

FOR CONSIDERATION

June 8, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Saratoga Springs (Saratoga County), Elmont (Nassau County) and
Jamaica (Queens County) – New York Racing Association – Working
Capital Loan

REQUEST FOR: Authorization to Make a Loan and to Take Related Actions

General Project Plan

I. Project Summary

Borrower: New York Racing Association, Inc.

Contact: Charles E. Hayward, President and CEO
110-00 Rockaway Boulevard
Jamaica NY 11417
Phone: 718-641-4700

Location: Belmont Park, Elmont
Saratoga Race Course, Saratoga Springs
Aqueduct Race Track, Jamaica

Loan: An unsecured \$25 million loan to fund operating expenses at New York's three major thoroughbred horse racing tracks.

II. Project Description

A. Background

The New York Racing Association, Inc. ("NYRA" or the "Association") is a private non-profit organization that operates the three largest thoroughbred horse racing tracks in New York State: Aqueduct, Belmont Park and Saratoga. It operates these tracks under a franchise granted by the New York State Legislature. The franchise was first granted in 1955 and after two extensions now runs through 2033. NYRA is a non-dividend paying corporation governed by a Board of

Trustees, whose members, by law, receive no compensation or dividends. The Association has experienced serious financial difficulties.

Despite these difficulties, thoroughbred racing continues to play an important role in New York State's economy. It contributes more than \$2 billion annually to the economy and supports employment for more than 35,000 people across the state, including direct employment by the NYRA of more than 1,400 people during peak season. It is a particularly important tourist attraction for the Saratoga Springs area, where racing supports numerous small tourism businesses. New York State is also home to more than 400 horse breeding farms.

An average of more than 8,000 race fans are in attendance each raceday at NYRA tracks, and more than 130,000 additional spectators participate through New York's regional off-track betting (OTB) corporations or inter-track simulcast facilities. This racing activity generates substantial tax revenues for New York State, with more than \$3 billion generated since 1955.

B. The Loan

NYRA has experienced operating losses and continues to suffer cash flow problems. Its revenues are very seasonal, with positive cash flow generated in only two peak racing months per year. In order to reverse this trend and restore NYRA to solvency, the Association is relying primarily on the planned operation by the New York State Division of the Lottery (the "Division") of 4,500 or more video lottery terminals (VLTs) at the Aqueduct Racetrack ("Aqueduct") in the Borough of Queens in the City of New York ("Video Lottery Facility");

The Division, on behalf of the State of New York, has solicited proposals from vendors seeking the award of a video lottery license to develop and operate the Video Lottery Facility as the Division's licensed agent.

Pursuant to Chapter 90 of the Laws of 2010, New York State Urban Development Corporation d/b/a Empire State Development Corporation ("ESDC") is authorized to make to NYRA, using specially appropriated funds, an unsecured working capital loan of up to \$25 million for operating expenses at Aqueduct, Belmont, and Saratoga racetracks.

The loan will be for a term that shall continue until the Borrower has repaid the loan with periodic distributions from the NYRA's portion of video lottery revenues from the operation of the Video Lottery Facility at Aqueduct available to Borrower pursuant to Tax Law Section 1612 (f) (the "NYRA Portion"). Each such loan repayment shall be equal to twenty-five percent (25%) of the amount of each NYRA Portion (the "Loan Payment Amount") of Aqueduct video lottery revenues directed or made by the Division. The vendor selected to act as the Division's video lottery agent at Aqueduct will pay the Loan Payment Amount directly to ESDC or its assignee. The loan will be disbursed in two or more advances, the first, this week, in the amount of \$8.4M, and subsequently, at times and in amounts as determined by the Director of the Division of Budget.

The Division has informed ESDC that the Division contemplates that it will require the vendor selected to develop and operate the Video Lottery Facility (the "Selected Vendor") to pay to ESDC an amount equal to the aggregate of ESDC's outstanding loan advances to Borrower

pursuant to the loan documents in order for the Selected Vendor to acquire ESDC's rights and assume ESDC's obligations with respect to the loan, and that upon receipt of such payment ESDC shall assign the loan to the Selected Vendor. The Selected Vendor shall become responsible to NYRA for the remaining advances.

III. Environmental Review

ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VI. Affirmative Action

ESDC's Non-discrimination and Affirmative Action policy will apply. The Borrower is encouraged to include minorities and women in any job opportunities created by the project, and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the project.

VIII. Appropriation and Assistance Subject to Availability of Funds and Additional Approval

The appropriation source is a special appropriation of \$25 million pursuant to Chapter 90 of the Laws of 2010. The provision of ESDC financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

IX. Requested Actions

The Directors are requested to authorize the Corporation to make of the \$25 million loan to The New York Racing Association, to assign of the loan to an entity designated by the State to operate a video lottery facility at the Aqueduct racetrack, and to take related actions.

X. Additional Submissions to Directors

Resolutions

June 8, 2006

Saratoga Springs (Saratoga County), Elmont (Nassau County) and Jamaica (Queens County) – New York Racing Association Working Capital –Working Capital Loan – Authorization to Make a Loan and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, copies of which are hereby ordered filed with the records of the Corporation, the Corporation is authorized (i) to make to The New York Racing Association, Inc. a loan, for a total amount not to exceed Twenty-Five million dollars (\$25,000,000) from funding made available to the Corporation pursuant to a special appropriation and (ii) to assign such loan to the entity designated by the State to operate the video lottery facility at Aqueduct racetrack, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the President and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the loan, and each of them hereby is, authorized to take such actions and make such modifications to the terms and conditions of the loan and the assignment as he or she may deem necessary or appropriate in the administration of the loan; and be it further

RESOLVED, that the provision of the Corporation's financial assistance is expressly contingent upon receipt of all other necessary approvals and funding; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he may in his sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

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