any of
23 our time, all of us here, to be talking so much about
24 something that perpetually loses money.

25 So the other thing that happened, as a result

1 of the meeting that we had two weeks ago, Erin and I
2 immediately reached out to our corporate marketing team,
3 as well as our Lake Charles marketing team with some
4 immediate improvements that we can start doing.

5 Also, we have best practices from around the
6 country, things that we have done in Pennsylvania, things
7 that we have done in Ohio. Things that we do in
8 Massachusetts that we think can breathe new life into
9 getting new people there.

10 I also appreciate Vice Chair McNabb, your
11 observation about partnering with the right charities and
12 having the right affiliates. And having people that are
13 mutually aligned on driving people and admissions and
14 customers into the properties. So that is something we
15 are completely aligned on.

16 And then, I really must thank all of you.
17 Because the biggest thing that we can do, would be to
18 increase the purse size. And through your actions in
19 prior years, that is helping provide a better product on
20 the track. So that is what we are all committed to as
21 well.

22 CHAIRMAN PATE: Great. Thank you very much.

23 MR. GEORGE: Yes.

24 COMMISSIONER McNABB: I just want to tease this
25 out a little bit further. For the last recent years,

1 Retama has kind of withered down to 27-some-odd days of
2 Quarter horse racing in the heat of the summer. You know,
3 it is critical to the Quarter horse industry in this
4 state, and all of their marketing plans. But you hold a
5 Class 1 license.

6 MR. GEORGE: Yes.

7 COMMISSIONER McNABB: Class 1 gives you certain
8 privileges and, you know, restrictions on anybody else
9 having any competition. And from the horseman's
10 perspective -- and being a veterinarian, I am all about
11 the horses. Having three Class 1 tracks who are very
12 deliberately spaced around the state --

13 MR. GEORGE: Right.

14 COMMISSIONER McNABB: -- to me, implies that
15 given the larger horse industry, we can't expect all
16 tracks to be open at all times for official works and all.
17 I got that.

18 But having Retama 21 days doing Quarter horses
19 and that is it, but we have a statewide industry. What
20 are you looking at? Are thoroughbreds on your horizon? I
21 would really like to see, for a Class 1 track --

22 MR. GEORGE: Yes.

23 COMMISSIONER McNABB: Granted, it is hot in San
24 Antonio. I got that.

25 MR. GEORGE: It is.

1 COMMISSIONER McNABB: But in the wintertime, it
2 is pretty nice, you know. Thoroughbreds running up in
3 Kentucky at Turfway Park would probably much rather run in
4 San Antonio.

5 MR. GEORGE: I would think so.

6 COMMISSIONER McNABB: I would think so. I'm
7 interested in just what your plans are. Because really,
8 what I would like to see is when we can get to where we
9 have somewhat of a circuit.

10 But that also builds the industry. If people
11 know that at any given time, there either is a Class 1
12 track with the quality surface and that whole experience
13 for training horses, that they can haul to and train. Or
14 it's a meet, and things can move around, then that makes a
15 healthier industry for Texas.

16 It also makes Texas a much more attractive
17 place for some of our larger operations that, you know,
18 send a string to Texas and let them base here. But having
19 a Class 1 track that withers down to 21 racing days maybe
20 in the summertime in July in Texas is pretty sad.

21 MR. GEORGE: I know --

22 COMMISSIONER McNABB: It leaves those
23 Thoroughbred horses, really. And it puts a lot of undue
24 pressure on the other two tracks instead of having that
25 circuit. So I am interested in what you all see near and

1 long term on that.

2 MR. GEORGE: I couldn't agree more. And thank
3 you for that observation. And Executive Director Cook,
4 myself, and others that were at the meeting two weeks ago
5 kind of started to talk about the way we could start
6 expanding this.

7 But it starts with a better product. At a
8 track that needed repairs, again, we've been attacking
9 that in the last two weeks. But we'll also talk more
10 about that with Bryan and Erin.

11 So thank you all again.

12 CHAIRMAN PATE: Thank you.

13 MR. PETTIGREW: Good morning, I am Bryan
14 Pettigrew. This is Erin Chamberlain. And we're going to
15 discuss the ability to conduct live racing -- a lot of
16 what you were just talking about.

17 We have got a facility that was 30 years old
18 when Penn came in. And then you go through the pandemic
19 and ice storms. And it is a lot to keep up with for a
20 30-year-old facility, like any of us.

21 Things happen. And you keep putting band-aids
22 on it. And sooner or later, you have got some problems.
23 And so one thing that we have seen is, we have got about
24 60 full-time employees there that are trying to catch up
25 over 30 years of issues.

1 And so that is the one nice thing that Penn is
2 able to do is bring in outside resources. We have got --
3 this week we have got a team of engineers that are there
4 checking what our state and local electrical contractors
5 had already reviewed. We have got our own engineers,
6 outside engineers coming in to make sure that the facility
7 is safe for the fans, for the horsemen and the customers.
8

9 And as well, next week, we have a crew that is
10 coming in from Louisiana just to help our operations team
11 get caught up on changing light bulbs and ceiling tiles
12 and some of those things.

13 So there is a true commitment, not only the
14 capital that you see on the screen that has been invested
15 this year for new generators and food and beverage
16 equipment, but also some of the things that we are putting
17 in for safety and repairs on the track.

18 We brought in new -- we brought in an outside
19 racing services testing laboratory that told us that the
20 track needed to be -- had to have more cushion in it. And
21 so we brought in about 500 tons of sand. This was before
22 the week started.

23 I think everybody is seeing the results of
24 that. We have got horsemen that are saying, you know,
25 this is the best racing surface in 20 years at Retama

1 Park. So we are proud of those little steps that we are
2 taking.

3 We also just hosted the richest race in Retama
4 Park this past week, or two weeks ago with the Texas
5 Quarter Horse Association's sale futurity, so we are
6 making those little steps, marketing a little bit this
7 year. And I say a little bit, because the facility needs
8 to be updated and maintained. We don't want to stress the
9 facility this year.

10 So we are doing -- we did one promotion last
11 week, very successful. We are doing two this week. And
12 we are building on those. Also trying to make sure our
13 staff is capable of running these promotions and bringing
14 in new team members in the future.

15 CHAIRMAN PATE: I just want to say, Bryan, we
16 recognize the effort you all put in here recently. It has
17 been substantial, and we really do appreciate it.

18 MR. PETTIGREW: Thank you. We also -- along
19 the lines of, you know, the ability to construct and
20 maintain the track, we are in weekly, daily communications
21 with Executive Director Cook and the staff.

22 We do daily measurements of the track, the
23 track's surface, the depth, and also the moisture in the
24 track. We do that. That is not something we have ever
25 done before. But that's something we are working on

1 implementing this year.

2 And we submit that on a daily basis, and then a
3 weekly report. And that also goes to the Racing Surfaces
4 Testing Laboratories, which is a national database that
5 compares Retama Park to the other tracks in our region and
6 nationally.

7 In addition to those daily reports, we brought
8 in Jake Weitzel and Jose Coronado, who I must say -- Jose,
9 if you are not familiar with him, is the track
10 superintendent at Sam Houston Race Park, which is
11 nationally recognized as one of the safest tracks. And
12 today is his 30-year anniversary at working at Sam Houston
13 Race Park. So we are going to honor him tonight.

14 He doesn't know. And hopefully, he is not
15 watching this at Retama Park.

16 But we brought in Jake from Penn National. We
17 brought in Jose from Sam Houston. And they are both
18 onsite overseeing the daily track operations.

19 That is about all I have.

20 MS. CHAMBERLIN: The next slide. So, as we've
21 been talking about -- I think this kind of summarizes a
22 lot of what we have been talking about, our commitment to
23 Retama Park.

24 So \$2 million are planned for infrastructure
25 review and improvements, as we've been talking through.

1 HVAC system is sorely needed. Make sure that that is
2 running. So that is underway right now.

3 We are working through that. And as Bryan
4 talked about, we have a complete electrical review
5 underway right now. Bryan and I will be heading out to
6 the track after this to go check on the progress with
7 that, and check in with the team, and see what results we
8 are getting from there.

9 And you know, we have also just been walking
10 the property and making sure that it is presenting in a
11 way that we are proud of. I think to your question, Judge
12 Pate, a lot of what we are seeing are things that we want
13 to enhance because it is the right thing to do. And it
14 makes us proud to operate Retama Park.

15 And so as we walk around, there is any number
16 of customer-facing things that are either safety-related,
17 as we talked about with Executive Director Cook, or are
18 just -- you know, they are not up to par with today's
19 standards in terms of what our customers have come to
20 expect.

21 And so Bryan has been leading the efforts with
22 the team there to pull those things together, understand
23 what our customers are asking for, and what we need to do
24 to bring ourselves more in line with, say, what we are
25 doing at Sam Houston and make sure that we are presenting

1 the best foot forward where we do get folks to come to
2 Retama Park, because that is something that we are really
3 focused on.

4 And so one of the reasons, also, that Bryan was
5 hired is because he is a very innovative and creative
6 marketer as well. And so he has already started. What he
7 didn't talk about was his Digging for Diamonds promotion
8 that was this weekend, a very popular dollar beer night;
9 you know, just some things to try and attract some new
10 folks back to the facility.

11 But we do know that we have a lot of work to
12 do. And so our real plan is to really focus a lot of
13 efforts on cleaning up the property, ensuring that we are
14 safe, it is presenting very well, and then work in this
15 off season to really put together a strong marketing
16 program that we can tap into, and that we can launch for
17 next year's race theme. We have a lot of good learnings
18 from what we have done already this season and some other
19 things that we have done around the country.

20 So as Tom mentioned, we have any number of
21 racetracks -- 11 racetracks. And so we have some great
22 prototypes to follow, where we -- you know, in our Meadows
23 property outside of Pittsburgh for example, we draw 18,000
24 people over a course of a weekend for a food truck
25 festival.

1 Those are the types of things, that once we
2 have the facility in order and the team in order that we
3 need them to be, we need to be doing at Retama Park to
4 make sure that we are reintroducing the property back to
5 the local community.

6 MR. PETTIGREW: One last comment is we are
7 using our management team. Sam Houston and Retama are
8 going back and forth, not only in the racing operations,
9 but for example, we have three new employees at Sam
10 Houston that have just been hired on, and they are coming
11 over to Retama to see the racing this week. See the
12 promotions, event operations.

13 So they are not just going into January at Sam
14 Houston and never have seen a race live, or interacted
15 with horsemen in promotions. And so we are doing a lot of
16 that where we are taking our staff back and forth between
17 the two properties and working together with both teams.

18
19 MS. CHAMBERLIN: And one final comment. And
20 you know, obviously, improving the facility, improving the
21 marketing are high priorities. But as we talked about
22 with Executive Director Cook at our meeting a few weeks
23 ago, I think underpinning all of this is really the
24 people.

25 And so the culture at Retama has an opportunity

1 to really improve greatly. And this is something Bryan
2 and I spent a lot of time talking about. And that is, you
3 know, a large part of why Bryan was hired.

4 He is based here in Texas. He will be onsite
5 regularly. We have made some leadership changes. There
6 are more opportunities for us to continue to strengthen
7 our team there.

8 And so, underneath it all, what we really want
9 to do is restore a culture of pride at Retama Park. And
10 we are starting that by, you know, building up the
11 facility, building up the marketing plan. But we also
12 have to really focus on developing our folks.

13 COMMISSIONER McNABB: I do have one question.
14 Given we are already down the road, that there is going to
15 be a hospital in your very near vicinity, maybe some
16 doctors will want to invest in some racehorses. Sounds
17 like a good idea to me.

18 The one thing though, if you have never been in
19 a stall underneath a horse when a loud aircraft came over,
20 I can tell you, it is a thrill. It's not a good one.
21 What are you going to do about helicopters coming into
22 the --

23 MR. PETTIGREW: So we've been in touch with the
24 City of Selma, and we have also been in touch with the
25 hospital organization.

1 Right now, as you know, there is an Air Force
2 base nearby. The jets come by every day. We have a
3 no-fly-zone over Retama Park for the jets. But we plan to
4 work with them.

5 The helipad at the newly proposed hospital is
6 on the opposite side, so we are planning to work with them
7 on when we are racing, which directions to come in, what
8 their flight patterns will be.

9 COMMISSIONER McNABB: That helicopter low level
10 could be quite a Kodak moment.

11 MR. PETTIGREW: Yes. Thank you for your time.

12 CHAIRMAN PATE: Yes. Thank you all very much.
13 We really appreciate it.

14 Amy, do you have any closing remarks?

15 MS. COOK: Well, I will just say that
16 challenges present opportunities. And so you all have
17 done a very good job of addressing the concerns that we
18 raised. We learned so much from the situation.

19 And so the benefit of having gone through some
20 difficult times in the last few months is, we come out of
21 it stronger. And we understand now more in depth, and
22 better than we ever did, how to address these things.

23 I've already been in conversations with Matt
24 Vance. So in Retama's case, the Executive Director can
25 require a periodic inspection for safety. We're doing a

1 daily periodic inspection.

2 What I asked Matt Vance to do, and the team at
3 Lone Star Park, and the other teams such as at Sam
4 Houston, is to do a weekly visual inspection. Our
5 practice in the past was pre-meet, post-meet. Good.

6 But there is nothing -- it is a priceless
7 investment of time just to visually look at equine
8 ambulances, track services, and all that weekly, and make
9 sure that everything is good, and nothing has changed.
10 And really make sure we mitigate risk.

11 And it is the same thing I did when I got in my
12 Humvee every day when I was in the military. Make sure
13 that all the tires weren't flat, and everything was
14 working, and it had oil in it.

15 And so I think this visual daily inspection is
16 what I am going to encourage. What I am going to ask all
17 the tracks to do is at least a weekly visual inspection.
18 That is with the Agency staff walking with the track
19 staff, so that we do that together. Because ultimately,
20 safety is a shared responsibility.

21 And that is all I have.

22 CHAIRMAN PATE: All right. Thank you very
23 much.

24 Well, it is really interesting for me to hear
25 about Retama and its history. As I have mentioned to Mr.

1 Straus, a good friend of mine was his partner who actually
2 helped develop the property, Drake Leddy. So it is
3 interesting.

4 Unfortunately, Drake died last year. But he
5 was a tremendous individual, and I know he thought a lot
6 of the Strauses and was very proud of the Retama racetrack
7 when it was organized.

8 The Commission does have a brief item that will
9 require us to move into Executive Session under
10 Texas Government Code Section 551.071(1) and (2). We are
11 going to go into an executive session. We do not
12 anticipate being out long.

13 The time is now straight up noon.

14 (Whereupon, the Board recessed into Executive
15 Session.)

16 CHAIRMAN PATE: All right. The Commission is
17 now reconvening after concluding its Executive Session
18 under Governmental Code Section 551.071. The time is now
19 12:06 p.m.

20 I'd recognize Commissioner Mach for a motion.

21 COMMISSIONER MACH: Mr. Chairman, we would like
22 to recommend that Executive Director Cook's salary be
23 raised to \$139,851, which is the statutory limit.

24 CHAIRMAN PATE: All right. There's been a
25 motion made to increase the salary of our Executive

1 Director to \$139,851 per annum, which is the statutory
2 limit.

3 Is there a second?

4 COMMISSIONER KLEINSCHMIDT: Second.

5 CHAIRMAN PATE: All right. Second by
6 Commissioner Kleinschmidt.

7 Is there any further discussion?

8 (No response.)

9 CHAIRMAN PATE: Hearing none, all signify your
10 approval by a vote of aye.

11 (A chorus of ayes.)

12 CHAIRMAN PATE: Any opposed.

13 (No response.)

14 CHAIRMAN PATE: All right. The motion carries.

15 Thank you, Commissioners.

16 The time is now -- there's a variance in my
17 clock. I got 12:05. And with all business concluded, we
18 are now adjourned.

19 Thank you very much.

20 (Whereupon, at 12:05 p.m., the meeting was
21 concluded.)

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C E R T I F I C A T E

MEETING OF: Texas Racing Commission

LOCATION: Austin, Texas

DATE: August 16, 2023

I do hereby certify that the foregoing pages, numbers 1 through 82, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Racing Commission.

DATE: August 30, 2023

/s/ Carol Bourgeois
(Transcriber)

On the Record Reporting
7703 N. Lamar Blvd., #515
Austin, Texas 78752

**AUGUST 2023 COMMISSION
MEETING MATERIALS PUBLIC
VERSION**



TEXAS RACING COMMISSION
P. O. Box 12080
Austin, TX 78711-2080
(512) 833-6699
Fax (512) 833-6907

Texas Racing Commission
Wednesday, August 16, 2023
10:30 a.m.
6100 Guadalupe St., Bldg. E
Criminal Law Enforcement Auditorium
Austin, Texas 78752

AGENDA

I. CALL TO ORDER

II. PLEDGES (U.S. AND TEXAS)

III. COMMISSIONER REMARKS

- A. Commission Chair
- B. Commission Vice Chair
- C. Commission Members

IV. PUBLIC COMMENTS

V. STAFF REPORTS

- A. Executive Director Report

VI. GENERAL BUSINESS

- A. Discussion and possible action to approve the interagency agreement with the Texas Veterinary Medical Diagnostic Lab (TVMDL) for FY 2024 under TEX. OCC. CODE § 2034.002.

VII. PROCEEDINGS ON THE HORSE INDUSTRY ESCROW ACCOUNT AND TEXAS BRED INCENTIVE FUND

- A. Discussion and possible action to approve the distribution allocation percentages to state horse breed registries and licensed racetracks for FY 2024 under TEX. OCC. CODE §2028.204 and § 2028.301.

VIII. RACETRACK PROCEEDINGS

- A. Discussion and possible action to approve officer and management change for Sam Houston Race Park, Manor Downs, and Valley Race Park. TEX. OCC. CODE §2026.153.
 - 1. Sam Houston Race Park, LLC to appoint Bryan Pettigrew as Vice President and General Manager replacing Dwight Berube
 - 2. Valley Race Park, LLC to appoint Bryan Pettigrew as Vice President and General Manager replacing Dwight Berube
 - 3. Hill Lane, LLC to appoint Bryan Pettigrew as Vice President and General Manager replacing Dwight Berube.
- B. Discussion and possible action to ratify the two-year extension of the Penn Entertainment and Global Tote 2013 Master Agreement on behalf of Sam Houston Race Park in accordance with 16 TEX. ADMIN. CODE §309.162.
- C. Discussion on active racetrack licenses scheduled for review under 16 TEX. ADMIN. CODE §309.53:
 - 1. Valley Race Park
 - 2. Retama Park

IX. EXECUTIVE SESSION (AS NEEDED)

The following items may be discussed and considered in executive session or open meeting, with any action taken in the open meeting:

- A. Under TEX. GOV'T CODE §551.071(1), the Commission may enter an executive session to seek the advice of its attorney regarding pending or contemplated litigation or regarding a settlement offer.
- B. Under TEX. GOV'T CODE §551.071(2), the Commission may enter an executive session to discuss all matters identified in this agenda where the Commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act.
- C. Under Texas Government Code § 551.074(a)(1), the Commission may enter an executive session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.
- D. Under TEX. OCC. CODE §2025.005, the Commission may enter an executive session to review security plans and management, concession, and totalisator contracts.

X. NEXT COMMISSION MEETING

Wednesday, September 5, 2023, 10:30 a.m.

XI. ADJOURN

I.CALL TO ORDER

II. PLEDGES (U.S. and Texas)

“I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.”

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

III. COMMISSIONER REMARKS

A. Commission Chair

B. Commission Vice-Chair

C. Commission Members

IV. PUBLIC COMMENTS

V. STAFF REPORTS

A. Discussion and consideration of staff report

1. Executive Director

**CONFERENCE
COMMITTEE REPORT**
3RD Printing

**H.B. NO. 1
GENERAL APPROPRIATIONS
BILL**

**Texas Racing Commission
Extract
page VIII-43 through VIII-46**

BOARD OF PLUMBING EXAMINERS
(Continued)

service standards established by this Act, the Board of Plumbing Examiners shall make every effort to attain the following designated key performance target levels associated with each item of appropriation.

	2024	2025
A. Goal: ENSURE PUBLIC SAFETY/PLUMBING		
Outcome (Results/Impact):		
Percentage of Complaints Resolved Resulting in Disciplinary Action	57%	60%
Percentage of Licensees/Registrants with No Recent Violations	98%	98%
Percent of Licensees and Registrants Who Renew Online	90%	90%
Percent of New Individual Licenses, Registrations and Endorsements Issued Online	68%	68%
A.1.1. Strategy: EXAMINE AND LICENSE PLUMBERS		
Output (Volume):		
Number of New Licenses, Registrations and Endorsements Issued	13,200	13,500
Number of Licenses, Registrations and Endorsements Renewed	45,000	45,300
A.1.3. Strategy: INSPECTIONS AND ENFORCEMENT		
Output (Volume):		
Total Number of Compliance Checks Performed	10,000	10,000
Number of Investigations Conducted	850	900
Number of Complaints Resolved	900	950
Explanatory:		
Percentage of Compliance Checks Found with Violations	4%	4%

2. Capital Budget. Funds appropriated above may be expended for capital budget items listed below. The amounts identified for each item may be adjusted or expended on other capital expenditures, subject to the aggregate dollar restrictions on capital budget expenditures provided in the general provisions of this Act.

	2024	2025
a. Data Center/Shared Technology Services		
(1) Department of Information Resources - Data Center Consolidation	\$ 18,820	\$ 18,784
Total, Capital Budget	\$ 18,820	\$ 18,784
Method of Financing (Capital Budget):		
General Revenue Fund	\$ 18,820	\$ 18,784
Total, Method of Financing	\$ 18,820	\$ 18,784

3. Surplus Property. Notwithstanding Article IX, Section 8.03. Surplus Property, one hundred percent of the receipts to the Board of Plumbing Examiners from the sale of scrap metal is appropriated to the Board for the purpose of providing materials necessary to conduct licensing examinations during the biennium in which the receipts are received.

RACING COMMISSION

	For the Years Ending	
	August 31, 2024	August 31, 2025
Method of Financing:		
General Revenue Fund	\$ 1,313,350	\$ 1,444,685
GR Dedicated - Texas Racing Commission Account No. 597	\$ 5,186,030	\$ 5,308,782
Texas-bred Incentive Fund No. 327, estimated	\$ 2,530,000	\$ 2,500,000
Total, Method of Financing	\$ 9,029,380	\$ 9,253,467
Other Direct and Indirect Costs Appropriated Elsewhere in this Act	\$ 1,522,937	\$ 1,534,421

RACING COMMISSION
(Continued)

This bill pattern represents an estimated 26.8% of this agency's estimated total available funds for the biennium.

Number of Full-Time-Equivalents (FTE):	57.3	57.3
Schedule of Exempt Positions:		
Executive Director, Group 3	\$139,851	\$142,335
Items of Appropriation:		
A. Goal: ENABLE INDUSTRY GROWTH		
Enable Industry Growth Through Modernization of Licensing Services.		
A.1.1. Strategy: MODERNIZE LICENSING SERVICES	\$ 767,158	\$ 767,158
A.1.2. Strategy: CRIMINAL HISTORY & BACKGROUND CHECK	90,000	90,000
Criminal History And Background Checks. Estimated And Nontransferable.		
A.1.3. Strategy: TEXAS.GOV	<u>10,000</u>	<u>10,000</u>
Texas.gov. Estimated and Nontransferable.		
Total, Goal A: ENABLE INDUSTRY GROWTH	\$ 867,158	\$ 867,158
B. Goal: PROTECT RACING SAFETY & INTEGRITY		
Protect The Integrity And Safety of Texas Racing.		
B.1.1. Strategy: DETER, INVESTIGATE, AND ADJUDICATE	\$ 948,430	\$ 948,429
Deter, Investigate, And Adjudicate Violations of The Texas Racing Act.		
B.1.2. Strategy: WAGERING INTEGRITY AND SECURITY	465,459	465,459
Increase the Integrity and Security of Pari-mutuel Wagering.		
B.1.3. Strategy: PREVENT INJURIES/EMERGENCY RESPONSE	563,797	563,796
Prevent Injuries and Respond to Medical Emergencies.		
B.1.4. Strategy: ADMINISTER DRUG TESTS	<u>1,510,677</u>	<u>1,642,012</u>
Administer Drug Tests to Detect Prohibited Substances in Competitors.		
Total, Goal B: PROTECT RACING SAFETY & INTEGRITY	\$ 3,488,363	\$ 3,619,696
C. Goal: INDIRECT ADMINISTRATION		
C.1.1. Strategy: CENTRAL ADMIN & OTHER SUPPORT SVCS	\$ 1,400,306	\$ 1,402,790
Central Administration and Other Support Services.		
C.1.2. Strategy: INFORMATION RESOURCES	<u>619,595</u>	<u>616,993</u>
Total, Goal C: INDIRECT ADMINISTRATION	\$ 2,019,901	\$ 2,019,783
D. Goal: TEXAS BRED INCENTIVE PROGRAM		
Texas Bred Incentive Fund Administration.		
D.1.1. Strategy: TEXAS BRED INCENTIVE PROGRAM	\$ 2,530,000	\$ 2,500,000
Allocate Texas Bred Incentive Funds. Estimated and Nontransferable.		
E. Goal: SALARY ADJUSTMENTS		
E.1.1. Strategy: SALARY ADJUSTMENTS	<u>123,958</u>	<u>246,830</u>
Grand Total, RACING COMMISSION	<u><u>\$ 9,029,380</u></u>	<u><u>\$ 9,253,467</u></u>
Object-of-Expense Informational Listing:		
Salaries and Wages	\$ 3,732,308	\$ 3,857,664
Other Personnel Costs	82,340	82,340
Professional Fees and Services	1,724,566	1,853,299
Consumable Supplies	15,200	15,198
Utilities	15,000	15,000
Travel	149,000	149,000
Rent - Machine and Other	2,000	2,000
Debt Service	618,340	618,340

RACING COMMISSION
(Continued)

Other Operating Expense	160,626	160,626
Grants	2,530,000	2,500,000
Total, Object-of-Expense Informational Listing	\$ 9,029,380	\$ 9,253,467

Estimated Allocations for Employee Benefits and Debt Service Appropriations Made Elsewhere in this Act:

<u>Employee Benefits</u>		
Retirement	\$ 206,097	\$ 219,095
Group Insurance	674,680	698,972
Social Security	184,922	195,534
Benefits Replacement	631	504

Total, Estimated Allocations for Employee Benefits and Debt Service Appropriations Made Elsewhere in this Act	\$ 1,066,330	\$ 1,114,105
----------------------------------------------------------------------------------------------------------------------	---------------------	---------------------

1. Performance Measure Targets. The following is a listing of the key performance target levels for the Racing Commission. It is the intent of the Legislature that appropriations made by this Act be utilized in the most efficient and effective manner possible to achieve the intended mission of the Racing Commission. In order to achieve the objectives and service standards established by this Act, the Racing Commission shall make every effort to attain the following designated key performance target levels associated with each item of appropriation.

	2024	2025
A. Goal: ENABLE INDUSTRY GROWTH		
A.1.1. Strategy: MODERNIZE LICENSING SERVICES		
Output (Volume):		
Number of New Occupational Licenses Issued	1,800	1,800
Number of Occupational Licenses Renewed	4,000	4,000
B. Goal: PROTECT RACING SAFETY & INTEGRITY		
Outcome (Results/Impact):		
Percent of Race Horses that Sustain a Catastrophic Injury	0.08%	0.08%
Percent of Greyhounds that Sustain a Catastrophic Injury	0	0
B.1.1. Strategy: DETER, INVESTIGATE, AND ADJUDICATE		
Output (Volume):		
Number of Racetrack Inspections	4	4
Number of Occupational Licenses Suspended or Revoked	15	15
Number of Investigations Completed	25	25
B.1.2. Strategy: WAGERING INTEGRITY AND SECURITY		
Explanatory:		
Total Take to the State Treasury from Pari-Mutuel Wagering on Live and Simulcast Races	2,568,224	2,568,224
B.1.3. Strategy: PREVENT INJURIES/EMERGENCY RESPONSE		
Output (Volume):		
Number of Horses Inspected Pre-race	12,000	12,000
Number of Greyhounds Inspected Pre-race	0	0

2. Capital Budget. None of the funds appropriated above may be expended for capital budget items except as listed below. The amounts shown below shall be expended only for the purposes shown and are not available for expenditure for other purposes.

	2024	2025
a. Data Center/Shared Technology Services		
(1) Data Center Services	\$ 117,716	\$ 115,114
Total, Capital Budget	\$ 117,716	\$ 115,114
Method of Financing (Capital Budget):		
GR Dedicated - Texas Racing Commission Account No. 597	\$ 117,716	\$ 115,114
Total, Method of Financing	\$ 117,716	\$ 115,114

3. Texas Bred Incentive Program Receipts. The amounts appropriated above in Strategy D.1.1, Texas Bred Incentive Program, from the Texas-bred Incentive Fund No. 327 are estimated amounts set aside by the Texas Racing Act pursuant to Occupations Code, Sections 2028.101, 2028.103, 2028.105, 2028.154, and 2028.202 for the Texas Bred Incentive Program. Any

RACING COMMISSION

(Continued)

additional revenue set aside by the Texas Racing Act pursuant to Occupations Code, Sections 2028.101, 2028.103, 2028.105, 2028.154, and 2028.202 for the Texas Bred Incentive Program (estimated to be \$0) is appropriated to the Racing Commission in Strategy D.1.1, Texas Bred Incentive Program, in each fiscal year of the 2024-25 biennium.

None of the funds appropriated above for Texas Bred Incentive Program Awards may be expended for payments to a member serving on the commission. The Racing Commission shall take all necessary steps to ensure compliance with this provision.

4. Criminal History Checks and Background Checks.

- a. Funds appropriated above in Strategy A.1.2, Criminal History and Background Check, from GR Dedicated - Texas Racing Commission Account No. 597 (estimated to be \$90,000 in fiscal year 2024 and \$90,000 in fiscal year 2025) are for the purpose of reimbursing the Department of Public Safety (DPS), Federal Bureau of Investigation (FBI), and/or any other entity authorized to conduct criminal history background checks for costs incurred in conducting criminal history checks or background checks on individuals seeking to transfer ownership interest in an existing racetrack license and on Racing Commission license applicants and renewals. Any additional revenue received from occupational and business license fees to cover the costs of criminal history checks or background checks (estimated to be \$0) is appropriated to Strategy A.1.2, Criminal History and Background Check, for the purpose of reimbursing the DPS, FBI, and/or any other entity authorized to conduct criminal history background checks.
- b. Before May 31, 2024, the Racing Commission shall submit a report to the Legislative Budget Board, in a format prescribed by the Legislative Budget Board, that details the amount collected and expended on criminal history checks and background checks to date and the amount the agency is projecting to collect and expend on criminal history checks and background checks for the remainder of the 2024-25 biennium.
- c. Any appropriation authority identified in subsection (a) of this rider not used for criminal history checks or background checks shall be lapsed by the Racing Commission.

5. Witness Fees. From the appropriations made above, the Texas Racing Commission may pay the witness fees and travel expenses of out-of-state witnesses, subject to the advance, written approval of the Executive Director, for the law violation under investigation.

6. Recruitment and Retention Payments. In accordance with Article IX, Section 3.06, of this Act, and with the approval of the Executive Director, the Racing Commission may pay an individual a recruitment or retention bonus as provided by Government Code, Section 659.262.

7. Moving Expenses. Notwithstanding any other provision of this Act, and with the approval of the Executive Director, the Racing Commission may use appropriated funds to pay the reasonable, necessary, and resulting costs of moving the household goods and effects of an employee of the Racing Commission who is transferred from one designated field office or headquarters to another so long as the Racing Commission determines that the best interests of the State will be served by such transfer.

8. Commissioner Travel. Notwithstanding any other provision of this Act, the Racing Commission may not expend more than \$5,000 each fiscal year for payment or reimbursement for expenses related to the travel of the seven appointed members of the Texas Racing Commission.

9. State Contribution to Group Insurance for Retired Employees of the Racing Commission. Notwithstanding the provisions of Article IX, Section 6.08, subsection (a), of this Act, the state contribution to group health insurance coverage for retired employees of the Racing Commission shall be paid from the General Revenue Fund.

**VI. GENERAL BUSINESS
INTERAGENCY
AGREEMENT WITH
TVMDL**

**TEXAS RACING COMMISSION
INTERAGENCY CONTRACT FOR
TEXAS A&M VETERINARY MEDICAL DIAGNOSTIC LABORATORY**

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This INTERAGENCY CONTRACT is made and entered into by and between the Texas Racing Commission (hereinafter referred to as TXRC), a Texas state agency with its principal office located at 1801 N. Congress Ave., Ste. 7.600, Austin, Texas 78701, and the Texas A&M Veterinary Medical Diagnostic Laboratory (hereinafter referred to as TVMDL), part of a state institution of higher education with its principal office located at 483 Agronomy Rd, College Station, TX 77843, acting by and through its authorized representative(s), pursuant to authority granted in TEX. GOV'T CODE, Chapter 771, §771.003 *et seq.*

I. PURPOSE

1.1 Pursuant to TEX. OCC. CODE Chapter 2034, § 2034.002, the Drug Testing Laboratory of TVMDL is to provide drug testing services on race animals for TXRC. The purpose of this INTERAGENCY CONTRACT is to delineate and specify the responsibilities and obligations of the parties in administering TXRC's race animal drug testing program.

II. DEFINITIONS

2.1 Definitions include the following:

- a. Association - A person or entity holding a pari-mutuel racetrack license under the Texas Racing Act to conduct pari-mutuel wagering and/or horse or greyhound racing issued by the Texas Racing Commission.
- b. Authorized individual(s) – Person(s) entitled to access to laboratory grounds based upon tier and access level(s).
- c. ELISA - Enzyme-linked immunosorbent assay (“immunoassay”).
- d. Executive Director - Texas Racing Commission Executive Director or designee.
- e. GC/MS - Gas Chromatography-Mass Spectrometry.
- f. ICP/MS - Inductively Coupled Plasma Mass Spectrometry.
- g. IC-MS - Ion Chromatography-Mass Spectrometry.
- h. LC-MS/MS - Liquid Chromatography-Tandem Mass Spectrometry.
- i. LC-HRAMS - Liquid Chromatography-High-Resolution Accurate Mass Spectrometry.
- j. LIMS – Laboratory Information Management System. Electronic software program that stores results and releases case reports for TVMDL testing.
- k. MU - Measurement Uncertainty.
- l. Specimen - Bodily substance, such as hair, blood, urine, saliva, or other bodily tissues collected for analysis from a horse or greyhound in a manner prescribed by the TXRC. Specimen sample may also include, but not limited to, substances contained in vials, loaded syringes, or other similar containers.

III. DESCRIPTION OF SERVICES

3.1 Duties of TVMDL: TVMDL agrees:

1. To provide sufficient security to control access to the TVMDL Drug Testing Lab or to areas where records and samples are stored including security measures such as extra access required in LIMS system, security permissions for backup instrument data, and locked laboratory doors.
2. To ensure only authorized persons handle samples or have access to TVMDL processes. There are two tiers of access for TVMDL employees.
 - a. There are four types of access for authorized individuals. Tier 1 authorized individuals perform the testing; includes Access A authorized individuals requiring fingerprinting, background check and annual conflict of interest statement. Tier 2 authorized individuals support testing; includes Access B, C, and D authorized individuals requiring an annual conflict of interest statement.
 - b. Access A: TVMDL employees who are trained to handle samples and perform testing in the laboratory (restricted to only TVMDL drug testing staff).
 - c. Access B: TVMDL employees who have unescorted access to laboratory space. Examples include, but are not limited to, TVMDL drug testing laboratory staff, TVMDL senior agency executives, TVMDL quality assurance staff, and TAMUS IT support.
 - d. Access C: TVMDL employees and LIMS vendor staff who have access to case information in LIMS (racing results require an extra access in LIMS so not all TVMDL employees fall in this category). Examples include, but are not limited to, TVMDL drug testing staff, TVMDL quality assurance staff, TVMDL employees who create accessions in LIMS, TVMDL employees that perform data entry in LIMS, TAMUS IT support, TVMDL finance staff, and LIMS vendor staff.
 - e. Access D: TVMDL employees and TAMUS IT support staff who have access to backup instrumentation data generated during the testing (instrument printouts, control charts, etc...).
3. To inspect each shipment of all specimen samples on arrival at TVMDL for any evidence of possible tampering or compromise to the integrity of any specimen sample. Any evidence of tampering or compromise of specimen sample integrity shall be properly recorded and reported to the Executive Director in writing.
4. To use chain-of-custody procedures to maintain integrity, control, and accountability of specimen samples during all testing stages from specimen sample receipt to storage and final disposition.
5. To accession all specimen samples from Associations to the TXRC account.
6. To provide secured storage conditions to maintain specimen sample integrity while specimen samples for testing and split specimen samples are in the possession, custody, and control of TVMDL.
7. To maintain and follow approved quality control Standard Operating Procedures within the oversight of the TVMDL Quality Management System.
8. To provide analyses for alleged performance-enhancing drugs in submitted contraband samples (e.g., vials, loaded syringes, tubes of paste) by TVMDL methods including, but not limited to, LC-MS/MS, GC/MS, LC-HRAMS, or ELISA as requested by TXRC.

9. To provide specimen sample testing and split specimen sample testing, upon trainer's request, for the presence of prohibited substances and controlled therapeutic medications on equine urine specimen samples as follows:

a. Instrumental analysis (e.g., LC-MS/MS, GC/MS, LC-HRAMS, ICP-MS and IC-MS) on each equine urine specimen sample.

b. Specific gravity determination on each equine urine specimen sample with an accompanying serum furosemide concentration in excess of 100 ng/mL.

c. Each specimen sample with the presence of a therapeutic medication, at levels as published by TXRC, that exceed the maximum permissible concentration level shall be reported by TVMDL to TXRC as a positive result with the quantitative level and MU of the therapeutic medication.

d. Upon request by TXRC, specimen samples shall be tested by TVMDL for arsenic. Testing for arsenic shall be performed using ICP/MS, and the regulatory threshold maximum permissible level for arsenic is published in TXRC Permissible Therapeutic Substances List.

10. To provide testing for the presence of prohibited substances and controlled therapeutic medications on equine blood samples as follows:

a. Furosemide LC/MS screening on each equine serum sample to ensure compliance with TXRC's Bleeders and Furosemide Program. Evidence of non-compliance will be documented and reported to the TXRC. TVMDL will report as positive each specimen sample in which the concentration of furosemide exceeds 100 ng/mL and a urine specific gravity of less than 1.010. TVMDL will issue a report for each specimen sample in which the concentration of furosemide exceeds 100 ng/mL of furosemide and a urine specific gravity of 1.010- 1.012, or when no urine sample was submitted for testing. TVMDL will issue a report for each specimen sample in which the equine received furosemide treatment, but furosemide was not detected in the specimen sample. TVMDL will issue a report for each specimen sample in which the equine did not receive furosemide treatment, but furosemide was detected in the sample.

b. Test for total carbon dioxide on specimen samples of equine blood as requested by TXRC. Each specimen sample exceeding the maximum permissible level as published by TXRC shall be reported as positive to TXRC including the quantitative level. Alternatively, TVMDL may recommend another qualified laboratory conduct testing for total carbon dioxide.

c. Instrumental analysis by either LC-MS/MS, GC/MS, LC-HRAMS, ICP-MS, IC-MS on each equine blood sample. Additionally, each equine blood sample will be extracted and screened independently by instrumental analysis for the presence of dimethyl sulfoxide (DMSO). Pooling of no more than 4 samples is permissible.

d. Each specimen sample with the presence of a controlled therapeutic medication, as published by TXRC, that exceeds the corresponding maximum permissible concentration level shall be reported as positive to TXRC with the quantitative level and MU of the

medication.

e. Upon request by TXRC, samples shall be tested for cobalt in addition to or in lieu of the substances identified in Sections 9.a through 9.e. Testing for cobalt shall be performed using ICP/MS, and the regulatory threshold level for this element is as published in TXRC Therapeutic Substance List of the Endogenous, Dietary, or Environmental Substances Schedule (25 ppb in blood plasma or serum).

11. To perform testing for prohibited substance(s) including either a full comprehensive test panel or specified testing for beta-agonist drugs in equine hair samples by instrumental analysis as required or requested by TXRC.

12. To perform testing for the presence of prohibited substance(s) in canine urine samples. Testing shall be by instrumental analysis, LC-MS/MS, LC-HRAMS, ELISA, on each canine urine sample, with an emphasis on drugs classified as Category I or II in the published TXRC Medication Classification.

13. To perform confirmatory analysis on specimen samples whether equine or canine when a suspicious finding is identified in initial screening. At least one definitive analytical technique should be employed for the confirmatory analysis (e.g., mass spectrometry).

14. To perform tests as required by the Thoroughbred Owners and Breeders Association (TOBA) for substances in specimen samples from equine that participate in graded stakes races and listed stakes races at the \$75,000 purse level or above.

15. To expedite tests as requested for quarter horse trials with a goal of reporting test results to TXRC within five calendar days of receiving samples.

16. To screen blood samples labeled as "Vet Work" by LC-MS/MS or LC-HRAMS for non-steroidal anti-inflammatory drugs (NSAIDs), corticosteroids, or other drugs as requested by TXRC. Results for Vet Work samples will be reported by TVMDL to TXRC electronically within 120 hours of the specimen sample receipt by TVMDL.

17. To screen biological samples including, but not limited to, fresh tissue (e.g., muscle, liver and kidney, eye) collected as post-mortem tissue sampling in necropsy procedure(s) by instrumental analysis. Turnaround time depends upon the extent of confirmatory testing when the initial screening of a sample is deemed suspect but will not exceed ten business days. These samples results will be reported by TVMDL to TXRC electronically.

18. To perform other testing as requested by TXRC with prior approval by utilizing the most effective state-of-the-art or appropriate technology or platform testing methods.

19. To store all tested specimen samples and split specimen samples in secured conditions ensuring the specimens integrity before either disposal of or release to a third party (for various purposes). The minimum retention period for a negative specimen sample is five (5) calendar days after reporting to TXRC. The minimum retention period for a positive specimen sample is one (1) year after reporting to TXRC or until all legal proceedings concerning the sample conclude whichever is longer. The minimum retention period for all records is two years or until all legal proceedings concerning the specimen sample conclude whichever is longer.

20. To report negative test result(s) to TXRC within 120 hours from sample receipt, if possible. TVMDL will report positive test result(s) to TXRC within three weeks of TVMDL's receipt of specimen samples. On request by TXRC, TVMDL shall make available to TXRC a copy of the analytical case file results of any test conducted.
21. To provide qualified professional personnel to testify in an administrative hearing or other legal proceeding involving a test performed. TVMDL agrees to participate and assist with pretrial matters including, but not limited to, interrogatories and depositions.
22. To notify TXRC in writing at least thirty (30) days before implementing any change in analytical procedures which alters the detection sensitivity for any substance classified as Category III, IV, or V in the TXRC Medication Classification.
23. To participate in industry-recognized quality assurance program(s).
24. To refrain from disclosing any information relating to a specimen sample to any person other than specifically designated by TXRC to receive the information.
25. To maintain qualified Tier 1 and Tier 2 TVMDL staff with no financial interest in racehorses, racing greyhounds, a racetrack, or with any conflict of interest within the racing industry. All TVMDL laboratory personnel must be employees of the Texas A&M Veterinary Medical Diagnostic Laboratory, a member of the Texas A&M University System, and subject to the rules and policies of the A&M System as promulgated by the Board of Regents of the A&M System or the TVMDL Director.
26. To consent to background investigation for all Tier 1 TVMDL staff involved in the TXRC drug testing program under this agreement including, but not limited to, fingerprinting conducted by the Texas Department of Public Safety on behalf of TXRC.
27. To allow access by TXRC to all TVMDL records of drug testing services performed pursuant to this agreement.
28. To issue an electronic report to TXRC for all samples tested through this agreement.
29. To invoice TXRC for all samples tested through this agreement. TVMDL will make reasonable efforts to collect payment from TXRC after thirty (30) days from presentment to TXRC and will notify the Executive Director of any charges that are unpaid thirty (30) days after invoicing.

3.2 TXRC Duties. TXRC agrees:

1. To fund and directly provide all necessary supplies to Associations for the collection and shipment of specimen samples to TVMDL including, but not limited to, sample cards, sample jars, blood tubes, seals, labels, vacutainer sleeves, collection needles, and shipping containers.
2. To supervise the specimen sample collection site at each Association to ensure the site has the necessary personnel, supplies, equipment, facilities, and supervision to provide for the identification of animals and humans in the chain of custody and to collect, identify, secure, store, and ship each specimen sample to TVMDL.

3. To submit specimen samples from approximately 9,500 race animals per year. TXRC will make every effort to sample two (2) equine specimen samples per horse race and 0.9 canine specimen samples per greyhound race for testing at TVMDL. If the number of racing performances changes during the calendar year, the number of specimens may be adjusted accordingly. The TXRC Executive Director will notify the TVMDL Director as soon as practicable of changes in the number of racing performances. If the number of equine specimen samples, canine specimen samples, and/or racing performances decreases by more than 10% during the calendar year, TVMDL reserves the right to adjust test fees and agrees to notify the TXRC Executive Director at least thirty (30) days before any fee adjustments are made in writing.
4. To require each Association to deliver all samples to TVMDL in a secure manner ensuring specimen sample integrity in accordance with a TVMDL-approved delivery schedule at the Association's expense.
5. To apprise and update TVMDL in a timely manner of all drugs on the Medication Classification and Therapeutic Substance Lists and all changes in medication rules, policies, and procedures.
6. To promptly and completely submit payment for samples tested pursuant to this agreement to TVMDL. Payment is expected within thirty (30) days of the monthly invoice date.

IV. COST OF SERVICES

1. Except as otherwise provided in Section IV of this agreement, TVMDL agrees to charge, and TXRC approves, a per-specimen charge of \$150.00 for each blood and urine equine specimen sample tested [*#1031, Drug Screen - Racing Equine Basic (LC/MS)*].
2. TVMDL agrees to charge and TXRC approves, a charge of \$50.00 for each canine specimen sample tested pursuant to Article III, Sections 10 and 11 [*#1030, Drug Screen-Racing Canine (LC/MS)*].
3. TVMDL agrees to charge and TXRC approves, an \$8.00 accession fee for each race day from each racetrack to receive samples, enter test requests, and data [*#PROCESS01, Accession Fee*].
4. For total carbon dioxide tests conducted by TVMDL, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$28.50, unless TVMDL recommends a different laboratory conduct the testing for total carbon dioxide in which case the charge shall be separately determined.
5. For tests conducted pursuant to Article III, Sections 8.d. (arsenic) and 9.e. (cobalt), TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$23.00 [*#1006, Arsenic (ICP/MS), #1015 Cobalt (ICP/MS)*].
6. For tests conducted pursuant to Article III, Section 10, TVMDL agrees to charge, and TXRC approves, a per-sample hair specimen charge of \$145.00 for beta-agonist drug screening [*#1021, Drug Screen-Beta Agonists in Hair or Feathers (LC/MS)*].
7. For tests conducted pursuant to Article III, Section 13 (TOBA tests), TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$250.00 for each blood and each urine specimen sample respectively [*#1033, Drug Screen-Racing Equine Comprehensive (LC/MS)*]. TVMDL agrees to charge, and TXRC approves, the hair specimen sample charges in Item 6 above, if necessary.

8. For tests conducted pursuant to Article III, Section 15 (vet work/medical clearance}, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$90.00 [#1034, *Drug Screen – Racing Equine Medical Clearance (LC/MS)*].
9. For ocular fluid tests conducted pursuant to Article III, Section 16, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$60.00 [#1032, *Drug Screen – Racing Equine Breakdown (LC/MS)*].
10. For fresh tissue, muscle, liver, and kidney organ tests conducted pursuant to Article III, Section 16, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$110.00 [#1544, *Drug Screen – Unknowns (LC/MS)*].
11. For necropsy racing mortality tests conducted, TVMDL agrees to charge, and TXRC approves, a charge of \$190.00 [#1350, *Necropsy- Racing Mortality*].
12. For tests conducted pursuant to Article III, Section 17 (other testing as requested), TVMDL and TXRC will mutually agree on the per-sample charge depending on the methodology and platform employed for testing.
13. Upon request by TXRC, TVMDL agrees to charge and TXRC approves, a per-sample charge of \$88.00 for each serum or urine specimen sample tested for beta-agonists [#1023, *Drug Screen – Beta Agonists in Serum/Urine/Feed (LC/MS)*].
14. Upon request by TXRC, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$86.25 for each serum or urine specimen sample tested for corticosteroids [#1024, *Drug Screen – Corticosteroids (LC/MS)*].
15. Upon request by TXR.C, TVMDL agrees to charge, and TXRC approves, a per-sample charge of \$80.00 for each contraband sample including each vial, loaded syringe, and paste tube [#1018, *Drug Identification- Medications (LC/MS)*].
16. Upon request by TXRC, TVMDL agrees to charge, and TXRC approves, a charge of \$250.00 per sample for comprehensive racing equine testing [#1033, *Drug Screen – Racing Equine Comprehensive (LC/MS)*].
17. Upon request by TXRC and trainer, TVMDL agrees to charge and TXRC approves, a charge of \$25.50 for each split sample referred to package and ship a split sample forwarded to another approved laboratory for testing [#REFER03, *Referral Lab - Forwarding Fee*].
18. For storage of specimen samples, split samples, and discarding of samples beyond retention periods pursuant to Article III, Sections 1, 4 and 18, TVMDL agrees to charge, and TXRC approves, a flat annual charge of \$1,000 [#ADDL22, *Sample Storage*].
19. TVMDL agrees to charge and TXRC approves, a charge of \$108 per literature packet requested for use at a TXRC hearing [#PROCESS11, *Literature Packet*].

20. Pursuant to TEX. OCC. CODE § 2034.003, the Associations are responsible for payment of these charges. TVMDL will invoice TXRC, and TXRC agrees to pay TVMDL for the testing charges on behalf of each racetrack Association. Thereafter, TXRC will invoice the respective racetracks for payment of their portion of TVMDL costs incurred.

Code	Name	FY 2024	Notes
PROCESS01	Accession Fee	\$8.00	Fee is per submission.
PROCESS11	Literature Packet	\$108.00	Fee is per packet prepared for TXRC Hearing.
ADDL22	Sample Storage	\$1,000.00	Fee to store TXRC original and split samples. Flat rate charged annually.
REFER03	Referral Lab – Forwarding Fee	\$25.50	Fee is per sample packaged and referred.
1006	Arsenic (ICP/MS)	\$23.00	Fee is per sample tested.
1015	Cobalt (ICP/MS)	\$23.00	Fee is per sample tested.
1018	Drug Identification – Medications (LC/MS)	\$80.00	Fee is per sample tested.
1021	Drug Screen – Beta Agonists in Hair or Feathers (LC/MS)	\$145.00	Fee is per sample tested.
1023	Drug Screen – Beta Agonists in Serum/Urine Feather/Feed (LC/MS)	\$88.00	Fee is per sample tested.
1024	Drug Screen – Corticosteroids (LC/MS)	\$86.25	Fee is per sample tested.
1030	Drug Screen – Racing Canine (LC/MS)	\$50.00	Fee is per sample tested.
1031	Drug Screen – Racing Equine Basic (LC/MS)	\$150.00	Fee is per sample tested.
1032	Drug Screen – Racing Equine Breakdown (LC/MS)	\$60.00	Fee is per sample tested.
1033	Drug Screen – Racing Equine Comprehensive (LC/MS)	\$250.00	Fee is per sample tested.
1034	Drug Screen – Racing Equine Medical Clearance	\$90.00	Fee is per sample tested.
1350	Necropsy – Racing Mortality	\$190.00	Fee is per animal.
1544	Drug Screen – Unknowns (LC/MS)	\$110.00	Fee is per sample tested.

V. MODIFICATION OF CONTRACT

1. Except when the terms of this INTERAGENCY CONTRACT expressly provide otherwise, any alterations, additions or deletions to the terms hereof shall be by amendment in writing executed by both TVMDL and TXRC.

2. It is understood and agreed by the parties hereto, that changes in state and federal rules, regulations, or laws applicable hereto may occur during the term of this INTERAGENCY CONTRACT and that any such changes shall be automatically incorporated into this INTERAGENCY CONTRACT without written amendment and shall become a part of this agreement as of the effective date of the change in the rule, regulation, or law.

VI. NOTICES

Any notice required or permitted to be given under this INTERAGENCY CONTRACT shall be sufficient if given at the mailing addresses set forth below or to any other address of which written notice of change is given in writing:

Texas A&M Veterinary Medical Diagnostic Laboratory
Attn: Director
PO Drawer 3040
College Station, TX 77841-3040

Texas Racing Commission
Attn: Executive Director
1801 N. Congress Ave., Ste 7.600
Austin, TX 78701

VII. VENUE AND GOVERNING LAW

Venue of any court action brought directly or indirectly by reason of this INTERAGENCY CONTRACT shall be in Travis County, Texas. This INTERAGENCY CONTRACT is made and is to be performed in Travis County, Texas and is governed by the laws of the State of Texas.

VIII. ENTIRE AGREEMENT

This INTERAGENCY CONTRACT, including any Exhibits, embodies the final and entire agreement of the parties hereto, superseding all oral or written, previous and/or contemporaneous, agreements between the parties and relating to matters in this INTERAGENCY CONTRACT. No other agreements, oral or otherwise, regarding the matters of this INTERAGENCY CONTRACT shall be deemed to exist or to bind the parties hereto unless same be in writing, dated subsequent to the date herein and executed by the parties.

IX. LEGAL AUTHORITY

The signers of this INTERAGENCY CONTRACT represent, warrant, and guarantee that the signor has full legal authority to execute this INTERAGENCY CONTRACT and to bind the respective party to all the terms, conditions, provisions, and obligations contained in this agreement.

X. SEVERABILITY

If any clause or provision of this INTERAGENCY CONTRACT is held invalid, illegal, or unenforceable under present or future federal, state, or local laws, then it is the intention of the parties that such invalidity, illegality, or unenforceability does not affect any other clause or provision and that the remainder of this INTERAGENCY CONTRACT shall be construed as if such invalid, illegal, or unenforceable provision was never contained in this agreement. It is also the intention of the parties that in lieu of each provision of this INTERAGENCY CONTRACT that is determined to be invalid, illegal, or unenforceable that there be added as part of the INTERAGENCY CONTRACT, a provision similar in terms to such invalid, illegal, or unenforceable provision, as may be possible, to make the provision legal and enforceable.

XI. EXECUTION

The Parties agree to use due diligence in the exercise of their responsibilities as outlined in this INTERAGENCY CONTRACT. The term of this INTERAGENCY CONTRACT is from the date of Commission approval or September 1, 2023, whichever is later, through August 31, 2024. To ensure the continuity of the drug testing program in pari-mutuel racing, all terms of this INTERAGENCY CONTRACT continue in effect until a new INTERAGENCY CONTRACT is executed with the understanding that TVMDL reserves the right to adjust fees prior to execution of the new INTERAGENCY CONTRACT and will notify the TXRC Executive Director in writing at least 30 days in advance of fee adjustments. If either Party determines that events have changed and significantly affected a material term of the INTERAGENCY CONTRACT including, but not limited to, the closing of a racetrack or a significant increase in the cost of drug testing or testing supplies, the Parties agree to renegotiate the terms of this INTERAGENCY CONTRACT prior to the date of termination.

For the faithful performance of this agreement, this agreement is executed by the undersigned persons in their capacities described below. This agreement takes effect on the date of approval by the Commissioners of the Texas Racing Commission or September 1, 2023, whichever is later.

Amy F. Cook, Executive Director
TEXAS RACING COMMISSION

Date

Dr. Amy K. Swinford, Director
TEXAS A&M VETERINARY MEDICAL DIAGNOSTIC LABORATORY

Date

**VII. PROCEEDINGS ON HORSE
INDUSTRY ESCROW
ACCOUNT AND TEXAS BRED
INCENTIVE FUND**

**AGREEMENT BETWEEN
TEXAS ARABIAN BREEDERS ASSOCIATION, TEXAS PAINT HORSE
BREEDERS ASSOCIATION, TEXAS QUARTER HORSE ASSOCIATION AND
TEXAS THOROUGHBRED ASSOCIATION**

Discussion and possible action to extend the existing 2023 allocation of funds for the Texas-bred incentive program as provided under 16 TAC §321.505(b) to align with the expiration of the Horse Industry Escrow Account agreement expiration date.

Pursuant to Section 321.505(b) of the Texas Rules of Racing, the Commission shall determine the percentages by which Texas Bred Incentive Program funds generated from simulcasting are divided among the various breeds of horses.

In an effort to achieve a fair and equitable share of revenue available to the Texas state-bred incentive program for owners and breeders, the following Agreement is made by and between Texas Arabian Breeders Association (TABA), Texas Paint Horse Breeders Association (TPHBA), Texas Quarter Horse Association (TQHA) and Texas Thoroughbred Association (TTA).

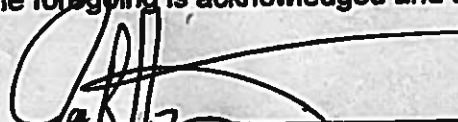
As previously allocated for calendar years 2011 – 2023, it is agreed that ATB incentive funds generated from simulcasting shall be allocated to the respective breeds as follows:

At Class 1 tracks (Lone Star Park, Retama Park and Sam Houston Race Park), the funds shall be allocated 66.67% to Thoroughbreds and 33.33% to Quarter Horses after a 2% deduction off the top for Arabians and a 1% deduction off the top for Paint Horses.


At Gillespie County Fair Grounds, the funds shall be allocated 33.33% to Thoroughbreds and 66.67% to Quarter Horses after a 2% deduction off the top for Arabians and a 1% deduction off the top for Paint Horses.

In order to be aligned with other breed split agreements, this agreement shall be in effect for calendar year 2024.

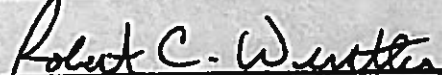
The foregoing is acknowledged and agreed to on this 7 day of August, 2023.



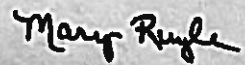
Texas Arabian Breeders Association



Texas Paint Horse Breeders Association



Texas Quarter Horse Association



Texas Thoroughbred Association

August 7, 2023

Amy Cook
Executive Director
Texas Racing Commission
1801 N Congress Ave Suite 7.600
Austin, TX 78711

Dear Ms. Cook,

We, the undersigned representatives of Texas licensed pari-mutuel racetracks, the Texas Quarter Horse Association, the Texas Horsemen's Association, the Texas Thoroughbred Horsemen's Association, the Texas Thoroughbred Association, the Texas Paint Horse Breeders' Association and the Texas Arabian Breeders' Association unanimously agree to the allocation of \$17,500,000 per year in purse funds that became available specifically via the successful passage of House Bill 2463 during the 2019 session of the Texas Legislature; as well as the continued allocation of the purse money generated for horses via cross-species simulcasting. These funds collectively comprise the Horse Industry Escrow Purse Account.

We take very seriously our responsibility to utilize these funds in a manner that will be recognized as their highest and best use in growing the Texas Horse Racing Industry.

This document replicates all allocations stated in our previous agreement dated September 1, 2021 and we have mutually agreed upon the following recommendations for distribution for calendar year 2024. This agreement replaces and supersedes any prior agreements of the parties covering any portion of this time period for distribution of any funds from the Escrow Purse Account:

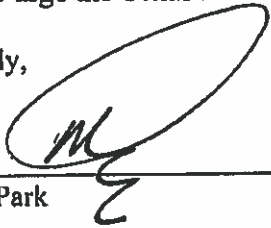
	Gillespie	Lone Star	Retama	Sam Houston
	3.57%	36.29%	18.64%	41.50%
Arabian	1.22%	1.23%	2.79%	1.44%
Paint Horse	5.84%	1.30%	1.77%	1.19%
Quarter Horse	78.33%	46.69%	70.72%	39.77%
Thoroughbred	14.61%	50.78%	24.72%	57.60%

We firmly collectively believe this proposed allocation will be the best way to increase interest, attendance, handle and field size in Texas, as well as stimulating increases in all categories of the Texas horse breeding industry.

The parties agree to the Commission paying out the allocated track distributions as indicated on the calendar of live race dates and agree to the Commission providing payment of funds to the racetracks based on the scheduling of live race dates.

We urge the Texas Racing Commission to approve this proposal as presented.

Respectfully,



Lone Star Park

Sam Houston Race Park

Retama Park

Gillespie County Fair & Festivals Assn.

Texas Horsemen's Association

Texas Quarter Horse Association

Texas Thoroughbred Horsemen's Association

Texas Thoroughbred Association

Texas Paint Horse Breeders Association


John R. Henningsgard (Aug 10, 2023 07:31 CDT)

Texas Arabian Breeders Association

The parties agree to the Commission paying out the allocated track distributions as indicated on the calendar of live race dates and agree to the Commission providing payment of funds to the racetracks based on the scheduling of live race dates.

We urge the Texas Racing Commission to approve this proposal as presented.

Respectfully,

Lone Star Park



Sam Houston Race Park



Retama Park

Gillespie County Fair & Festivals Assn.

Texas Horsemen's Association

Texas Quarter Horse Association

Texas Thoroughbred Horsemen's Association

Texas Thoroughbred Association



Texas Paint Horse Breeders Association

Texas Arabian Breeders Association

The parties agree to the Commission paying out the allocated track distributions as indicated on the calendar of live race dates and agree to the Commission providing payment of funds to the racetracks based on the scheduling of live race dates.

We urge the Texas Racing Commission to approve this proposal as presented.

Respectfully,

Lone Star Park

Sam Houston Race Park

Retama Park

Sally B Briggs
Gillespie County Fair & Festivals Assn.

Texas Horsemen's Association

Texas Quarter Horse Association

Texas Thoroughbred Horsemen's Association

Texas Thoroughbred Association

Texas Paint Horse Breeders Association

Texas Arabian Breeders Association

The parties agree to the Commission paying out the allocated track distributions as indicated on the calendar of live race dates and agree to the Commission providing payment of funds to the racetracks based on the scheduling of live race dates.

We urge the Texas Racing Commission to approve this proposal as presented.

Respectfully,

Lone Star Park

Sam Houston Race Park

Retama Park

Gillespie County Fair & Festivals Assn.

Masha Rountree

Texas Horsemen's Association

Texas Quarter Horse Association

Masha Rountree

Texas Thoroughbred Horsemen's Association

Texas Thoroughbred Association

Texas Paint Horse Breeders Association

Texas Arabian Breeders Association

The parties agree to the Commission paying out the allocated track distributions as indicated on the calendar of live race dates and agree to the Commission providing payment of funds to the racetracks based on the scheduling of live race dates.

We urge the Texas Racing Commission to approve this proposal as presented.

Respectfully,

Lone Star Park

Sam Houston Race Park

Retama Park

Gillespie County Fair & Festivals Assn.

Texas Horsemen's Association

Robert C. Winters 8/7/23

Texas Quarter Horse Association

Texas Thoroughbred Horsemen's Association

Texas Thoroughbred Association

Texas Paint Horse Breeders Association

Texas Arabian Breeders Association

The parties agree to the Commission paying out the allocated track distributions as indicated on the calendar of live race dates and agree to the Commission providing payment of funds to the racetracks based on the scheduling of live race dates.

We urge the Texas Racing Commission to approve this proposal as presented.

Respectfully,

Lone Star Park

Sam Houston Race Park

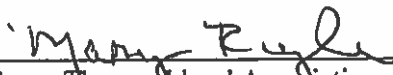
Retama Park

Gillespie County Fair & Festivals Assn.

Texas Horsemen's Association

Texas Quarter Horse Association

Texas Thoroughbred Horsemen's Association



Texas Thoroughbred Association

Texas Paint Horse Breeders Association

Texas Arabian Breeders Association

2023- 2024 Monthly HIEA Payments to Horse Racetracks by Breed based on Percentage Splits Using Proposed Methodology (Identical to 2022 and 2021)

Sam Houston					
HIEA Purse Payments by Breed by Month					
Fiscal Month	Thoroughbred	Quarter Horse	Arabian	Paints	Total Payment
	57.60%	39.77%	1.44%	1.19%	
Sep-23	\$ 1,422,763.90	\$ -	\$ 35,569.10		\$ 1,458,333.00
Oct-23	\$ 1,422,763.90	\$ -	\$ 35,569.10		\$ 1,458,333.00
Nov-23	\$ 1,337,672.20	\$ 40,648.82	\$ 33,441.80	\$ 1,216.30	\$ 1,412,979.12
Dec-23	\$ -	\$ 679,662.99	\$ -	\$ 20,337.01	\$ 700,000.00
Jan-24	\$ -	\$ 679,662.99	\$ -	\$ 20,337.01	\$ 700,000.00
Feb-24	\$ -	\$ 679,662.99	\$ -	\$ 20,337.01	\$ 700,000.00
Mar-24	\$ -	\$ 679,662.99	\$ -	\$ 20,337.01	\$ 700,000.00
Apr-24	\$ -	\$ 128,995.22	\$ -	\$ 3,859.66	\$ 132,854.88
May-24	\$ -	\$ -	\$ -	\$ -	\$ -
Jun-24	\$ -	\$ -	\$ -	\$ -	\$ -
Jul-24	\$ -	\$ -	\$ -	\$ -	\$ -
Aug-24	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 4,183,200.00	\$ 2,888,296.00	\$ 104,580.00	\$ 86,424.00	\$ 7,262,500.00

Ione Star					
HIEA Purse Payments by Breed by Month					
Fiscal Month	Thoroughbred	Quarter Horse	Arabian	Paints	Total Payment
	50.78%	46.69%	1.23%	1.30%	
Sep-23	\$ -	\$ -	\$ -	\$ -	\$ -
Oct-23	\$ -	\$ -	\$ -	\$ -	\$ -
Nov-23	\$ 45,353.88	\$ -	\$ -	\$ -	\$ 45,353.88
Dec-23	\$ 758,333.00	\$ -	\$ -	\$ -	\$ 758,333.00
Jan-24	\$ 758,333.00	\$ -	\$ -	\$ -	\$ 758,333.00
Feb-24	\$ 758,333.00	\$ -	\$ -	\$ -	\$ 758,333.00
Mar-24	\$ 758,333.00	\$ -	\$ -	\$ -	\$ 758,333.00
Apr-24	\$ 146,225.12	\$ -	\$ -	\$ -	\$ 146,225.12
May-24	\$ -	\$ -	\$ -	\$ -	\$ -
Jun-24	\$ -	\$ 198,419.18	\$ 5,226.92	\$ 5,524.88	\$ 209,170.98
Jul-24	\$ -	\$ 1,383,372.90	\$ 36,443.54	\$ 38,517.56	\$ 1,458,334.00
Aug-24	\$ -	\$ 1,383,372.90	\$ 36,443.54	\$ 38,517.56	\$ 1,458,334.00
Total	\$ 3,224,911.00	\$ 2,965,164.98	\$ 78,114.00	\$ 82,560.00	\$ 6,350,749.98

Retama					
HIEA Purse Payments by Breed by Month					
Fiscal Month	Thoroughbred	Quarter Horse	Arabian	Paints	Total Payment
	24.72%	70.72%	2.79%	1.77%	
Sep-23	\$ -	\$ -	\$ -	\$ -	\$ -
Oct-23	\$ -	\$ -	\$ -	\$ -	\$ -
Nov-23	\$ -	\$ -	\$ -	\$ -	\$ -
Dec-23	\$ -	\$ -	\$ -	\$ -	\$ -
Jan-24	\$ -	\$ -	\$ -	\$ -	\$ -
Feb-24	\$ -	\$ -	\$ -	\$ -	\$ -
Mar-24	\$ -	\$ -	\$ -	\$ -	\$ -
Apr-24	\$ 244,869.53	\$ 700,532.89	\$ 27,636.97	\$ 17,533.13	\$ 990,572.52
May-24	\$ 302,820.25	\$ 866,320.70	\$ 34,177.53	\$ 21,682.52	\$ 1,225,001.00
Jun-24	\$ 258,676.22	\$ 740,033.17	\$ 29,195.76	\$ 18,521.35	\$ 1,046,426.50
Jul-24	\$ -	\$ -	\$ -	\$ -	\$ -
Aug-24	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 806,366.00	\$ 2,306,886.76	\$ 91,010.26	\$ 57,737.00	\$ 3,262,000.02

Gillespie					
HIEA Purse Payments by Breed by Month					
Fiscal Month	Thoroughbred	Quarter Horse	Arabian	Paints	Total Payment
	14.61%	78.33%	1.22%	5.84%	
Sep-23	\$ -	\$ -	\$ -	\$ -	\$ -
Oct-23	\$ -	\$ -	\$ -	\$ -	\$ -
Nov-23	\$ -	\$ -	\$ -	\$ -	\$ -
Dec-23	\$ -	\$ -	\$ -	\$ -	\$ -
Jan-24	\$ -	\$ -	\$ -	\$ -	\$ -
Feb-24	\$ -	\$ -	\$ -	\$ -	\$ -
Mar-24	\$ -	\$ -	\$ -	\$ -	\$ -
Apr-24	\$ 27,566.22	\$ 147,793.42	\$ 2,301.90	\$ 11,018.94	\$ 188,680.48
May-24	\$ 34,089.95	\$ 182,769.74	\$ 2,846.66	\$ 13,626.65	\$ 233,333.00
Jun-24	\$ 29,619.83	\$ 158,803.84	\$ 2,473.44	\$ 11,839.41	\$ 202,736.52
Jul-24	\$ -	\$ -	\$ -	\$ -	\$ -
Aug-24	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 91,276.00	\$ 489,367.00	\$ 7,622.00	\$ 36,485.00	\$ 624,750.00

Proposed HIEA Purse Payment Methodology 2024 (Identical to 2022)

TxRC Fiscal Month	Funding from State		TxRC			Total TxRC HIEA Purse Payments
	Comptroller's Office to Texas	TxRC Payment of HIEA Purse	TxRC Payment of HIEA Purse	Payment of HIEA Purse	TxRC Payment of HIEA Purse	
	Racing Commission	Funds to Sam Houston	Funds to Lone Star	Funds to Retama	Funds to Gillespie	
Sep-23	\$ 1,458,333	\$ 1,458,333	\$	\$	\$	\$ 1,458,333
Oct-23	\$ 1,458,333	\$ 1,458,333	\$	\$	\$	\$ 1,458,333
Nov-23	\$ 1,458,333	\$ 1,412,979	\$ 45,354	\$	\$	\$ 1,458,333
Dec-23	\$ 1,458,333	\$ 700,000	\$ 758,333	\$	\$	\$ 1,458,333
Jan-24	\$ 1,458,333	\$ 700,000	\$ 758,333	\$	\$	\$ 1,458,333
Feb-24	\$ 1,458,333	\$ 700,000	\$ 758,333	\$	\$	\$ 1,458,333
Mar-24	\$ 1,458,333	\$ 700,000	\$ 758,333	\$	\$	\$ 1,458,333
Apr-24	\$ 1,458,333	\$ 132,856	\$ 146,224	\$ 990,573	\$ 188,680	\$ 1,458,333
May-24	\$ 1,458,334	\$	\$	\$ 1,225,001	\$ 233,333	\$ 1,458,334
Jun-24	\$ 1,458,334	\$	\$ 209,171	\$ 1,046,427	\$ 202,736	\$ 1,458,334
Jul-24	\$ 1,458,334	\$	\$ 1,458,334	\$	\$	\$ 1,458,334
Aug-24	\$ 1,458,334	\$	\$ 1,458,334	\$	\$	\$ 1,458,334
Total	\$ 17,500,000	\$ 7,262,500	\$ 6,350,750	\$ 3,262,000	\$ 624,750	\$ 17,500,000

	Sam Houston Meet #1 Thoroughbreds		Sam Houston Meet #2 Quarter Horse		Lone Star Meet #1 Thoroughbred		Retama Meet #1 Quarter Horse		Gillespie Meet #1 Mixed		Lone Star Meet #2 Quarter Horse	
	\$ 4,287,780		\$ 2,974,720		\$ 3,224,911		\$ 3,262,000		\$ 624,750		\$ 3,125,839	
	Number of Race Dates in Month	Remaining Balance Due	Number of Race Dates in Month	Remaining Balance Due	Number of Race Dates in Month	Remaining Balance Due	Number of Race Dates in Month	Remaining Balance Due	Number of Race Dates in Month	Remaining Balance Due	Number of Race Dates in Month	Remaining Balance Due
Sep-23	0	\$ 2,829,447	0	\$ 2,974,720	11	\$ 3,224,911	0	\$ 3,262,000	0	\$ 624,750	0	\$ 3,125,839
Oct-23	0	\$ 1,371,114	0	\$ 2,974,720	11	\$ 3,224,911	0	\$ 3,262,000	0	\$ 624,750	0	\$ 3,125,839
Nov-23	0	\$.	0	\$ 2,932,855	10	\$ 3,179,557	0	\$ 3,262,000	0	\$ 624,750	0	\$ 3,125,839
Dec-23	0	\$.	0	\$ 2,232,855	0	\$ 2,421,224	0	\$ 3,262,000	0	\$ 624,750	0	\$ 3,125,839
Jan-24	0	\$.	0	\$ 1,532,855	0	\$ 1,662,891	0	\$ 3,262,000	0	\$ 624,750	0	\$ 3,125,839
Feb-24	0	\$.	0	\$ 832,855	0	\$ 904,558	0	\$ 3,262,000	0	\$ 624,750	0	\$ 3,125,839
Mar-24	0	\$.	0	\$ 132,856	0	\$ 146,224	0	\$ 3,262,000	0	\$ 624,750	0	\$ 3,125,839
Apr-24	0	\$.	0	\$.	0	\$.	0	\$ 2,271,427	0	\$ 436,070	0	\$ 3,125,839
May-24	0	\$.	0	\$.	0	\$.	0	\$ 1,046,427	0	\$ 202,736	0	\$ 3,125,839
Jun-24	0	\$.	0	\$.	0	\$.	0	\$.	0	\$.	0	\$ 2,916,668
Jul-24	0	\$.	0	\$.	0	\$.	0	\$.	0	\$.	0	\$ 1,458,334
Aug-24	0	\$.	0	\$.	0	\$.	0	\$.	0	\$.	0	\$.
Total	0		0		0		0		0		0	

Association Recommended Allocation of 2024 Simulcast Purse Funds

Association Name: Fredericksburg Downs, Inc (Gillespie County Fair & Festivals)

Rule §321.505 (a) (1) stipulates that an association shall recommend the percentages by which it will divide the purse revenue generated from simulcasting among the various breeds of horses. The recommended percentages are subject to the approval of the Commission.

Recognized Breeds of Horses	Recommended Allocation Percentages
Arabian	.75%
Paint Horse	1.5 %
Quarter Horse	68.57%
Thoroughbred	29.18%

Rule §321.505 (a) (2) stipulates that at least 30 days before recommending the percentages, the association shall begin negotiations with the organizations recognized by the Commission or in the ACT as representatives of horse owners, trainers, and/or breeders. Indicate in the box below, what recognized organizations the association negotiated with prior to filing the recommended allocation percentages above.

Negotiations Conducted	
<input type="checkbox"/> Texas Arabian Breeders' Association <input type="checkbox"/> Texas Thoroughbred Association <input type="checkbox"/> Texas Horsemen's Partnership	<input type="checkbox"/> Texas Paint Horse Breeders Association <input type="checkbox"/> Texas Quarter Horse Association

Prepared by:  **Date:** 8/8/2023
 Lee Delong, Director of

Association Request for 2024 Escrowed Purse Account Distribution

Association Name: Fredericksburg Downs, Inc (Gillespie County Fair & Festivals)

Rule §321.509 (a) stipulates at least once a year, the Commission shall distribute all funds accrued in the escrowed purse account created by the Act, §6.091(e). An association shall request to the Commission for a distribution from the escrowed purse account.

Type of Distribution Requested <small>(select one)</small>	Percentage Requested
<input checked="" type="checkbox"/> Monthly	3.57%
<input type="checkbox"/> Annual	

Rule §321.509 (a) stipulates that an association when requesting for distribution from the escrowed purse account shall also recommend the percentages by which it will divide the escrowed purse account revenue among the various breeds of horses.

Rule §321.509 (c) stipulates that the recommended percentages are subject to the approval of the Commission.

Recognized Breeds of Horses	Recommended Allocation Percentages
Arabian	1.22%
Paint Horse	5.84%
Quarter Horse	78.33%
Thoroughbred	14.61%

Prepared by: 
 Lee Delong, Director of

Date: 8/8/2023

Racetrack Association Request for 2024 Horse Industry Escrow Account Distribution

Racetrack Association Name: **Sam Houston Race Park**

Rule 303.302(a) stipulates at least once a year, the Commission shall make an allocation of funds from the horse industry escrow account in accordance with §§ 2028.204 and 2028.205 of the Act. The Commission may not allocate more than 70 percent of the amount deposited into the account to horse racetrack associations for use as purses. An association shall request to the Commission for a distribution from the horse industry escrow account.

Type of Distribution Requested <i>(select one)</i>	Percentage Requested <i>(of the total allocation designated to racetracks)</i>
<input checked="" type="checkbox"/> Monthly	41.50%
<input type="checkbox"/> Annual	
<input type="checkbox"/> Other (provide detail)	

Rule 303.311(a) stipulates that an association when requesting an allocation from the horse industry escrow account shall also recommend the percentages by which it will divide the revenue for purses among the various breeds of horses. Rule 303.311(c) stipulates that the recommended percentages are subject to the approval of the Commission.

Recognized Breeds of Horses	Recommended Allocation Percentages
Arabian	1.44%
Paint Horse	1.19%
Quarter Horse	39.77%
Thoroughbred	57.60%

Prepared by:  Date: **8/7/2023**

Association Recommended Allocation of 2024 Simulcast Purse Funds

Association Name: **Sam Houston Race Park**

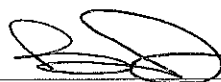
Rule 321.505(a)(1) stipulates that an association shall recommend the percentages by which it will divide the purse revenue generated from simulcasting among the various breeds of horses. The recommended percentages are subject to the approval of the Commission.

Recognized Breeds of Horses	Recommended Allocation Percentages
Arabian	1.40%
Paint Horse	0.60%
Quarter Horse	21.56%
Thoroughbred	76.44%

Rule 321.505(a)(2) stipulates that at least 30 days before recommending the percentages, the association shall begin negotiations with the organizations recognized by the Commission or in the ACT as representatives of horse owners, trainers, and/or breeders. Indicate in the box below, what recognized organizations the association negotiated with prior to filing the recommended allocation percentages above.

Negotiations Conducted	
<input type="checkbox"/> Texas Arabian Breeders' Association <input type="checkbox"/> Texas Thoroughbred Association <input type="checkbox"/> Texas Horsemen's Partnership	<input type="checkbox"/> Texas Paint Horse Breeders Association <input type="checkbox"/> Texas Quarter Horse Association

Prepared by: _____



Date: _____

8/7/2023

Racetrack Association Request for 2024 Horse Industry Escrow Account Distribution

Racetrack **Retama Park**
 Association Name: _____

Rule 303.302(a) stipulates at least once a year, the Commission shall make an allocation of funds from the horse industry escrow account in accordance with §§ 2028.204 and 2028.205 of the Act. The Commission may not allocate more than 70 percent of the amount deposited into the account to horse racetrack associations for use as purses. An association shall request to the Commission for a distribution from the horse industry escrow account.

Type of Distribution Requested <i>(select one)</i>	Percentage Requested <i>(of the total allocation designated to racetracks)</i>
<input checked="" type="checkbox"/> Monthly	18.64%
<input type="checkbox"/> Annual	
<input type="checkbox"/> Other (provide detail)	

Rule 303.311(a) stipulates that an association when requesting an allocation from the horse industry escrow account shall also recommend the percentages by which it will divide the revenue for purses among the various breeds of horses. Rule 303.311(c) stipulates that the recommended percentages are subject to the approval of the Commission.

Recognized Breeds of Horses	Recommended Allocation Percentages
Arabian	2.79%
Paint Horse	1.77%
Quarter Horse	70.72%
Thoroughbred	24.72%

Prepared by: Steven M. Ross

Date: 8/7/2023

Association Recommended Allocation of 2024 Simulcast Purse Funds

Association Name: **Retama Park**

Rule 321.505(a)(1) stipulates that an association shall recommend the percentages by which it will divide the purse revenue generated from simulcasting among the various breeds of horses. The recommended percentages are subject to the approval of the Commission.

Recognized Breeds of Horses	Recommended Allocation Percentages
Arabian	1.50%
Paint Horse	0.50%
Quarter Horse	23.52%
Thoroughbred	74.48%

Rule 321.505(a)(2) stipulates that at least 30 days before recommending the percentages, the association shall begin negotiations with the organizations recognized by the Commission or in the ACT as representatives of horse owners, trainers, and/or breeders. Indicate in the box below, what recognized organizations the association negotiated with prior to filing the recommended allocation percentages above.

Negotiations Conducted	
<input type="checkbox"/> Texas Arabian Breeders' Association	<input type="checkbox"/> Texas Paint Horse Breeders Association
<input type="checkbox"/> Texas Thoroughbred Association	<input type="checkbox"/> Texas Quarter Horse Association
<input type="checkbox"/> Texas Horsemen's Partnership	

Prepared by:

Steven M. Ross

Date: **8/7/2023**

Racetrack Association Request for 2024 Horse Industry Escrow Account Distribution

Racetrack **Lone Star Park**

Association Name: _____

Rule 303.302(a) stipulates at least once a year, the Commission shall make an allocation of funds from the horse industry escrow account in accordance with §§ 2028.204 and 2028.205 of the Act. The Commission may not allocate more than 70 percent of the amount deposited into the account to horse racetrack associations for use as purses. An association shall request to the Commission for a distribution from the horse industry escrow account.

Type of Distribution Requested <i>(select one)</i>	Percentage Requested <i>(of the total allocation designated to racetracks)</i>
<input checked="" type="checkbox"/> Monthly	36.29%
<input type="checkbox"/> Annual	
<input type="checkbox"/> Other (provide detail)	

Rule 303.311(a) stipulates that an association when requesting an allocation from the horse industry escrow account shall also recommend the percentages by which it will divide the revenue for purses among the various breeds of horses. Rule 303.311(c) stipulates that the recommended percentages are subject to the approval of the Commission.

Recognized Breeds of Horses	Recommended Allocation Percentages
Arabian	1.23%
Paint Horse	1.30%
Quarter Horse	46.69%
Thoroughbred	50.78%

Prepared by: Barton T. Lang

Date: 8/7/2023

Association Recommended Allocation of 2024 Simulcast Purse Funds

Association Name: **Lone Star Park**

Rule 321.505(a)(1) stipulates that an association shall recommend the percentages by which it will divide the purse revenue generated from simulcasting among the various breeds of horses. The recommended percentages are subject to the approval of the Commission.

Recognized Breeds of Horses	Recommended Allocation Percentages
Arabian	0.8125%
Paint Horse	0.4375%
Quarter Horse	18.2875%
Thoroughbred	80.4625%

Rule 321.505(a)(2) stipulates that at least 30 days before recommending the percentages, the association shall begin negotiations with the organizations recognized by the Commission or in the ACT as representatives of horse owners, trainers, and/or breeders. Indicate in the box below, what recognized organizations the association negotiated with prior to filing the recommended allocation percentages above.

Negotiations Conducted	
<input type="checkbox"/> Texas Arabian Breeders' Association	<input type="checkbox"/> Texas Paint Horse Breeders Association
<input type="checkbox"/> Texas Thoroughbred Association	<input type="checkbox"/> Texas Quarter Horse Associatio
<input type="checkbox"/> Texas Horsemen's Partnership	

Prepared by: *Barton T. Lang*

Date: **8/7/2023**

VIII. RACETRACK PROCEEDINGS

A. APPOINTMENT OF NEW VICE PRESIDENT AND GENERAL MANAGER FOR SAM HOUSTON RACE PARK, VALLEY RACE PARK AND MANOR DOWNS

From: [Christopher McErlean](#)
To: [Virginia Fields](#)
Cc: [Amy Cook](#); cbryanpettigrew@gmail.com; [Hill, Jaime](#); [Quinn, Joe](#); [Moffitt, Rae](#)
Subject: June Meeting Agenda Item
Date: Wednesday, May 31, 2023 3:45:03 PM

Virginia,

Not sure if a formal letter request is needed for this but we would like to request for the June 21, 2023 Texas Racing Commission meeting to have the following items be considered for approval:

1. The following entities request Commission approval of the following changes to their officers, effective June 5, 2023:
 - a. Sam Houston Race Park, LLC to appoint Bryan Pettigrew as Vice President and General Manager replacing Dwight Berube
 - b. Valley Race Park, LLC to appoint Bryan Pettigrew as Vice President and General Manager replacing Dwight Berube
 - c. Hill Lane, LLC to appoint Bryan Pettigrew as Vice President and General Manager replacing Dwight Berube

Thank you in advance for your consideration. If any additional information is required please advise.

CHRISTOPHER McERLEAN

VICE PRESIDENT - RACING

christopher.mcerlean@pennentertainment.com

P +1.717.469.3313 **M** +1.717.460.8774

pennentertainment.com



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VIII. RACETRACK PROCEEDINGS

B. Discussion and possible action to ratify the two-year extension of the Penn Entertainment and Global Tote 2013 Master Agreement in accordance with 16 TEX. ADMIN. CODE §309.162.

CONFIDENTIAL

VIII. RACETRACK PROCEEDINGS

C. Discussion Discussion
on active racetrack
licenses scheduled for
review under 16 TEX.
ADMIN. CODE §309.53:

1. Valley Race Park



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, Texas 78711-2080
(512) 833-6699

July 10, 2023

PENN Entertainment, Inc.
Attn: Christopher McErlean
Berkshire Blvd., Ste. 200
Wyomissing, PA 19610

(Via Email and Federal Express)
Christopher.McErlean@pennentertainment.com

825

Re: Greyhound Racetrack License Review – Valley Race Park

Dear Mr. Pettigrew and Mr. McErlean:

This letter serves as a follow-up and update to my letter of October 21, 2022, concerning the five-year review of your Greyhound racetrack license by the Texas Racing Commission in accordance with the Texas Racing Act, TEX. OCC. CODE §§2025.104 and 2025.106, and the Texas Rules of Racing, 16 TEX. ADMIN. CODE §§309.51 and 309.53.

As you may be aware, the 88th Texas Legislature declined to approve the contingency funding the agency sought for Greyhound racing regulation in the *General Appropriations Act for the 2024-25 Biennium*. As a result, effective October 1, 2023, the Texas Racing Commission must determine the future of your greyhound license.

The Texas Racing Commission intends to consider the status of your license on August 16, 2023, during a public meeting, in Austin, and will be guided by the following:

Texas Racing Act, Sec. 2025.104(e): "An active license is effective until the license is designated as an inactive license or is surrendered, suspended, or revoked under this subtitle."

Texas Rules of Racing, Sec. 309.51(c): "Subsequent Designation. After the initial racetrack designation is made under subsection (a) of this section, the Commission may change the designation of the racetrack license at any time if the facts that supported the current designation change."

Please provide me with the name and contact information for the designated representative(s) at your earliest convenience, and I will coordinate with and provide this person or persons with additional information related to the meeting and testimonial expectations. The Commission may or may not act on the racetrack license during this meeting but will complete its review and decide about the status of the license no later than December 31, 2023.

The designated representative(s) should be prepared to discuss the status of the license and actions taken during the past five years to justify renewal as an active greyhound race track. During the meeting, the Commission may renew the current greyhound active license, inactivate its' license, or refer the license to the State Office of Administrative Hearings for licensure revocation for failing to meet the requirements of the *Texas Racing Act* or *Texas Rules of Racing*.

The Texas Rules of Racing, 16 Tex. Admin. Code §309.53 sets the requirements for the five-year ownership and management review with any additional documents the Commission may deem necessary. To comply Valley Race Park

Greyhound Racetrack License Review
July 10, 2023
Page 2

with the rule's requirements, please submit to the Commission the following information in a single, comprehensive communication on or before 5:00 p.m. (CDT), Friday, July 28, 2023:

- (1) copies of the association's current management, concession, and totalisator contracts;
- (2) a copy of the association's current security plan;
- (3) for each person owning an interest of at least five percent of the association and for each officer, director, or management committee member who is not currently licensed as an Association Officer or Director by the Commission: a. a completed background information form and written authorization for the Commission and the Department of Public Safety to conduct any investigation deemed necessary; and b. a set of fingerprints on a form prescribed by the Department of Public Safety, or if the person already has a set of fingerprints classified and on file with the Department of Public Safety, authorization to resubmit those fingerprints to the Federal Bureau of Investigation and the Department of Public Safety for investigation; and
- (4) a review fee of \$5,000.

Additionally, include with this report a copy of all management, totalizator, and concessionaire contracts with documentation of Commission approval under Sec. 309.162, and proof of adequate liability insurance for the racetrack under Sec. 309.153.

Upon receiving this information, we will prepare a report to the Commission based on information provided by the association, the results of any inspections or investigations conducted as part of the review, and any other information that is relevant to the association's ownership or management, including any letters of community support or concern provided to the Commission. Notwithstanding the above items, the Commission may require additional information or documentation to determine whether Valley Race Park should remain a greyhound racetrack. I appreciate your continued engagement as Commission Staff works through this process and the agency continues to address the past concerns of the Sunset Advisory Commission and the Texas Legislature.

If you provide correspondence seeking redesignation as an inactive license or decide to surrender your license, I can follow-up with any additional materials needed and recommend Commission concurrence. If you have any questions, contact Virginia S. Fields, General Counsel, at (512) 937-9807.

Sincerely,

Amy F. Cook

Amy F. Cook
Executive Director

Enclosure

Cc: Valley Race Park
Attn: Bryan Pettigrew
7575 N. Sam Houston Pkwy, West
Houston, TX 77064-3417

(via Email and FedEx)

Bryan.Pettigrew@pennentertainment.com



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

October 21, 2022

Dwight Berube, Vice President
Valley Race Park
7575 N. Sam Houston Pkwy, West
Houston, Texas 77064-3417

*Via Email: Dwight.Berube@pngaming.com and
U.S. Regular Mail*

Re: License Status Review for Valley Race Park.

Dear Mr. Berube:

Please be advised that the Texas Racing Commission will be conducting a review of the above greyhound racetrack in the year 2023 under the Texas Racing Act, TEX. OCC. CODE §§2025.104 and 2025.106, and the Texas Rules of Racing, 16 TEX. ADMIN. CODE §§ 309.51 and 309.53.

The Texas Rules of Racing §309.51 define an active racetrack as either:

1. "Active operating" which means the license holder conducted live racing events at the racetrack during the previous state fiscal year and has been granted future live race dates; or
2. "Active other" which means the license holder has applied for and received pending live race dates under §303.41 (allocation of race dates) and undertaken actions demonstrating good faith efforts to conduct live racing including, but not limited to,

(A) presently conducting pre-opening simulcasting;

(B) demonstrated that simulcast and live racing is imminent by the license holder including: (i) securing sufficient financial commitments to fund construction of the racetrack facility; (ii) security the real property of the designated racetrack location for which the license was granted; (iii) entering into contracts for construction of the simulcasting and racetrack facilities; (iv) security Commission approval of the racetrack construction plans; (v) security permits and utilities necessary for the facilities; (vi) beginning and sustaining construction of both the simulcast and live racing facilities; and (vii) providing to the Commission a construction and operations management schedule that reflects imminent simulcasting and that the facilities will be ready to conduct live racing by the beginning of the approved live race dates; or

(C) voluntarily providing a \$400,000 bond on or before September 1 to ensure the license holder conducts pre-opening simulcasting and completes the pending allocated live race dates.

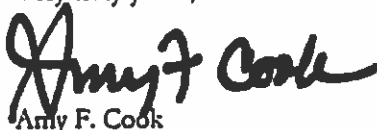
After the initial racetrack designation is made under the Rules of Racing §309.51(a), the Commission may change the designation of the racetrack license at any time if the facts that supported the current designation change. The designation change could also include the designation of "inactive" defined simply as not meeting the requirements for the racetrack license to be designated as "active-operating" or "active-other". The

Commission can also refer an inactive license designation to the State Office of Administrative Hearings without sufficient evidence of any factors relevant to the consideration of an inactive designation under the Rules of Racing §309.52(a), (e), and (h)(2).

In performing the review, the Commission requires one designated point of contact who is authorized to make decisions regarding the status of the racetrack license including the person's name, address, telephone number and email address. We may also require as part of the review process any information that would be required with an original license application under Chapter 2025 of the Racing Act in addition to the documentation required in the Rules of Racing §§309.52 and 309.53(b).

In preparation for the 2023 reviews before the Commission, I will meet with the representatives of each racetrack license in person, either in Austin or at each current or proposed location. It is critical that we work together to clearly define the status of each racetrack license to facilitate an appropriate staff recommendation to the Commission. An agency representative will also conduct on-site visits in preparation for the Commission's review anticipated to be no earlier than the regularly scheduled Commission meeting in August 2023. I look forward to spending time with your designated primary point of contact and other stakeholders as we prepare for the racetrack license review.

Very truly yours,



Amy F. Cook
Executive Director

Texas Racing Commission
Staff Review of Racetrack Licenses
August 2023

Valley Race Park (Harlingen)

Description	Greyhound Track License
Current Status	Active (Last Review of Record: 2016)
Live Race Dates (2022)	Granted five (5) days in 2022, cancelled the days

Renewal Criteria: *Texas Racing Act* §2025.105 identifies the following factors as criteria the Commission shall consider in determining whether to renew a racetrack license: *Financial Stability, Ability to Conduct Live Racing, Ability to Construct and Maintain a Racetrack, Other Good Faith Efforts to Conduct Live Racing*

<i>Financial Stability</i>	<i>Ability to Conduct Live Racing</i>	<i>Ability to Construct and Maintain a Track</i>	<i>Other Good Faith Efforts to Conduct Live Racing</i>
Under Review	Dwight Berube notified the agency on April 11, 2023, from Dwight Berube that live race dates granted would not be conducted in 2023.	Under Review	Under Review

Staff Analysis: A review of the agency’s records indicates that Valley Race Park currently holds an Active-Operating Greyhound Track License. Fiscal Note: The 88th Texas Legislature did not appropriate funds for the Texas Racing Commission to regulate pari-mutuel greyhound racing in this state for the 2024-2025 biennium.

Staff Recommendation: TBD





VALLEY RACE PARK LICENSE REVIEW

August 16, 2023

INTRODUCTION TO PENN ENTERTAINMENT REPRESENTATIVES

- Todd George, Executive Vice President, Operations
- Chris Rogers, Executive Vice President/Chief Strategy Officer
- Erin Chamberlin, Senior Vice President, Operations
- Bryan Pettigrew, Vice President and General Manager, Texas Racing Operations
- Chris McErlean, Vice President, Racing Operations

CONTENTS

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2	VALLEY RACE PARK	9

COMPANY OVERVIEW



PENN ENTERTAINMENT

- Founded in 1972 as the Mountainview Thoroughbred Racing Association
- Through development and acquisitions of racetracks and gaming companies, Penn National grew to be the largest racing and regional gaming operator in the US
- Today, PENN Entertainment (NASDAQ:PENN) operates 43 properties in 20 states, including 11 racetracks, and a collection of unique, differentiated brands, products and experiences to drive the future of next-generation, omni-channel entertainment



PENN Entertainment



07/16

PENN ENTERTAINMENT'S RACING OPERATIONS NATIONWIDE

- North America's leader in operations and management of pari-mutuel racing operations
- 11 racetracks in eight jurisdictions
- 1,200+ live racing events in 2022 – Thoroughbred, Quarter Horse & Harness Racing
- \$1.1 Billion in pari-mutuel wagering in 2022 - live, import & export simulcasting
- 5 Off-Track Wagering locations in three states and National ADW (Hollywood Races) operating in 24 states



OUR HISTORY IN TEXAS

- **2011** – Joined MAXXAM as 50/50 partner in Sam Houston Race Park, Valley Race Park & Laredo Downs licenses
- **2013** – Established Houston Racing Festival and Houston Ladies Classic; richest thoroughbred race in Texas at the time
- **2016** – Acquired Hill Lane, LLC (former Manor Downs) license
- **2018** – Assumed management contract of Retama Park as part of Pinnacle Entertainment acquisition
- **2020** – COVID-19 shuttered racing nationwide; Retama Park then shifts to an all-Quarter Horse meet
- **2021** – Significant winter storm damage requires relocation of Retama Park race meet to Sam Houston Race Park
- **2021** – Acquired 100% of MAXXAM properties
- **2023** – Live Racing @ SHRP (42 TB/25 QH) & Retama (23 QH)



OUR INVESTMENT IN TEXAS

- ~\$110 Million in acquisition, related costs and capital reinvestment.
- ~\$10.8 Million in operating losses since 2011
- ~540 Team Members, \$7.5M in annual salaries and benefits
 - 48% female
 - 63% minority
- Support organizations such as the Air Force Sergeants Association, Racetrack Chaplaincy of America, Permanently Disabled Jockeys Fund, Gillespie County Fair Scholarship Program, Lonestar Outreach to Place Ex-Racers (“L.O.P.E.”) & Texas Horse Racing Hall of Fame



Texas 4-H Equine Ambassadors @ Sam Houston Race Park





PENN
ENTERTAINMENT

VIII. RACETRACK PROCEEDINGS

C. Discussion Discussion
on active racetrack
licenses scheduled for
review under 16 TEX.
ADMIN. CODE §309.53:

2. Retama Park



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

July 1, 2023

Retama Park Association, Inc.
Attn: Sharolyn Grammer and Angela Cooper (Via Email and Federal Express)
One Retama Parkway
Selma, Texas 78154

RPL Holdings, Ltd.
Retama Park Association, Inc. Registered Agent (Via Federal Express)
One Retama Parkway
Selma, Texas 78154

Retama Park Association, Inc.
Joseph R. Straus, Jr., Registered Agent (Via Federal Express)
1964 S. Alamo
P.O. Box 600
San Antonio, Texas 78292

Re: 2023 Commission Review of Racetrack License – Retama Park Racetrack

Dear Ladies and Gentlemen:

Retama Park Racetrack's Class 1 horse racetrack license is currently under its five-year review by the Texas Racing Commission, which was last renewed in 2018. As part of this review, the Commission's Chairman, Judge Robert C. Pate, has directed a licensee representative or a representative from PENN Entertainment, Inc., the licensee's management company, provide public testimony at the Commission's next scheduled meeting, on Wednesday, August 16, 2023, in Austin.

Please provide me with the name and contact information for the designated representative(s) at your earliest convenience and I will coordinate with and provide this person or persons with additional information related to the meeting and testimonial expectations. The Commission may or may not act on the racetrack license during this meeting but will complete its review and decide about the status of the license no later than December 31, 2023.

Specifically, the designated representative(s) should be prepared to discuss the status of the license and actions taken during the past five years to justify renewal as a Class 1 horse track. During the meeting, the Commission may renew Retama Park's current license, or consider it for redesignation to a Class 2 horse track, inactivate its' license, or refer the license to the State Office of Administrative Hearings for licensure revocation for failing to meet the requirements of the *Texas Racing Act* or *Texas Rules of Racing*.

The Texas Rules of Racing, 16 Tex. Admin. Code §309.53 sets the requirements for the five-year ownership and management review with any additional documents the Commission may deem necessary.

Cont.

To comply with the rule's requirements, please submit to the Commission the following information in a single, comprehensive communication on or before 5:00 p.m. (CDT), Friday, July 23, 2023:

- (1) copies of the association's current management, concession, and totalisator contracts;
- (2) a copy of the association's current security plan;
- (3) for each person owning an interest of at least five percent of the association and for each officer, director, or management committee member who is not currently licensed as an Association Officer or Director by the Commission:
 - a. a completed background information form and written authorization for the Commission and the Department of Public Safety to conduct any investigation deemed necessary; and
 - b. a set of fingerprints on a form prescribed by the Department of Public Safety, or if the person already has a set of fingerprints classified and on file with the Department of Public Safety, authorization to resubmit those fingerprints to the Federal Bureau of Investigation and the Department of Public Safety for investigation; and
- (4) a review fee of \$5,000.

Additionally, include with this report a copy of all management, totalizator, and concessionaire contracts with documentation of Commission approval under Sec. 309.162, and proof of adequate liability insurance for the racetrack under Sec. 309.153.

Upon receiving this information, we will prepare a report to the Commission based on information provided by the association, the results of the Commission's inspections over the previous five years, the results of any inspections or investigations conducted as part of the review, and any other information that is relevant to the association's ownership or management, including any letters of community support or concern provided to the Commission.

Notwithstanding the above items, the Commission may require additional information or documentation to determine whether Retama Park should remain a Class 1 horse track. I appreciate your continued engagement as Commission Staff works through this process and the agency continues to address the past concerns of the Sunset Advisory Commission and the Texas Legislature.

If you have any questions, contact Virginia S. Fields, General Counsel, at (512) 937-9807.

Sincerely,

Amy F. Cook

Amy F. Cook
Executive Director

cc: PENN Entertainment, Inc.
Attn: Chris McErlean
825 Berkshire Blvd., Ste. 200
Wyomissing, PA 19610

(Via Email and Federal Express)



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

October 21, 2022

Angela Cooper, General Manager
Retama Park
One Retama Pkwy
Selma, Texas 78154

*Via Email: Angela.Cooper@pngaming.com and
U.S. Regular Mail*

Re: License Status Review for Retama Park.

Dear Ms. Cooper:

Please be advised that the Texas Racing Commission will be conducting a review of the above horse racetrack in the year 2023 under the Texas Racing Act, TEX. OCC. CODE §§2025.104 and 2025.106, and the Texas Rules of Racing, 16 TEX. ADMIN. CODE §§ 309.51 and 309.53.

The Texas Rules of Racing §309.51 define an active racetrack as either:

1. "Active operating" which means the license holder conducted live racing events at the racetrack during the previous state fiscal year and has been granted future live race dates; or
2. "Active other" which means the license holder has applied for and received pending live race dates under §303.41 (allocation of race dates) and undertaken actions demonstrating good faith efforts to conduct live racing including, but not limited to,

(A) presently conducting pre-opening simulcasting;

(B) demonstrated that simulcast and live racing is imminent by the license holder including: (i) securing sufficient financial commitments to fund construction of the racetrack facility; (ii) security the real property of the designated racetrack location for which the license was granted; (iii) entering into contracts for construction of the simulcasting and racetrack facilities; (iv) security Commission approval of the racetrack construction plans; (v) security permits and utilities necessary for the facilities; (vi) beginning and sustaining construction of both the simulcast and live racing facilities; and (vii) providing to the Commission a construction and operations management schedule that reflects imminent simulcasting and that the facilities will be ready to conduct live racing by the beginning of the approved live race dates; or

(C) voluntarily providing a \$400,000 bond on or before September 1 to ensure the license holder conducts pre-opening simulcasting and completes the pending allocated live race dates.

After the initial racetrack designation is made under the Rules of Racing §309.51(a), the Commission may change the designation of the racetrack license at any time if the facts that supported the current designation change. The designation change could also include the designation of "inactive" defined simply as not meeting the requirements for the racetrack license to be designated as "active-operating" or "active-other". The


License Status Review for Retama Park
October 21, 2022
Page 2

Commission can also refer an inactive license designation to the State Office of Administrative Hearings without sufficient evidence of any factors relevant to the consideration of an inactive designation under the Rules of Racing §309.52(a), (c), and (h)(2).

In performing the review, the Commission requires one designated point of contact who is authorized to make decisions regarding the status of the racetrack license including the person's name, address, telephone number and email address. We may also require as part of the review process any information that would be required with an original license application under Chapter 2025 of the Racing Act in addition to the documentation required in the Rules of Racing §§309.52 and 309.53(b).

In preparation for the 2023 reviews before the Commission, I will meet with the representatives of each racetrack license in person, either in Austin or at each current or proposed location. It is critical that we work together to clearly define the status of each racetrack license to facilitate an appropriate staff recommendation to the Commission. An agency representative will also conduct on-site visits in preparation for the Commission's review anticipated to be no earlier than the regularly scheduled Commission meeting in August 2023. I look forward to spending time with your designated primary point of contact and other stakeholders as we prepare for the racetrack license review.

Very truly yours,



Amy F. Cook
Executive Director

Texas Racing Commission
Staff Review of Racetrack Licenses
 August 2023

Retama Park (San Antonio)

Description	Class I Horse Track License
Current Status	Active-Operating (Last Review of Record: 2017)
Live Race Dates (2022)	22 Dates Granted, 22 Dates Conducted

Renewal Criteria: *Texas Racing Act §2025.105* identifies the following factors as criteria the Commission shall consider in determining whether to renew a racetrack license: *Financial Stability, Ability to Conduct Live Racing, Ability to Construct and Maintain a Racetrack, Other Good Faith Efforts to Conduct Live Racing*

<i>Financial Stability</i>	<i>Ability to Conduct Live Racing</i>	<i>Ability to Construct and Maintain a Track</i>	<i>Other Good Faith Efforts to Conduct Live Racing</i>
Under Review	Under Review	Under Review	Under Review

Staff Analysis: A review of the agency’s records indicates that Retama Park currently holds an Active-Operating Horse License. Although Retama Park has not fully complied with the Texas Racing Act, the management team has taken several steps toward achieving compliance during the past year to improve the park’s track and increase racing and training opportunities for horsemen.

Staff Recommendation: TBD





RETAMA PARK™

5-Year Ownership and Management Review

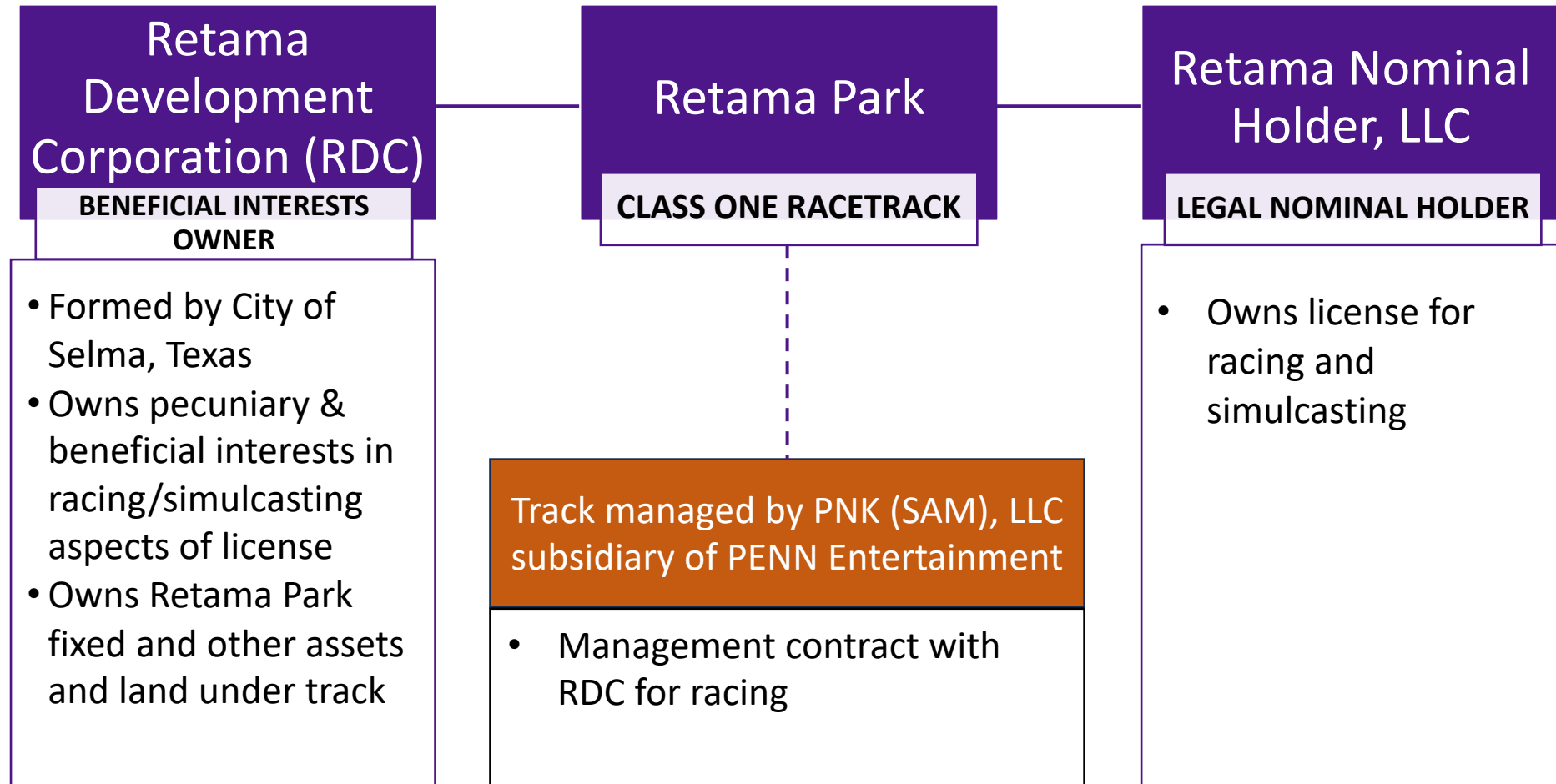
August 16, 2023

Introductions

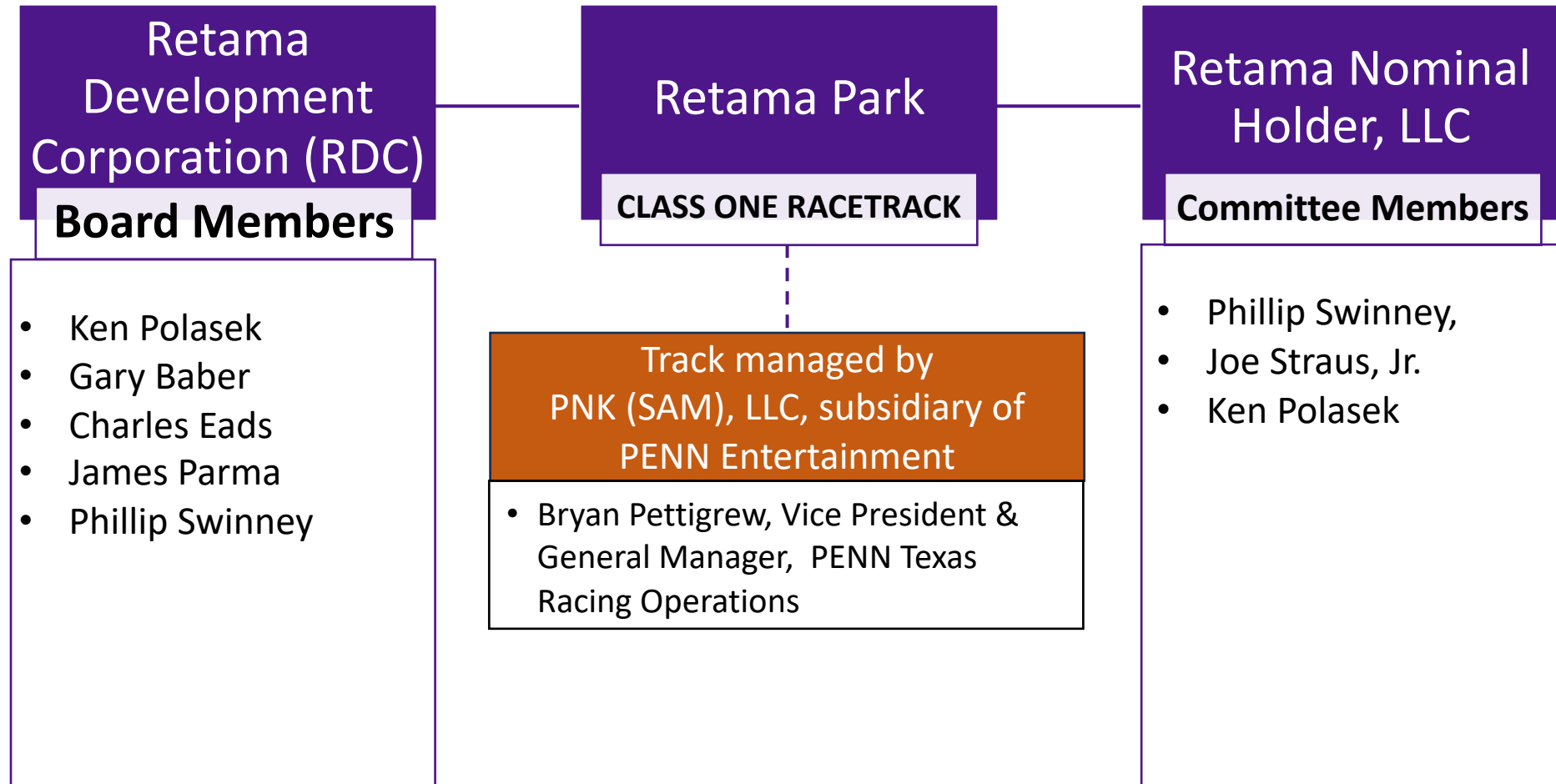


1. Ownership Team
2. Track Management Team

Retama Park Ownership and Operational Structure



Retama Park Ownership and Operational Structure



Our Commitment to Texas Racing

1. Financial Wherewithal to Operate Racetrack
2. Ability to Conduct Live Racing
3. Ability to Construct and Maintain Racetrack
4. Good Faith Effort to Maintain Active Racing Operations



1. Financial Wherewithal to Operate Racetrack



- PENN Entertainment (NASDAQ:PENN) is the primary backstop for all operational costs and capital expenditures
 - Backstop has been satisfied by management companies since 2013
- PENN is the largest regional racing and gaming operator in the United States
 - 43 properties in 20 states, including 11 racetracks
- 2022 Revenue of ~\$6.4 Billion
- 2022 EBITDAR of ~\$1.94 Billion
- Market Cap of ~\$4.18 Billion

2. Ability to Conduct Live Racing



- 59 year-round Team Members; 125 during racing season
 - 42% female, 45% minority
- \$300K capital to be spent in 2023 - new main building generator; food and beverage equipment and HVAC units for the jockey rooms
- \$750K in additional investment in dormitories
- \$250K+ in operational safety related repairs
- New track material added to the surface to ensure safe racing
- Four new tractors, three new harrows and one new water truck to complement existing supply; transfer of an equine ambulance from SHRP
- 2023 Highlights: July 22nd handle highest since 2019; re-opening week included 3 of the best total handle days since 2018; richest race in Retama history took place on August 5th, 2023 – \$700K TQHA Sale Futurity

3. Ability to Construct and Maintain Racetrack

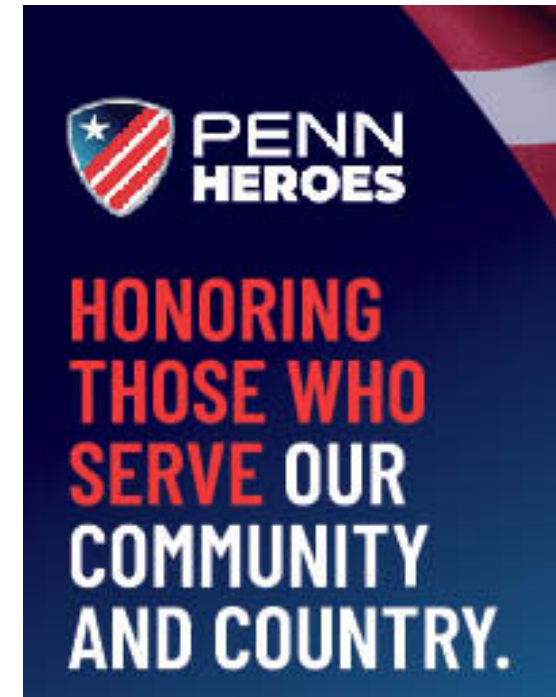


- Committed to working with TXRC to achieve industry-leading equine and human safety levels
- Engaged nationally renowned Racing Surfaces Testing Laboratories (RSTL) to inspect and test track surface and materials
 - Results consistent with other regional tracks
 - Daily material depth and moisture measurements taken – provided to TXRC and monitored by RSTL
- Track maintenance personnel and external resources brought in from other PENN tracks to supplement and assist Retama track team
- New material added to track surface prior to start of meet
- Positive feedback from horsemen and racing participants on track surface and facility maintenance in 2023

4. Good Faith Effort to Maintain Active Racing Operations



- \$2M in planned infrastructure review and improvements
 - New HVAC system planned for Q3 2024
 - Complete electrical review and expected replacement/upgrades of several systems
 - New televisions, upgrades and additional customer-friendly building improvements are in process.
 - Barn improvements – leveling stalls, landscaping, safety items, etc.
- Marketing and Sponsorship Development
 - Replicate best marketing practices from PENN operations nationwide to drive visitation
 - Work with stakeholders to explore feasibility of expanded racing opportunities that benefit the entire TX racing industry
 - Music festivals, family events and promotions scheduled for 2024
 - Develop strong local corporate support base in San Antonio

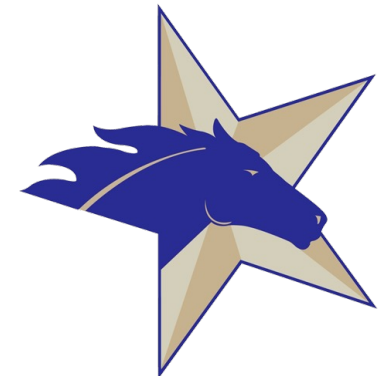


Support for Retama Park

- Texas Horsemen's Partnership
- Texas Quarter Horse Association
- American Quarter Horse Association
- Texas Arabian Breeders Association
- Texas Thoroughbred Association



T E X A S
H O R S E M E N ' S
P A R T N E R S H I P





Thank You

August 7, 2023

Texas Racing Commission
Chairman Robert Pate
1801 Congress Ave.
Austin, TX 78701

Re: Retama Park

Dear Chairman Pate,

As Chief Racing Officer of the American Quarter Horse Association, I applaud the Texas Horse Racing Commission for your efforts to safeguard racing through your oversight of property compliance. We too want to see racing safe for participants – both horsemen and horses, as well as the fans.

As a horseman, I participated in racing at Retama Park since the track first opened in 1995. I had a stable there when the inaugural Quarter Horse meet closed abruptly and have since witnessed different management entities employ varying degrees of regard for the track itself. I am writing this letter to say that now I am more encouraged than I have been in the last 28 years about the future of the track, and management's intention to implement improvements to restore the facility to a higher standard.

Penn Entertainment has been involved in Retama Park for a short time and endured a pandemic and an ice freeze, both of which set them back considerably. None the less, they demonstrate a history of commitment to horse racing. By my own assessment, bringing in Bryan Pettigrew has been a breath of fresh air. Bryan is dedicated to Texas horseracing, and I am quite pleased with his efforts to date to improve the facility. He hit the ground running, rolled up his sleeves and worked to get things done. I witnessed marked improvement when there on July 28th over my visit in 2022. Horsemen were pleased to share with me their delight in the improvement of the racing surface and the investments Penn Entertainment has made in the dorm rooms. In addition to work on site, I have faith that Bryan's marketing efforts will bring increased interest to the San Antonio oval.

Know that I want to support your endeavors to make horseracing in the state of Texas flourish. Having track ownership that shares that goal is imperative, and I believe we have it in Penn Entertainment. Thank you for considering my thoughts on the matter.

Respectfully,



Chief Racing Officer
American Quarter Horse Association
ivanbebbber@aqha.org
(713)446-4052

AMERICAN
QUARTER
HORSE
ASSOCIATION

RETAMA DEVELOPMENT CORPORATION

**1 Retama Parkway
Selma, Texas 78154
(210) 651-7000**

August 8, 2023

Texas Racing Commission
1801 N. Congress, Suite 7.600
Austin, TX 78701

Re: Retama Park

Dear Texas Racing Commission:

The Retama Development Corporation, a local government corporation created by the City of Selma, is the owner of the Retama Park Racetrack property and participates in the operation of Retama Park in conjunction with PNK (SAM), LLC, with which it has entered into a Management Agreement for the Racetrack.

The Retama Development Corporation has received consistent financial and other support from Penn Entertainment, Inc. and its affiliates since 2018 and is confident that the financial and other support from Penn Entertainment, Inc. and its affiliates will be continued without interruption through the next five years and thereafter.

The Retama Development Corporation is pleased to be part of the Commission's review of the license for Class 1 horse racing conducted at Retama Park.

Sincerely,

Retama Development Corporation

By: 
Ken Polasek, President

Retama Nominal Holder LLC

1 Retama Parkway

Selma TX 78154

210-651-7000

August 9, 2023

Judge Robert C. Pate
Chairman
Texas Racing Commission
PO Box 12080
Austin, TX 78711

Dear Chairman Pate,

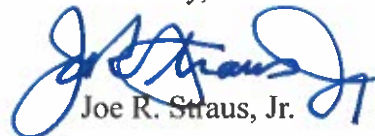
As a manager of Retama Nominal Holder LLC, holder of the record title of the license for racing and simulcasting at Retama Park Racetrack (Retama), I wish to ask the Commission for your earnest consideration in reviewing the license for Retama. I have been associated with Retama since its inception and we have endured many ups and downs over the years. I can earnestly say it is only because of some very dedicated and responsible employees that we are still able to present a great venue for the people of San Antonio and South Texas.

Retama maintains a training center year-round for the benefit of horses not only at Retama, but for all other racetracks in Texas. Retama even houses horses that leave and race at Gillespie County Fair, but train at Retama.

As proof that our efforts are working, Retama has attendance that is much better than expected and attendance for the summer Quarter Horse meet overall has been better than projected. It was the first time in the 28-year history of Retama that we had one day of purses over \$1,000,000 for any breed.

PNK (SAM) LLC, who holds the management contract, has received assurance from its principal, Penn Entertainment, that they will provide the necessary support to insure the trust of the patrons and the Commission for the future of Class 1 Retama Park.

Sincerely,



Joe R. Straus, Jr.

Cc: Amy F. Cook
Executive Director
Texas Racing Commission



August 9, 2023

Amy F. Cook
Executive Director
Texas Racing Commission
1801 N. Congress, Suite 7.600
Austin, TX 78701

Dear Amy:

I wanted to express my appreciation to the executives of PENN Entertainment and staff the of Retama Park. The commitment they are showing to return Retama Park to one of the great racetracks in Texas has been refreshing. It's one thing to slap some fresh paint on fence boards, but it's an entirely different level of commitment to make a significant financial investment in improving facilities for both the public and the horseman not to mention what they have done with the racing surface. This is a true sign of an organization that understands who the true constituent is.....The Horses and their safety.

The partnership TABA has with Retama Park is an important one and we look forward to continuing that for years to come. We all know Rome was not built in a day, but what PENN Entertainment has done already and what it is planning to do is good for Texas Racing and good for the Arabian racehorse.

We fully support their efforts and expect you will as well.

Sincerely,

Jon R. Henningsgard
President TABA

IX. EXECUTIVE SESSION

**X. NEXT COMMISSION MEETING
SEPTEMBER 6, 2023**

XI. ADJOURN