

## **Exhibit VIII.C.2.b (Status of Land):**

*Submit as Exhibit VIII.C.2.b. copies of any lease, deed, option, or other documentation and provide an explanation as to the status of the land upon which the proposed Gaming Facility will be constructed. If the Applicant does not currently possess an ownership interest in the land, provide an agreement and description of its plan as to how it intends to own or acquire, within sixty (60) days after a License has been awarded, the land where the Gaming Facility is proposed to be constructed. Further, state whether the land that the Applicant purchased or intends to purchase is publicly owned.*

## OPTION AGREEMENT TO PURCHASE REAL PROPERTY

THIS OPTION AGREEMENT (the "Agreement") is made and entered into between and among **THE TRUST UNDER ARTICLE THIRD OF THE LAST WILL AND TESTAMENT OF COSIMO DIBRIZZI, THE TRUST UNDER ARTICLE FOURTH OF THE LAST WILL AND TESTAMENT OF COSIMO DIBRIZZI** and COS17, LLC, a New York limited liability company, all having their principal offices and place of business at 1089 Little Britain Road, New Windsor, New York 12553 (collectively, the "Grantors"), and **NEWBURGH CASINO ASSOCIATES LLC** a New York limited liability company having its principal office and place of business at 39 North Pearl Street, Albany, New York 12207 (the "Grantee").

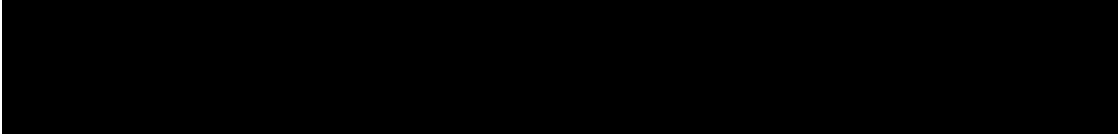
WITNESSETH:


In consideration of the mutual undertakings hereinafter set forth, and such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantors and the Grantee agree as follows:

1. Option. Grantors hereby grant to Grantee the exclusive and irrevocable right and option to purchase, on the terms and conditions hereinafter set forth (the "Option"), those two certain parcels of real property owned by the Grantors as described in **Schedule A** attached hereto, and designated on the last completed assessment rolls of the Town of Newburgh, New York as tax parcel numbers 95-1-49.12 and 95-1-54.1, consisting of approximately 6.8 acres of land and improvements thereon, and 11.10 acres of land and improvements thereon, respectively (collective, the "Premises").
2. Option Period. The term of this Agreement (the "Option Period") shall commence on the date on which it is fully executed by all of the parties hereto (the "Commencement Date"), and end at 11:59 P.M. on [REDACTED]. Grantee may terminate this Agreement at any time by giving written notice to the Grantors; provided that any and all remaining amounts due pursuant to paragraph 5 herein, if any, shall be paid upon such termination.
3. No Marketing of Premises. During the Option Period, except for a contract of sale containing a right of the seller to terminate as described in Schedule "B" hereto (the "Conditional Contract"), Grantors shall not market the Premises or solicit or accept any offer to purchase the Premises, and Grantors shall take no action to sell, convey, lease or otherwise encumber the Premises. Should Grantee exercise the Option provided by this Agreement, Grantors the Trust Under Article Third of the Last Will and Testament of Cosimo DiBrizzi, the Trust Under Article Fourth of the Last Will and Testament of Cosimo DiBrizzi, will immediately terminate the Conditional Contract and perform any of their obligations attendant to such termination required by the Conditional Contract. Immediately following execution of the Conditional Contract, Grantors shall provide Grantee with a copy thereof on which purchase price and other similar economic terms may be redacted.
4. Purchase Price of Property. [REDACTED]

5. Consideration for Option. Grantee shall pay to Grantors as consideration for the rights provided to Grantee in this Agreement, the following amounts ("Option Payments"):

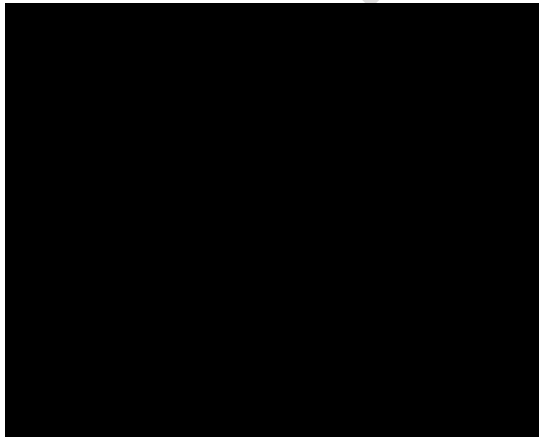
a. Within three (3) Business Days following the Commencement Date, 



b. Starting with the second month in the Option Period, on or before the day in each month during the Option Period which is the same day of the month on which the Commencement Date occurs, 

All Option Payments made by Grantee pursuant to this paragraph shall be retained by Grantors, and should Grantee exercise the Option prior to the expiration of the Option Period, any Option Payments paid by Grantee pursuant to this paragraph shall not be applied to the Purchase Price. If the Option is exercised by the Grantee prior to the expiration of the Option Period, Grantee shall thereafter have no further obligation to make Option Payments.

6. Exercise of Option. Grantee may exercise the Option by giving Grantors written notice thereof before the expiration of the Option Period. Such notice of the exercise of the Option will be accompanied by a contract of sale for purchase of the Premises executed by Grantee, the terms of which shall be consistent with the terms of this Agreement, and to the extent this Agreement is silent, standard terms of sale for commercial property within Orange County, New York (the "Contract of Sale"). The written notice and Contract of Sale shall be delivered in person or mailed by certified mail, return receipt requested, or by nationally recognized overnight courier service, addressed as follows:



Unless delivered in person, notice will be deemed effective on the date that it is postmarked or received by the overnight courier, as the case may be. Provided that all terms of the Contract of Sale are customary and commercially reasonable, Grantors agree to use their best efforts to execute the Contract of Sale within ten (10) days of receiving the same from Grantee as provided in this paragraph.

7. Title and Survey. A fee title insurance policy for the Premises shall be obtained at the expense of the Grantee. The Grantors shall cooperate in providing any available survey, abstract of title or title insurance policy information respecting the Premises, without cost to Grantee. The Grantee shall pay the cost of updating any such survey or the cost of a new survey if the Grantee elects to have the property surveyed.
8. Conditions Affecting Title. The Grantors shall convey and the Grantee shall accept the Premises subject to Permitted Exceptions. "Permitted Exceptions" means (a) easements, restrictions and other encumbrances and matters of record as of the date of this Agreement, (b) any state of facts as an accurate survey or inspection of the Premises would reveal, (c) real estate taxes and assessments not yet due and payable as of the Closing Date (hereinafter defined), providing that none of the foregoing renders title to the property unmarketable or unusable for the purpose of operating a casino with related facilities and amenities. Grantors shall cause to be removed on or before the Closing Date any mortgage or other lien which has been voluntarily created by Grantors, and Grantors may direct that the Purchase Price payable at Closing (hereinafter defined) or any portion thereof be used to effectuate the payoff of any such mortgage or other lien. Except as set forth in Paragraph 3 herein, during the Option Period Grantors shall not grant or enter into any encumbrance affecting the Premises which would remain in effect and be binding on Grantees or the Premises after the Closing. The Premises shall be free and clear of all tenancies.
9. Deeds. The property shall be transferred from Grantors to Grantee by means of one or more Warranty Deeds furnished by the Grantors. The deeds will be properly prepared, executed and acknowledged so as to be acceptable for recording by the Orange County Clerk.
10. Transfer Tax and Closing Costs. Grantors agree to pay any real property transfer tax as required by law. All other costs which are necessary to carry out the transactions contemplated hereunder shall be allocated between Grantors and Grantee in accordance with local custom in the County of Orange and State of New York.
11. Tax Adjustments. All real property taxes and assessments on the Premises shall be apportioned so that the Grantee and Grantors are assuming the expenses of the Premises as of the Closing Date.
12. Contract of Sale and Approvals. Transfer of title will be based upon the applicable Contract of Sale which will include customary, but reasonable contingencies in favor of Grantee.
13. Allocation of Option Payments and Purchase Price Among Grantors; Further Documents. Grantors acknowledge and agree that (a) essential to this Agreement is the ability of the Grantee to acquire from Grantors both parcels of property comprising the Premises, (b) unless otherwise agreed in writing among all of the Grantors and Grantee, the Option Payments and Purchase Price shall be payable jointly to all of the Grantors, and that Grantors shall determine among themselves the allocation and distribution of such funds, and (c) if Grantee exercises the Option, Grantors shall execute, deliver and/or file such additional documents as may be legally required to complete the purchase of the Premises by Grantee based upon the two parcels being owned separately.
14. Closing. In the event the Option is exercised by Grantee as herein provided, the closing of the conveyance of the Premises from Grantors to Grantee (the "Closing") will be at the office of

counsel for the Grantee and will be held on or before thirty (30) days from the date of the satisfaction of all contingencies of the Contract of Sale (the "Closing Date"). Notwithstanding the foregoing, in the event that the Closing does not occur within thirty (30) days from the date of the satisfaction of all contingencies of the Contract of Sale due to reasons not attributable to the Grantors, [REDACTED]

[REDACTED] shall be paid by Grantee to Grantors on or before such date. This additional Option Payment shall be non-refundable but shall be applied against the Purchase Price at Closing.

15. Memorandum. If requested by Grantee, Grantors and Grantee will execute a recordable Memorandum of Option Agreement, together with any and all documentation necessary to record same in the Orange County Clerk's Office; provided, however, that all costs associated with preparation and recording of such Memoranda shall be paid by Grantee.

16. Failure to Exercise Option. If Grantee does not exercise this Option in accordance with its terms and within the Option Period, upon expiration of the Option Period this Option and the rights of Grantee shall automatically and immediately terminate without notice except as otherwise set forth herein.

17. Grantee's Right of Access. During the Option Period, Grantors agrees to permit Grantee, its employees, agents and independent contractors, free ingress and egress to the Premises to conduct such surveys, inspections, structural strength analyses, subsurface soils tests, radio frequency, drive tests, engineering tests, and other activities of a similar nature as Grantee may deem reasonably necessary, at the sole cost of Grantee. Grantee shall provide commercially reasonable notice to Grantors prior to conducting any such inspections or visits. During the Option Period Grantee shall have the right to apply for and obtain, at its sole cost, any and all governmental permits and approvals necessary to authorize construction, operation and maintenance of a casino and related facilities and amenities. Grantors agree to cooperate with Grantee with respect to obtaining any required approvals, and shall take no action which would adversely affect Grantee's ability to obtain such approvals or use the Premises for its intended purpose. Grantors hereby consent to the filing of any applications by Grantee that are necessary to obtain the required approvals, and agrees to join in, execute as co-applicant or otherwise.

18. Representations and Warranties. Grantors make the following representations and warranties concerning the Premises:

- a. To Grantors' knowledge, there are no condemnation or similar proceedings affecting any part of the Premises;
- b. To Grantors' knowledge, no condemnation or similar proceedings are threatened or planned affecting the Premises;
- c. Except as set forth on Schedule "B" hereto, none of the Grantors has entered into any contracts, options to purchase, or arrangements with respect to the Premises, other than matters of record, which would be binding on Grantee or the Premises after the Closing;
- d. None of the Grantors has entered into any commitment, obligation, or agreement, including but not limited to any right of first refusal or option to purchase granted to a third party, that would or could prevent the Grantors from completing the sale of the Premises as contemplated by this Agreement;

- e. Grantors have sole and exclusive possession of the Premises, subject to Permitted Exceptions; and
- f. Grantors collectively are the sole owners in fee simple of the Premises, and have present authority to enter into and execute this Agreement, and to fully perform their respective obligations under this Agreement, including, without limitation, the present authority to sell and convey a fee interest in the Premises.

19. Conditions Precedent. The obligation of the Grantee to Close on the purchase of the Premises is conditioned upon (a) all representations and warranties of the Grantors being true and correct when made and as of the Closing Date, as if such representations and warranties were made on the Closing Date, and (b) Grantee being able to obtain at the Closing an owner's title insurance policy at regular rates from a title insurance company licensed to conduct business in New York and selected by Grantee, insuring Grantee's fee simple title to the Premises, subject only to Permitted Exceptions and any other exceptions to which Grantee, in its sole discretion, elects to take title subject to. If any of the conditions contained in this paragraph are not satisfied as of the Closing Date, then Grantee shall have the right to either (i) waive the condition and close title without abatement of the Purchase Price, or (ii) terminate this Agreement (and any Contract of Sale if entered into) by notice given to Grantors whereupon, except for obligations which expressly survive the termination of this Agreement or Grantors' liability on account of any breach or default, this Agreement shall be null and void and of no further force or effect. Unless the failure to satisfy the condition is caused by a breach or default by Grantors under the express terms of this Agreement, Grantors shall retain the Option Payments paid to Grantors and shall have no liability on account of such failure. If the failure to satisfy the condition is caused by the breach or default by Grantors, then the provisions of Paragraph 21 hereof shall govern with respect to Grantee's rights and remedies and Grantors' liability.

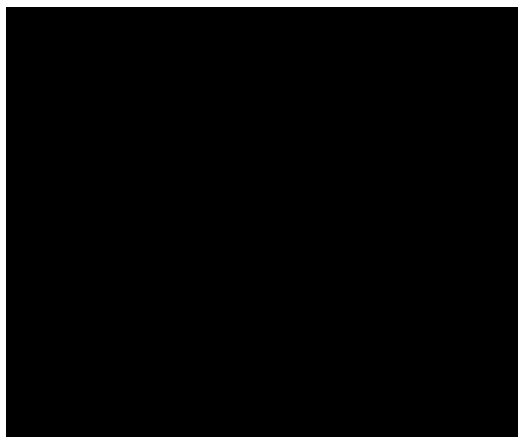
20. Default By Grantee; Remedies of Grantors. In the event Grantee breaches or defaults in any material respect any of its obligations under this Agreement or the Contract of Sale, then unless such breach or default is cured by Grantee within twenty (20) days after Grantee receives notice of the breach or default from Grantors, Grantors, as Grantors' sole and exclusive remedy, shall have the right to terminate this Agreement (and the Contract of Sale if it has been entered into) and retain all Option Payments previously paid to Grantors, whereupon, except for obligations which expressly survive the termination of this Agreement, neither Grantors nor Grantee shall have any further obligations or liability hereunder.

21. Default By Grantors, Remedies of Grantee. In the event Grantors breach or default in any material respect any of Grantors' obligations under this Agreement or the Contract of Sale, then, unless such breach or default is cured by Grantors within twenty (20) days after Grantors receive notice of the breach or default from Grantee, Grantee, as its sole and exclusive remedy, shall have the right to either (a) terminate this Agreement (and the Contract of Sale if it has been entered into), receive the return of any Option Payments paid to Grantors, whereupon, except for obligations which expressly survive the termination of this Option Agreement, neither Grantors nor Grantee shall have any further obligations or liability hereunder, or (b) pursue specific performance of Grantors' obligations under this Agreement and/or the Contract of Sale, if executed.

22. Attorneys' Fees. In the event any action or proceeding is commenced to obtain a declaration of rights hereunder, to enforce any provision hereof or to seek rescission of this Agreement for default contemplated herein, whether legal or equitable, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees in addition to all other relief to which it may be entitled therein.

23. Notice. Except as expressly provided otherwise in this Agreement, all notices, demands and/or consents or other communications provided for in this Agreement, or otherwise given in connection with this Agreement, shall be in writing and shall be delivered to the other party hereto by hand, or by certified mail with postage pre-paid, or by nationally recognized overnight courier (such as Federal Express), or by email. Such notices shall be deemed to have been served on the date of hand delivery, three (3) days after the date mailed, postage pre-paid, the date of delivery by the overnight courier, or on the date of transmission by email provided transmission occurs by 5:00PM in the time zone of the recipient (and provided that a copy of the emailed notice is sent by overnight courier to the recipients for next business day delivery), as the case may be. All such notices and communications shall be addressed as follows (or to such other address as either party may specify to the other in writing):

If to Grantors:



If to Grantee:

Daniel Gerrity, Manager  
Newburgh Casino Associates, LLC  
342 Jefferson Street  
Saratoga Springs, New York 12866

With a copy to:

Richard Burstein, Esq.  
Nolan & Heller, LLP  
39 North Pearl Street  
Albany, New York 12207  
[rburstein@nolanandheller.com](mailto:rburstein@nolanandheller.com)

Counsel for a party may give notice on such party's behalf.

24. Headings; Exhibits. The headings inserted at the beginning of each paragraph and/or subparagraph are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any terms or provisions hereof. The Exhibits referenced in this Agreement and annexed hereto are hereby incorporated into this Agreement and shall be deemed to be a part of this Agreement.

25. Miscellaneous. Except as set forth on Schedule "B" hereto, during the Option Period, the Grantor shall take no action to sell, convey, lease or otherwise encumber the Premises. If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable will not be affected, and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law. This Agreement (including the Exhibits) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior written and verbal agreements, representations, promises or understandings between the parties. Any amendments to this Agreement must be in writing and executed by all parties hereto. This Agreement shall be governed and construed in accordance with the internal law of the State of New York, without regard to principles of conflicts of laws.

26. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages. A facsimile or e-mail transmission of a duly executed counterpart of this Agreement shall be as valid, in all respects, as an original.

27. Binding Effect. This Agreement is not and shall not be binding on Grantors or Grantees until and unless it is fully executed by all parties hereto. Thereafter, this Agreement shall be binding upon and shall inure to the benefit of the parties to it, and their respective heirs, successors, or assigns. This Agreement may be assigned by the Grantee.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties have signed this Option Agreement effective as of the day and year first above written.

**GRANTORS:**

**COS17, LLC**  
a New York limited liability company

Date: May \_\_, 2014

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TRUST UNDER ARTICLE THIRD OF THE  
LAST WILL AND TESTAMENT OF COSIMO  
DiBRIZZI**

Date: May \_\_, 2014

By: \_\_\_\_\_  
NICOLAS DiBRIZZI, Trustee

**TRUST UNDER ARTICLE FOURTH OF THE  
LAST WILL AND TESTAMENT OF COSIMO  
DiBRIZZI**

Date: May \_\_, 2014

By: \_\_\_\_\_  
NICOLAS DiBRIZZI, Trustee

**GRANTEE:**

**NEWBURGH CASINO ASSOCIATES LLC**  
a New York limited liability company

Date: May 19, 2014

By James D. Featherstonhaugh  
Name: James D. Featherstonhaugh  
Title: Member

[ACKNOWLEDGMENT PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have signed this Option Agreement effective as of the day and year first above written.

GRANTORS:

COS17, LLC  
a New York limited liability company

Date: May 19, 2014

By: *Nicolas DiBizzi*  
Name: Nicolas DiBizzi  
Title: Member

TRUST UNDER ARTICLE THIRD OF THE  
LAST WILL AND TESTAMENT OF COSIMO  
DIBRIZZI

Date: May 19, 2014

By: *Nicolas DiBizzi*  
NICOLAS DIBRIZZI, Trustee

TRUST UNDER ARTICLE FOURTH OF THE  
LAST WILL AND TESTAMENT OF COSIMO  
DIBRIZZI

Date: May 19, 2014

By: *Nicolas DiBizzi*  
NICOLAS DIBRIZZI, Trustee

GRANTEE:

NEWBURGH CASINO ASSOCIATES LLC  
a New York limited liability company

Date: May 19, 2014

By: *James D. Featherstonhaugh*  
Name: James D. Featherstonhaugh  
Title: Member

[ACKNOWLEDGMENT PAGE FOLLOWS]

ACKNOWLEDGMENTS

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

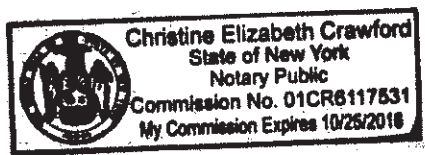
On the \_\_\_\_ day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF New York )  
 ) ss.:  
COUNTY OF Albany )

On the 19th day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared James Featherstonhaugh personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Christine Elizabeth Crawford  
Notary Public

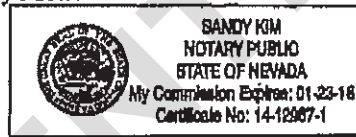


ACKNOWLEDGMENTS

STATE OF Nevada )  
 ) ss.:  
COUNTY OF Clark )


On the 14 day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Nicolas DiBriizzi personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed this instrument.

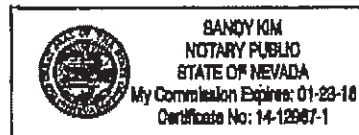
  
\_\_\_\_\_  
Notary Public



STATE OF Nevada )  
 ) ss.:  
COUNTY OF Clark )

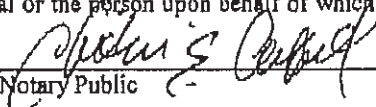
On the 14 day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Nicolas DiBriizzi personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public



STATE OF New York )  
 ) ss.:  
COUNTY OF Albany )

On the 19th day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared James Featherstonhaugh personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed this instrument.

  
\_\_\_\_\_  
Notary Public



**SCHEDULE A**  
**REAL PROPERTY DESCRIPTION**

(Attached)

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**CONFIDENTIAL**

Schedule A Description

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange and State of New York, bounded and described as follows:

PARCEL I

BEGINNING at a point on the northerly line of S.H. 113 (Route 17K) distant 57 +/- easterly as measured along said Route 17K from lands now or formerly of DeLong, said point of beginning being in the line of lands conveyed by Harold F. Denniston to Hoyt-Simmons, Inc. by deed dated April 7, 1969, and recorded in Orange County Clerk's Office on May 2, 1969, in Liber 1818 cp 1037 and from said point of beginning the following courses and distances:

As measured along lands of Denniston conveyed to Hoyt-Simmons, Inc., the following six courses and distances:

- 1) North 27° 50' 15" East a distance of 612.12 feet; thence;
- 2) South 50° 34' 05" East a distance of 211.26 feet; thence;
- 3) South 54° 28' 25" East a distance of 359.15 feet; thence;
- 4) South 21° 30' 40" West a distance of 239.18 feet; thence;
- 5) South 22° 27' 40" West a distance of 154.24 feet; thence;
- 6) South 20° 34' 40" West a distance of 127.95 feet to the northerly side of New York State Route 17K, thence; as measured along the northerly line of Route 17K the following five courses and distances:

- 7) North 64° 33' 27" West a distance of 216.04 feet to a granite monument, thence;
- 8) North 48° 02' 20" West a distance of 85.32 feet to a granite monument, thence;
- 9) North 62° 34' 40" West a distance of 27.79 feet to a granite monument, thence;
- 10) North 64° 57' 15" West a distance of 291.60 feet to a concrete monument, thence;
- 11) North 64° 57' 15" West 1.80 feet to the point and place of beginning.

EXCEPTING THEREFROM all that certain plot, piece or parcel of land, situate, lying and being in the Town of Newburgh, County of Orange, and State of New York, more particularly described as follows:

BEGINNING at a point in the northerly line of New York State Highway Route 17K, where the same is intersected by the dividing line between lands now or

Schedule A Description - continued

Title Number HN 46295

Page 2

formerly DeLong on the west, and lands now or formerly Samuel L. Grimes on the east, and running thence;

- A. North 76° 06' 38" East 57.38 feet to a bend therein, thence;
- B. South 77° 15' 30" East 293.40 feet to another bend therein, thence;
- C. South 74° 52' 55" East 27.79 feet to another bend therein, thence;
- D. South 60° 20' 35" East 45.46 feet to the point of beginning and running thence;

- 1) South 60° 20' 35" East 39.86 feet along the said northerly line of New York State Highway Route 17K, to a bend therein, thence;
- 2) South 76° 51' 42" East 162.54 feet still along the same to a point, thence;
- 3) North 08° 51' 00" East 171.36 feet to a point, thence;
- 4) North 76° 51' 42" West 200.00 feet to a point, thence;
- 5) South 08° 51' 00" West 160.00 feet to the aforementioned northerly line of New York State Highway Route 17K, and to the point and place of BEGINNING.

BEING known as Lot 1, on map entitled, "Proposed subdivision and Topographic Map of Glendale Associates, Town of Newburgh, Orange County, New York". Filed in the Orange County Clerk's Office on June 19, 1972, as Filed Map #2803 as prepared by the Raimondi Associates, PC, 110 State Road, Monroe, New York and

ALSO EXCEPTING all that certain plot, piece or parcel of land, situate, lying and being in the Town of Newburgh, County of Orange, State of New York and being more accurately bounded and described as follows:

BEGINNING at a point in the northerly line of N.Y.S., Route 17K, said point being on the division line between the lands now or formerly of Alcor Petroleum Corp. on the west and the parcel herein described on the east; thence along the last said division line, N 8 degrees - 51' - 00" E 171.36 feet to a point; thence, through the lands now or formerly of DiBrizzi, N 10 degrees - 02' - 51" E 358.82 feet to a point on the division line between the lands of Lempra Associates and H.V.A. 86' Associates on the northeast and east and the parcel herein described on the southwest and west; thence, along the last said division line the following four (4) courses, (1) S 66 degrees - 46' - 40" E 51.53 feet (2) S 9 degrees - 12' - 25" W 239.18 feet, (3) S 10 degrees - 19' - 25" W 154.24 feet and (4) S 8 degrees - 16' - 25" W 127.95 feet to a point in the aforesaid northerly line of N.Y.S. Route 17K; thence, along the last said line, N 76 degrees - 51' - 42" W 53.40 feet to the point or place of BEGINNING.

Continued On Next Page

Schedule A Description - continued

Title Number HN 46295

Page 3

PARCEL II

BEGINNING at a point in the northerly line of NYS Route 17K, said point being in the division line between the lands now or formerly of Monia Investors, Inc. on the west and the parcel herein described on the east; thence, along the last said division line, North 15° 32' 00" East 650.30 feet to a point; thence, through the lands of Lempra Associates, HVA, 86 Associates, South 63° 09' 45" East 50.96 feet to a point on the division line between the lands now or formerly DiBrizzi on the east and the parcel herein described on the west; thence, along the last said division line, South 15° 32' 00" West 612.12 feet to a point in the aforesaid northerly line of NYS Route 17K; thence, along the last said line South 76° 06' 37" West 57.38 feet to the point or place of BEGINNING.

CONFIDENTIAL



Lot: 95-1-54.1  
Cos17, LLC

SCHEDULE "A"

All that certain lot, piece or parcel of land situate in the Town of Newburgh, County of Orange, State of New York, known as Lot 1 on a plan entitled "Minor Subdivision, Lands of Monia Investors, Inc." and filed in the Orange County Clerk's Office on March 20, 1980 as map no. 5204 and being more accurately bounded and described as follows:

Beginning at a point on the northerly line of New York State Route 17K marking the southeasterly corner of the herein described parcel and the southwestly corner of lands N/F of Cosimo DiBrizzi (T.M. 95-1-49.12), also being known as Lot 2, as shown on a plan entitled "Lot Line Change, Lands of Lempra Associates and H.V.A. 86 Associates and Cosimo DiBrizzi" and filed in the Orange County Clerk's Office on September 3, 1988 as map no. 90845; thence from said point of beginning and along the northerly line of New York State Route 17K on the following two courses and distances: North  $53^{\circ}19'03''$  West 177.81'; thence North  $68^{\circ}34'03''$  West 25.10' to the southeasterly corner of lands N/F of Commercial Ctr. at 59 LP (T.M. 95-1-54.2); thence along the northeasterly line of said lands on the following two courses and distances: North  $14^{\circ}00'45''$  East 786.11'; thence North  $21^{\circ}01'30''$  East 424.87' to a point in a stone wall marking the southeasterly corner of lands N/F of Northeast Business Center (T.M. 95-1-69.2), known as Lot 2B as shown on a plan entitled "Plan of Subdivision, Lot 2, Northeast Distribution Center" and filed in the Orange County Clerk's Office on August 16, 1996 as map no. 171-96; thence along a portion of the easterly and southerly line of said lands on the following two courses and distances: North  $13^{\circ}16'00''$  East 175.00' to an iron rod found; thence South  $72^{\circ}47'00''$  East 462.20' to a pipe found in a stone wall marking the southeasterly corner of said lands, said pipe also being on the westerly line of lands N/F of Lempra Associates and H.V.A. 86 Associates and Cosimo DiBrizzi (T.M. 95-1-4.12), said lot also being known as Lot 3, as shown on a plan entitled "Lot Line Change, Lands of Lempra Associates and H.V.A. 86 Associates and Cosimo DiBrizzi" and filed in the Orange County Clerk's Office on September 3, 1988 as map no. 90845; thence along the westerly line of said lands and continuing along the westerly line of other lands of Cosimo DiBrizzi (T.M. 95-1-49.12), following for the most part along a stone wall on the remaining three courses and distances: South  $26^{\circ}01'33''$  West 163.90'; thence South  $26^{\circ}31'33''$  West 430.30'; thence South  $26^{\circ}56'33''$  West 870.41' to the point of place of beginning.

SCHEDULE B

THIRD PARTY CONTRACT

The Trusts Under Articles Third and Fourth of the Last Will and Testament of Cosimo DiBrizzi have fully negotiated and will enter into a Contract for Sale with a third party purchaser with respect to a portion of the Premises identified as a portion of tax parcel number 95-1-49.12. Such Contract for Sale shall contain a provision that allows the Seller to immediately terminate the agreement (for a fee) in the event of the exercise of the Option described herein.

CONFIDENTIAL

## OPTION AGREEMENT FOR PURCHASE OF REAL PROPERTY

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 24 day of March, 2014 by and between Matrix Newburgh I, LLC, a New Jersey limited liability company, having an address at CN 4000, Forsgate Drive, Cranbury, New Jersey 08512 "Seller") and Newburgh Casino Associates, LLC, a New York limited liability company, with an address at 342 Jefferson Street, Saratoga Springs, New York (the "Purchaser").

WHEREAS, Seller is the fee simple owner of two parcels of real property located in the Town of Newburgh, County of Orange, State of New York; such real property being designated as Section 95, Block 1, Lot 69.25 ("Lot 69.25") and Section 95, Block 1, Lot 4.12 ("Lot 4.12") on the tax map of the Town of Newburgh, and being more particularly described on Exhibit A annexed hereto (Lot 69.25 and Lot 4.12 are collectively called the "Premises"); and

WHEREAS Purchaser desires to procure an option to purchase the Premises upon the terms and conditions set forth herein;

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the parties and for the mutual covenants contained herein, the Seller and the Purchaser agree as follows:

1. DEFINITIONS. For the purposes of this Agreement, the following terms shall have the following meanings:

- a. "Act" means the Upstate New York Gaming Economic Development Act of 2013, NY Destination Resort Gaming §1300 *et seq.* (McKinney 2014), as hereafter amended, together with all regulations and requirements relating thereto, including, without limitation, requirements established by the New York State Gaming Facility Location Board or the New York State Gaming Commission.
- b. "Actual Knowledge of Seller" means the current actual knowledge of Alec Taylor, and does not include constructive knowledge or the duty to make inquiry. For the avoidance of doubt, Alec Taylor has no personal liability hereunder.
- c. "Execution Date" shall mean the date of this Agreement, which shall be the day upon which the last party to this Agreement shall have executed and delivered the Agreement.
- d. "Monthly Option Fee" shall mean [REDACTED] payable during the Option Term.
- e. "Option Exercise Date" shall mean the date, within the Option Term, upon which the Purchaser sends a written notice to Seller exercising its Option to Purchase.
- f. "Option Term" shall mean the period commencing upon the Execution Date and ending on the Termination Date.

- g. "Purchaser Affiliate" means any entity which, directly or indirectly, is controlled by, controls or is under common control with Purchaser. For the purposes of the preceding sentence, control means the power to control the management and decision making of the entity in question through the ownership of equity interests, by contract or otherwise.
- h. "Termination Date" shall mean [REDACTED]

2. GRANT OF OPTION. For and in consideration of the Monthly Option Fee, Seller does hereby grant to Purchaser the exclusive right and option (the "Option") to purchase the Premises upon the terms and conditions set forth herein.

3. PAYMENT OF MONTHLY OPTION FEE. Purchaser agrees to pay the Monthly Option Fee to Seller each month during the Option Term. The first Monthly Option Fee shall be due and payable on the Execution Date. Each subsequent Monthly Option Fee shall be due and payable on the date that is one month following the due date of the prior Monthly Option Fee. By way of example, if the Execution Date is March 15<sup>th</sup>, the second Monthly Option Fee shall be due on April 15<sup>th</sup>, and the third Monthly Option Fee shall be due on May 15<sup>th</sup>, etc. The Monthly Option Fee for any partial month during the Option Term shall be prorated to reflect the number of days within such month that are within the Option Term.

4. INSPECTION OF PREMISES. During the Option Term, the Seller shall grant to the Purchaser and its employees, agents, contractors and representatives (collectively, "Purchaser Representatives") full access to the Premises for inspections, surveys, environmental evaluation and testing, or any other studies, evaluations or inspections (collectively, "Inspections"); provided, however, Purchaser must obtain the Seller's prior written approval, which shall not be unreasonably withheld, before conducting any intrusive testing or investigations or exploratory excavation on the Premises. If the Purchaser terminates the Agreement or fails to exercise the option during the Option Term, then the Purchaser shall, upon Seller's request, provide copies to the Seller of any reports of Inspections. Purchaser shall notify Seller not less than five (5) days before Purchaser or Purchaser Representatives enter the Premises, and such notice shall include a reasonable description of the purposes of such entry. Seller shall have the right, but not the obligation, to have a representative accompany Purchaser or Purchaser Representatives in connection with any such entry. Purchaser shall perform, and cause the Purchaser Representatives to perform, the Investigations in accordance with all applicable laws, statutes, regulations, codes, ordinances and other requirements of any governmental authority ("Legal Requirements"). Purchaser shall repair any and all damage by reason of such entry or the Investigations and shall restore the Premises to substantially the condition prior to any such Investigations. Purchaser shall indemnify, defend and save Seller harmless from and against any loss, cost, damage, liability and expense resulting from or arising out of any entry onto the Premises by Purchaser or Purchaser Representatives, which obligations shall survive the Closing or termination of this Agreement. Prior to entering the Premises, Purchaser and any of its agents and contractors (including consultants) entering the Premises, shall each provide Seller with evidence (in form reasonably satisfactory to Seller) that such party maintains commercial general liability insurance, naming Seller as an additional insured on a primary and non-contributory

basis, from an insurer authorized to do business in the State of New York, which is reasonably acceptable to Seller, insuring against claims for bodily injury, death or damage to property in single limit amount of not less than \$3,000,000.

5. EXERCISE OF OPTION. Purchaser may exercise its exclusive right to purchase the Premises pursuant to the Option, at any time during the Option Term, by giving written notice to the Seller. If Purchaser gives such notice, then following the Option Exercise Date, Purchaser shall owe no further Monthly Option Fees to the Seller. In the event that the Purchaser does not exercise its exclusive right to purchase the Premises by notice given to Seller during the Option Term, then Seller shall be entitled to retain all Monthly Option Fees paid prior to the Termination Date, and this Agreement shall become null and void, except for obligations which expressly survive the termination of this Agreement.

6. RIGHT TO TERMINATE. (a) Purchaser shall have the right to terminate this Agreement at any time by giving written notice to the Seller. Upon Purchaser's termination of the Agreement, no additional Monthly Option Fees with respect to periods after the date of such notice shall be due or payable hereunder and neither party shall have any further obligations or liabilities hereunder, except obligations which expressly survive the termination of this Agreement. Seller shall be entitled to retain all Monthly Option Fees paid prior to Purchaser's notice of termination.

(b) If Purchaser fails to pay to Seller any installment of the Monthly Option Fee within five (5) days after the date when such installment is due, then at any time thereafter while such failure continues, Seller shall have the right, by notice given to Purchaser, to declare this Agreement terminated, hereupon Seller shall retain any and all Monthly Option Fees previously paid to it, and neither party shall have any further obligations or liabilities hereunder, except obligations which expressly survive the termination of this Agreement.

7. NO MARKETING OF PREMISES. During the Option Term, Seller shall not market the Premises or solicit or accept any offer to purchase the Premises, except that Seller may continue to market the Premises for sale or lease as industrial property only and provided that Seller may not consummate any transfer of the Premises during the Option Term.

8. CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY. In the event that the Purchaser exercises its exclusive Option in accordance with Section 5, Seller agrees to sell and Purchaser agrees to buy the Premises in accordance with and subject to the terms hereof. Within ten (10) days after the exercise of the Option, both parties agree to execute a contract for such purchase and sale of the Premises in accordance with the following terms and conditions and otherwise consistent with this Agreement (the "Contract"):

- a. Purchase Price. If the Option Exercise Date is within the first year following the Execution Date, [REDACTED] If the Option Exercise Date is more than one year after the Execution Date, [REDACTED] All Monthly Option Fees shall be credited toward the purchase price. Purchaser shall pay the purchase price in full to Seller upon the Closing Date, subject to prorations and adjustments of Premises related expenses

in a manner which is customary for sales of similar property in the Newburgh, New York area.

- b. Closing Date. The closing of title (the "Closing") shall be on the first business day occurring forty five (45) days following the Option Exercise Date or such other date to which the parties mutually agree (the "Closing Date").
- c. The Premises shall be transferred from the Seller to Purchaser by Deed of Bargain and Sale with Covenant Against Grantor's Acts in proper statutory form for recordation, subject to Permitted Exceptions. "Permitted Exceptions" means (i) easements, restrictions and other encumbrances and matters of record as of the date of this Agreement, (ii) any state of facts as an accurate survey or inspection of the Premises would reveal, (iii) real estate taxes and assessments not yet due and payable as of the Closing Date, and (iv) any lien or encumbrance or matter caused by Purchaser or Purchaser Representatives, provided, however, Seller shall cause to be removed on or before the Closing Date any mortgage or other lien which has been voluntarily created by Seller ("Security Documents"). Seller may direct that the purchase price payable at closing or any portion thereof be used to effectuate the payoff of any such mortgage or other lien. During the Option Term, Seller shall not grant or enter into any encumbrance affecting the Premises which would remain in effect and be binding on Purchaser or the Premises after the Closing.
- d. Purchaser shall accept the Premises in its "as is" condition as of the Closing. Neither Seller nor any of its affiliates, members or representatives shall be deemed to have made any warranties or representations, express or implied, with respect to the Premises or any matter relating thereto, except as expressly set forth in this Agreement.
- e. Other Terms and Conditions. The Purchase and Sale Agreement shall contain other terms and conditions consistent with the custom in commercial real estate transactions for similar properties.

9. REPRESENTATIONS AND WARRANTIES. The Seller makes the following representations and warranties concerning the Premises:

- a. To Seller's Actual Knowledge, there are no condemnation or similar proceedings affecting any part of the Premises. To Seller's Actual Knowledge, no condemnation or similar proceedings are threatened or planned.
- b. Seller has not entered into any contracts, agreements or arrangements with respect to the Premises, other than matters of record, which would be binding on Purchaser or the Premises after the Closing.
- c. The Seller has not entered into any commitment, obligation, or agreement, including but not limited to any right of first refusal or option to purchase granted

to a third party, that would or could prevent the Seller from completing the sale of the Premises as contemplated by this Agreement.

- d. The Seller has sole and exclusive possession of the Premises, subject to Permitted Exceptions.

10. **CONDITIONS PRECEDENT.** (a) The obligation of the purchaser to close on the purchase of the Premises is conditioned upon all representations and warranties of the Seller being true and correct when made and as of the Closing Date, as if such representations and warranties were made on the Closing Date. Seller shall have no liability and Seller shall not be deemed to be in breach or default under this Agreement, however, in the event of the discovery of a condition or fact or the occurrence of any change or circumstance which results in any of the representations and warranties of Seller being untrue, unless such condition, fact or change or circumstance was caused by the willful act of Seller.

(b) The obligation of Purchaser to close on the Purchase of the Premises is also conditioned upon Purchaser obtaining at the Closing an owner's title insurance policy at regular rates from a title insurance company licensed to conduct business in New York and selected by Purchaser, insuring Purchaser's fee simple title to the Premises, subject only to Permitted Exceptions and any other exceptions to which Purchaser, in its sole discretion, elects to take title subject to. For the avoidance of doubt, except as set forth in Section 8.c, Seller shall have no obligation to remove or caused to be removed any exceptions to title or to cure any defect or other condition.

(c) If any of the conditions contained in this Section 10 are not satisfied as of the Closing Date, then Purchaser shall have the right to either (i) waive the condition and close title without abatement of purchase price, or (ii) terminate this Agreement (and the Contract if entered into) by notice given to Seller whereupon, except for obligations which expressly survive the termination of this Agreement or Seller's liability on account of any breach or default, this Agreement shall be null and void and of no further force or effect. Unless the failure to satisfy the condition is caused by a breach or default by Seller under the express terms of this Agreement, Seller shall retain the Option Fees paid to Seller and shall have no liability on account of such failure. If the failure to satisfy the condition is caused by the breach or default by Seller, then the provisions of Section 12 shall govern with respect to Purchaser's rights and remedies and Seller's liability.

11. **DEFAULT BY PURCHASER; REMEDIES OF SELLER.** In the event Purchaser breaches or defaults in any material respect any of its obligations under this Agreement or the Contract, then unless such breach or default is cured by Purchaser within twenty (20) days after Purchaser receives notice of the breach or default from Seller, Seller, as its sole and exclusive remedy, shall have the right to terminate this Agreement (and the Contract if it has been entered into) and retain all Monthly Option Fees paid to Seller, whereupon, except for obligations which expressly survive the termination of this Agreement, neither party shall have any further obligations or liability hereunder.

12. **DEFAULT BY SELLER, REMEDIES OF PURCHASER.** In the event Seller breaches or defaults in any material respect any of its obligations under this Agreement or the

Contract, then, subject to Section 10(a), unless such breach or default is cured by Seller within twenty (20) days after Seller receives notice of the breach or default from Purchaser, Purchaser, as its sole and exclusive remedy, shall have the right to either (i) terminate this Agreement (and the Contract if it has been entered into), receive the return of any Monthly Option Fees paid to Seller and receive an amount equal to all costs and expenses incurred by Purchaser in negotiating this Agreement and in performing the Investigations provided that in no event shall such amount exceed \$50,000.00, whereupon, except for obligations which expressly survive the termination of this Agreement, neither party shall have any further obligations or liability hereunder, or (ii) pursue specific performance of Seller's obligations under this Agreement and the Contract. If Purchaser does not commence an action for specific performance within sixty (60) days after the date of Seller's breach or default, then Purchaser shall be deemed to have waived the right to seek specific performance.

13. **BROKERAGE FEES.** If the Closing occurs, Seller shall be responsible for any and all brokerage or real estate agency fees or commissions of CR Properties Group, LLC (the "Broker"), which is subject to a separate agreement between the Seller and the Broker. The Seller agrees to indemnify, defend and hold harmless the Purchaser for any claims, costs or expenses (include reasonable attorneys' fees) related to real estate agency fees or commissions or finders fees or similar compensation (or claims therefor) arising out of any arrangement between the Seller and a claimant other than the Broker. The Purchaser agrees to indemnify, defend and hold harmless the Seller for any claims, costs or expenses (include reasonable attorneys' fees) related to real estate agency fees or commissions or finders fees or similar compensation (or claims therefor) arising out of any arrangement between the Purchaser and a claimant other than the Broker. The provisions of this Section 13 shall survive the termination of this Agreement or the Closing.

14. **APPLICATION FOR A GAMING FACILITY LICENSE.** Within one hundred twenty (120) days after applications may first be submitted pursuant to the Act, Purchaser shall, at its sole cost and expense, submit an application pursuant to the Act to the approving authority thereunder for a gaming facility license relating to a gaming facility to be constructed on the Premises (the "Application"). Thereafter, as long as this Agreement remains in effect, Purchaser shall pursue the Application diligently and in good faith and at its sole cost and expense. As long as this Agreement remains in effect, neither Purchaser nor its Affiliates shall submit an application for a gaming facility license relating to any other property located in the development region under the Act which consists of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster counties.

15. **MISCELLANEOUS.**

- a. **Execution by Both Parties.** This Agreement shall not become effective and binding until fully executed and delivered by both the Purchaser and the Seller.
- b. **Notice.** All notices, demands and/or consents or other communications provided for in this Agreement, or otherwise given in connection with this Agreement, shall be in writing and shall be delivered to the other party hereto by hand, or by certified mail with postage pre-paid, or by nationally recognized overnight courier (such as Federal Express), or by email. Such notices shall be deemed to have

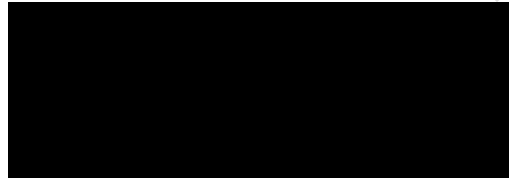


been served on the date of hand delivery, three (3) days after the date mailed, postage pre-paid, the date of delivery by the overnight courier, or on the date of transmission by email provided transmission occurs by 5:00 PM in the time zone of the recipient (and provided that a copy of the emailed notice is sent by overnight courier to the recipients for next business day delivery), as the case may be. All such notices and communications shall be addressed as follows (or to such other address as either party may specify to the other in writing):

If to Seller:



With a copy to:



If to Purchaser:

Daniel Gerrity, Manager  
Newburgh Casino Associates, LLC  
342 Jefferson St.  
Saratoga Springs, NY 12866  
[dgerrity@saratogagaming.com](mailto:dgerrity@saratogagaming.com)

With a copy to:

Michael L. Vild, General Counsel  
Newburgh Casino Associates, LLC  
342 Jefferson St.  
Saratoga Springs, NY 12866  
[mvild@saratogagaming.com](mailto:mvild@saratogagaming.com)

Counsel for a party may give notice on such party's behalf.

- c. Governing Law. This Agreement shall be governed and construed in accordance with the internal law of the State of New York, without regard to principles of conflicts of laws.

- d. **Recording.** The parties agree that this Agreement shall not be recorded.
- e. **Successor and Assigns.** This Agreement shall inure to the benefit of and be binding upon and enforceable against the parties hereto and their respective successors and/or assigns, provided that, except as expressly set forth in this Section 15.e, Purchaser shall not have the right to assign this Agreement to any party without Seller's prior written consent, which consent may be withheld by Seller in its sole discretion. Any assignment of this Agreement by Purchaser in violation of this Section 15.e shall be null and void and of no force or effect. Notwithstanding the forgoing, Purchaser shall have the right to assign this Agreement to a Purchaser Affiliate by providing Seller with notice thereof not less than ten (10) days prior to the Closing Date, together with (i) an assignment and assumption agreement in form reasonably satisfactory to Seller pursuant to which the assignee assumes all of the obligations and liabilities of Purchaser under this Agreement, and (ii) reasonable evidence that the assignee is a Purchaser Affiliate. No assignment of this Agreement shall relieve Purchaser of its obligations hereunder, it being understood that Purchaser shall remain liable hereunder as a principal and not as a surety.
- f. **Entire Agreement.** This Agreement contains all of the terms, promises, covenants, conditions and representation made or entered into by and between the Seller and the Purchaser and supersedes all prior discussions and agreements whether written or oral between the Seller and the Purchaser with respect to the Option and the Premises and constitutes the sole and entire agreement between the parties with respect thereto. This Agreement may only be modified or amended by a writing executed by both the Seller and the Purchaser.
- g. **Headings; Exhibits.** The headings inserted at the beginning of each paragraph and/or subparagraph are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any terms or provisions hereof. The Exhibits referenced in this Agreement and annexed hereto are hereby incorporated into this Agreement and shall be deemed to be a part of this Agreement.
- h. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.
- i. **Attorneys' Fees.** In the event any action or proceeding is commenced to obtain a declaration of rights hereunder, to enforce any provision hereof or to seek rescission of this Agreement for default contemplated herein, whether legal or equitable, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees in addition to all other relief to which it may be entitled therein. All indemnities provided for herein shall include, but without limitation, the obligation to pay costs of defense in the form of court costs and attorneys' fees.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under proper authority:


NEWBURGH CASINO ASSOCIATES, LLC

  
\_\_\_\_\_  
Daniel W. Gerrity, Manager


STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF Saratoga

**ELIZABETH L. BORAWSKI**  
Notary Public, State of New York  
No. 01B06294490  
Qualified in Saratoga County  
Commission Expires Dec. 23, 2017

On the 13<sup>th</sup> day of March, in the year 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Daniel W. Gerrity, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

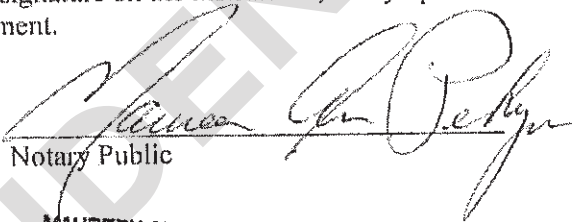
  
\_\_\_\_\_  
Notary Public

MATRIX NEWBURGH I, LLC  
By: Taylor/Epstein Investment Fund, LLC,  
its manager

By:   
Name: Donald M. Epstein  
Title: MANAGER

STATE OF NEW JERSEY )  
) ss.:  
COUNTY OF Monmouth )

On the 24<sup>th</sup> day of MARCH, in the year 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald M. Epstein, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, entity upon behalf of which the individual acted, executed the instrument.

  
Notary Public

**MAUREEN ANN PETRIGNANI**  
Notary Public of New Jersey  
ID # 2045007  
My Commission Expires June 8, 2018

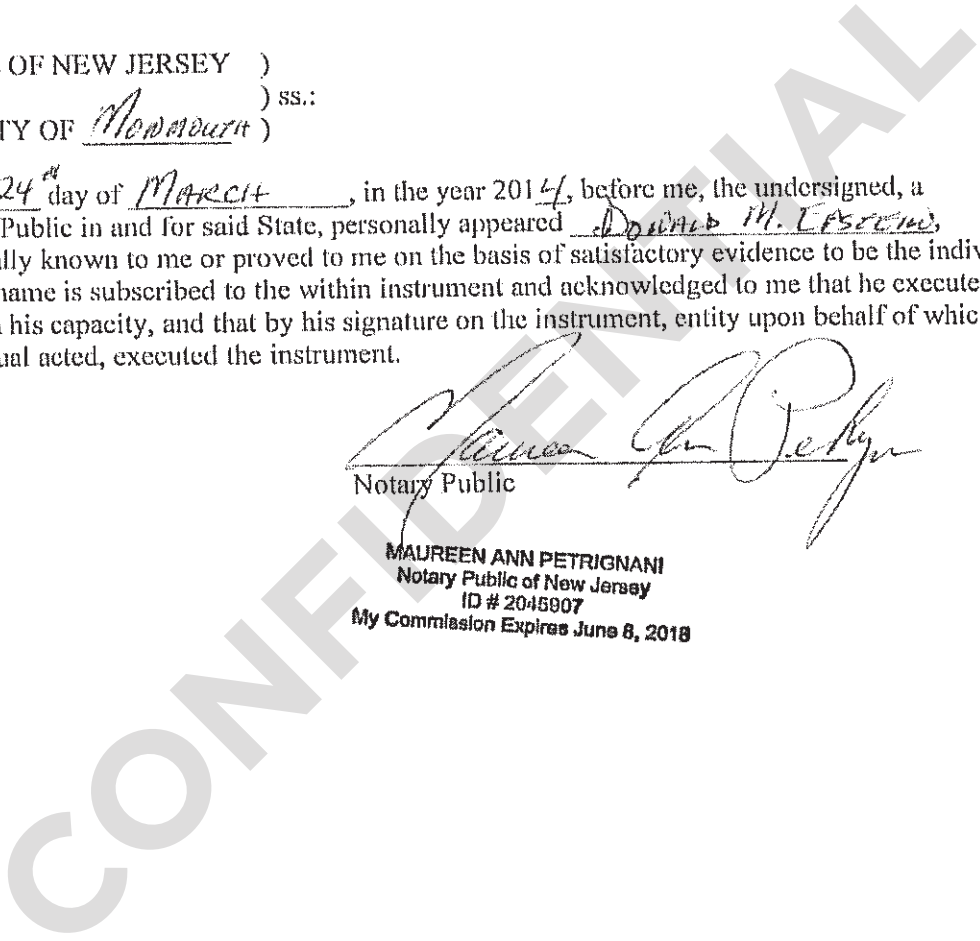


EXHIBIT A  
LEGAL DESCRIPTIONS OF PARCELS

CONFIDENTIAL

# Exhibit A

## Tract I

WRITTEN DESCRIPTION  
SECTION 95, BLOCK 1, LOT 4.12  
IN THE TOWN OF NEWBURGH  
ORANGE COUNTY, NEW YORK

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Beginning at the intersection of the northerly line of NY State Highway Route 17 (width varies), and the westerly line of Interstate Route 87, width varies, thence running the following courses and distances;

- 1) Along said northerly line of NY State Highway Route 17, North  $72^{\circ}11'23''$  West, a distance of 115.64 feet to a point; thence
- 2) Still along said northerly line of NY State Highway Route 17, North  $14^{\circ}31'32''$  East, a distance of 28.00 feet to a point; thence
- 3) Still along said northerly line of NY State Highway Route 17 North  $75^{\circ}28'28''$  West, a distance of 40.00 feet to a point; thence
- 4) Still along said northerly line of NY State Highway Route 17, South  $14^{\circ}31'32''$  West, a distance of 24.00 feet to a point; thence
- 5) Still along said NY State Highway Route 17, North  $72^{\circ}35'24''$  West, a distance of 220.35 feet to a point on the northerly line of NY State Highway Route 17; thence
- 6) Still along said northerly line of NY State Highway Route 17, North  $76^{\circ}38'47''$  West, a distance of 53.40 feet to a point on the easterly line of Section 95 Block 1 Lot 49.2; thence
- 7) Along said easterly line of Section 95 Block 1 Lot 49.2, North  $09^{\circ}03'58''$  East, a distance of 171.36 feet to a point on the easterly line of Section 95 Block 1 lot 49.12; thence
- 8) Along said easterly line of Section 95 Block 1 Lot 49.12, North  $10^{\circ}15'49''$  East, a distance of 358.82 feet to a point on the northerly line of Section 95 Block 1 Lot 49.12; thence
- 9) Along said northerly line of Section 95 Block 1 Lot 49.12, North  $66^{\circ}33'42''$  West, a distance of 307.62 feet to a point; thence
- 10) Still along said northerly line of Section 95 Block 1 Lot 49.12, North  $62^{\circ}39'22''$  West, a distance of 211.26 feet to a point on the easterly line of Section 95 Block 1 Lot 54.1; thence
- 11) Along said easterly line of Section 95 Block 1 Lot 54.1, North  $62^{\circ}54'47''$  West, a distance of 50.96 feet to a point; thence
- 12) Still along said easterly line of Section 95 Block 1 Lot 54.1, North  $15^{\circ}31'03''$  East, a distance of 815.42 feet to a point on the easterly line of Section 95 Block 1 Lot 69.25; thence
- 13) Along said easterly line of Section 95 Block 1 Lot 69.25, North  $07^{\circ}12'24''$  East, a distance of 1315.17 feet to a point on the southerly line of Interstate Route 84; thence
- 14) Along said southerly line of Interstate Route 84, North  $86^{\circ}38'12''$  East, a distance of 335.91 feet to a point; thence
- 15) Still along said southerly line of Interstate Route 84, North  $87^{\circ}00'05''$  East, a distance of 295.38 feet to a point; thence
- 16) Still along said southerly line of Interstate Route 84, North  $86^{\circ}43'58''$  East, a distance of 153.29 feet to a point on the aforementioned Interstate Route 84; thence
- 17) Still along said southerly line of Interstate Route 84, South  $72^{\circ}29'50''$  East, a distance of 176.00 feet to a point on the westerly line of Interstate Route 87; thence

- 18) Along said westerly line of Interstate Route 87, South  $02^{\circ}18'41''$  West, a distance of 79.18 feet to a point; thence
- 19) Still along said westerly line of Interstate Route 87, South  $05^{\circ}34'49''$  West, a distance of 131.08 feet to a point; thence
- 20) Still along said westerly line of Interstate Route 87, South  $06^{\circ}43'07''$  West, a distance of 1251.02 feet to a point on the northerly line of the Interstate Route 87 ; thence
- 21) Along said northerly line of Interstate Route 87 , North  $74^{\circ}02'52''$  West, a distance of 109.10 feet to a point; thence
- 22) Still along said northerly line of Interstate Route 87 Ramp, on a curve to the left, having an arc distance of 361.03 feet, a radius of 832.18 feet and a central angle of  $24^{\circ}51'25''$  and being subtended by a chord which bears South  $87^{\circ}36'51''$  West 358.21 feet to a point on; thence
- 23) Still along said northerly line of Interstate Route 87, on a curve to the left, having an arc distance of 271.91 feet, a radius of 832.18 feet and a central angle of  $18^{\circ}43'15''$  and being subtended by a chord which bears South  $61^{\circ}46'35''$  West 270.70 feet to a point on; thence
- 24) Still along said westerly line of Interstate Route 87, South  $46^{\circ}25'05''$  West, a distance of 23.85 feet to a point; thence
- 25) Still along said westerly line of Interstate Route 87, on a curve to the left, having an arc distance of 214.91 feet, a radius of 212.03 feet and a central angle of  $58^{\circ}04'25''$  and being subtended by a chord which bears South  $18^{\circ}09'12''$  West 205.83 feet to a point on the southwesterly line of Interstate Route 87; thence
- 26) Still along said southwesterly line of Interstate Route 87, on a curve to the left, having an arc distance of 213.60 feet, a radius of 618.34 feet and a central angle of  $19^{\circ}47'33''$  and being subtended by a chord which bears South  $28^{\circ}18'18''$  East 212.54 feet to a point; thence
- 27) Still along said southwesterly line of Interstate Route 87, South  $41^{\circ}55'45''$  East, a distance of 173.84 feet to a point; thence
- 28) Still along said southwesterly line of Interstate Route 87, South  $37^{\circ}20'41''$  East, a distance of 209.95 feet to a point; thence
- 29) Still along said westerly line Interstate Route 87, South  $26^{\circ}24'59''$  East, a distance of 134.84 feet to a point; thence
- 30) Still along said westerly line of Interstate Route 87, South  $20^{\circ}35'17''$  East, a distance of 47.88 feet to a point; thence
- 31) Still along said westerly line of Interstate Route 87, South  $11^{\circ}05'11''$  East, a distance of 38.92 feet to a point; thence
- 32) Still along said westerly line of Interstate Route 87, South  $08^{\circ}01'48''$  East, a distance of 92.92 feet to a point; thence
- 33) Still along said westerly line of Interstate Route 87, South  $04^{\circ}27'05''$  East, a distance of 217.25 feet to a; thence
- 34) Still along said westerly line of Interstate Route 87, South  $00^{\circ}50'02''$  West, a distance of 78.71 feet to a point; thence
- 35) Still along said westerly line of Interstate Route 87, South  $05^{\circ}43'07''$  West, a distance of 123.07 feet to the Point of Beginning.

Encompassing an area of 45.409 acres, more or less.

This description is prepared in accordance with a plan entitled "Matrix Newburgh, Boundary and Topographic Survey " prepared by Langan Engineering and Environmental services, Inc. Elmwood Park, New Jersey, Job No. 9190601, dated September 6, 2007, Drawing Nos. 07.01 thru 07.04.

# Tract II

## LEGAL DESCRIPTION – LAND (page 1 of 2)

### WRITTEN DESCRIPTION SECTION 95, BLOCK 1, LOT 69.25 IN THE TOWN OF NEWBURGH ORANGE COUNTY, NEW YORK

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Beginning at the intersection of the easterly line of Section 95 Block 1 Lot 69.1 and the southeasterly line of Corporate Boulevard, width varies, thence and running the following courses and distances;

- 1) Along said southeasterly line of Corporate Boulevard, on a curve to the left, having an arc distance of 160.21 feet, a radius of 150.00 feet and a central angle of  $61^{\circ}11'47''$  and being subtended by a chord which bears North  $26^{\circ}45'22''$  East 152.70 feet to a point on the southerly line of Block 1 Lot 67; thence
- 2) Along said southerly line of Section 95 Block 1 Lot 67, a curve to the right, having an arc distance of 193.12 feet, a radius of 656.82 feet and a central angle of  $16^{\circ}50'45''$  and being subtended by a chord which bears North  $83^{\circ}35'24''$  East 192.42 feet to a point; thence
- 3) Still along said southerly line of Section 95 Block 1 Lot 67, South  $87^{\circ}59'13''$  East, a distance of 443.11 feet to a point; thence
- 4) Still along said southerly line of Section 95 Block 1 Lot 67, North  $71^{\circ}00'05''$  East, a distance of 154.84 feet to a point on the easterly line of Section 95 Block 1 Lot 67; thence
- 5) Along said easterly line of Block 1 Lot 67, North  $18^{\circ}59'55''$  West, a distance of 50.00 feet to a point; thence
- 6) Still along said easterly line of Section 95 Block 1 Lot 67, North  $07^{\circ}12'24''$  East, a distance of 850.87 feet to a point on the southerly line of Interstate Route 84; thence
- 7) Along said southerly line of Interstate Route 84, South  $68^{\circ}26'58''$  East, a distance of 504.07 feet to a point on the westerly line of Section 95 Block 1 Lot 4.12; thence
- 8) Along said westerly line of Block 1 Lot 4.12, South  $07^{\circ}12'24''$  West, a distance of 1315.17 feet to a point on the northerly line of Section 95 Block 1 Lot 54.1; thence
- 9) Along said northerly line of Section 95 Block 1 Lot 54.1, North  $83^{\circ}54'31''$  West, a distance of 462.20 feet to a point; thence
- 10) Along said westerly line of Section 95 Block 1 Lot 54.1, South  $02^{\circ}08'29''$  West, a distance of 175.00 feet to a point on the northerly line of Section 95 Block 1 Lot 54.2; thence



# Tract II

## LEGAL DESCRIPTION – LAND (page 2 of 2)

- 11) Along said northerly line of Section 95 Block 1 Lot 54.2, North 86°42'06" West, a distance of 362.17 feet to a point on the easterly line of Section 95 Block 1 Lot 69.1; thence
- 12) Along said easterly line of Block 1 Lot 69.1, North 07°19'34" West, a distance of 377.72 feet to a point on the northerly line of Section 95 Block 1 Lot 69.1; thence
- 13) Still along said northerly line of Section 95 Block 1 Lot 69.1, North 74°38'17" West, a distance of 349.64 feet to a point on the easterly line of Section 95 Block 1 Lot 69.1; thence
- 14) Along said easterly line of Section 95 Block 1 Lot 69.1, North 34°59'36" West, a distance of 53.18 feet to the Point of Beginning.

Encompassing an area of 23.577 acres, more or less.

This description is prepared in accordance with a plan entitled "Matrix Newburgh, Boundary and Topographic Survey" prepared by Langan Engineering and Environmental Services, Inc. Elmwood Park, New Jersey, Job No. 9190601, dated 30 August 2007, Drawing No. 07.01.

Together with the benefits and subject to the burdens of a certain Declaration dated June 30, 1989 and recorded on July 7, 1989 in Liber 3159, Page 129; as modified by First Modification of Declaration dated November 30, 1994 and recorded on September 26, 1995 in Liber 4279, Page 1; as modified by Second Modification of Declaration dated September 26, 1995 and recorded in Liber 4279, Page 22; as modified by a Third Modification of Declaration dated September 1, 1999 and Ratification of Third Modification of Declaration dated April 23, 2003.

Together with the benefits and subject to the burdens of a certain Access Road Easement Agreement dated April 8, 1994 and recorded on April 21, 1994 in Liber 4030, Page 116.

## OPTION AGREEMENT FOR PURCHASE OF REAL PROPERTY

THIS OPTION AGREEMENT (the "Agreement") is made and entered into this 14<sup>th</sup> day of May, 2014 by and between SINGH REALTY CORP., a New York corporation, having an address at 37 Lincoln Avenue, Ardsley, NY 10502 ("Seller") and NEWBURGH CASINO ASSOCIATES LLC, a New York limited liability company, with an address at 342 Jefferson Street, Saratoga Springs, NY 12866 (the "Purchaser" or the "Buyer").

WHEREAS, Seller is the fee simple owner a parcel of real property located in the Town of Newburgh, County of Orange, State of New York; such real property being designated as Section 95, Block 1, Lot 49.2 ("the Premises"), and being more particularly described on Exhibit A annexed hereto; and

WHEREAS, Purchaser desires to procure an option to purchase the Premises upon the terms and conditions set forth herein;

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the parties and for the mutual covenants contained herein, the Seller and the Purchaser agree as follows:

1. DEFINITIONS. For the purposes of this Agreement, the following terms shall have the following meanings:
  - a. "Execution Date" shall mean the date of this Agreement, which shall be the day upon which the last party to this Agreement shall have executed and delivered the Agreement.
  - b. "Monthly Option Fee" shall mean [REDACTED] payable during the Option Term.
  - c. "Option Exercise Date" shall mean the date, within the Option Term, upon which the Purchaser sends a written notice to Seller exercising its Option to Purchase.
  - d. "Option Term" shall mean the period commencing upon the Execution Date and ending on the Termination Date.
  - e. "Purchaser Affiliate" means any entity which, directly or indirectly, is controlled by, controls or is under common control with Purchaser. For the purposes of the preceding sentence, control means the power to control the management and decision making of the entity in question through the ownership of equity interests, by contract or otherwise.

f. "Termination Date" shall mean [REDACTED]

2. GRANT OF OPTION. For and in consideration of the Monthly Option Fee, and the Additional Payment (hereinafter defined) as set forth in Section 4 herein. Seller does hereby grant to Purchaser the exclusive right and option (the "Option") to purchase the Premises upon the terms and conditions set forth herein.

3. PAYMENT OF MONTHLY OPTION FEE. Purchaser agrees to pay the Monthly Option Fee to Seller each month during the Option Term. The first Monthly Option Fee shall be due and payable within 24 hours of the Execution Date. Each subsequent Monthly Option Fee shall be due and payable on the date that is one month following the due date of the prior Monthly Option Fee. By way of example, if the Execution Date is May 15th, the second Monthly Option Fee shall be due on June 15<sup>th</sup> and the third Monthly Option Fee shall be due on July 15<sup>th</sup>, etc. [REDACTED]

4. ADDITIONAL PAYMENT. In consideration for the granting of the Option, [REDACTED]

5. BUYER'S RIGHT OF ACCESS. During the Option Term, Seller agrees to permit Buyer, its employees, agents and independent contractors, free ingress and egress to the Premises to conduct such surveys, inspections, structural strength analyses, subsurface soils tests, radio frequency, drive tests, engineering tests, and other activities of a similar nature as Buyer may deem reasonably necessary, at the sole cost of Buyer. During the Option Term Buyer shall have the right to apply for and obtain, at its sole cost, any and all governmental permits and approvals necessary to authorize construction, operation and maintenance of a casino and related facilities and amenities. Seller agrees to cooperate with Buyer with respect to obtaining any required approvals, and shall take no action which would adversely affect Buyer's ability to obtain such approvals or use the Premises for its intended purpose. Seller hereby consents to the filing of any applications by Buyer that are necessary to obtain the required approvals, and agrees to join in, execute as co-applicant or otherwise.

6. PERMISSIVE EXERCISE OF OPTION. Purchaser may exercise its exclusive right to purchase the Premises pursuant to the Option, at any time during the Option Term, by giving written notice to the Seller. If Purchaser gives such notice, then following the Closing

Date, Purchaser shall owe no further Monthly Option Fees to the Seller. In the event that the Purchaser does not exercise its exclusive right to purchase the Premises by notice given to Seller during the Option Term, then Seller, unless Seller shall have defaulted, shall be entitled to retain all Monthly Option Fees paid prior to the Termination Date, and this Agreement shall become null and void, except for obligations which expressly survive the termination of this Agreement.

7. MANDATORY EXERCISE OF OPTION. If Purchaser or a Purchaser Affiliate is awarded a gaming facility license relating to a gaming facility to be constructed in Newburgh, New York, then Puchaser shall, within forty-five (45) calendar days of the granting of said license, exercise its within Option to purchase the Premises.

8. RIGHT TO TERMINATE. (a) Purchaser shall have the right to terminate this Agreement at any time by giving written notice to the Seller. Upon Purchaser's termination of the Agreement, no additional Monthly Option Fees with respect to periods after the date of such notice shall be due or payable hereunder and neither party shall have any further obligations or liabilities hereunder, except obligations which expressly survive the termination of this Agreement. Seller shall be entitled to retain all Monthly Option Fees paid prior to Purchaser's notice of termination.

(b) If Purchaser fails to pay to Seller any installment of the Monthly Option Fee within five (5) days after the date when such installment is due, and if such failure continues for twenty (20) days after Seller has notified Purchaser of the late payment then Seller shall have the right, by notice given to Purchaser, to declare this Agreement terminated, thereupon Seller shall retain the Additional Payment and any and all Monthly Option Fees previously paid to it, and neither party shall have any further obligations or liabilities hereunder, except that Purchaser shall promptly pay to Seller such missed installment upon receiving Purchaser's declaring this Agreement terminated as stated hereinabove and any other obligations which expressly survive the termination of this Agreement.

9. NO MARKETING OF PREMISES. During the Option Term, Seller shall not market the Premises or solicit or accept any offer to purchase the Premises.

10. CONTRACT FOR PURCHASE AND SALE OF REAL PROPERTY. In the event that the Purchaser exercises its exclusive Option in accordance with Section 6 or Section 7, Seller agrees to sell and Purchaser agrees to purchase the Premises in accordance with and subject to the terms hereof. Within ten (10) days after the exercise of the Option, both parties agree to execute a contract for such purchase and sale of the Premises in accordance with the following terms and conditions and otherwise consistent with this Agreement (the "Contract"):

- a. Purchase Price. [REDACTED] minus the amount of any Monthly Option Fees which Buyer has made to or on behalf of Seller. Purchaser shall pay the Purchase Price in full to Seller upon the Closing Date, subject to pro-rations and adjustments of Premises related expenses in a manner

which is customary for sales of similar property in the Newburgh, New York area. [REDACTED]

- b. Closing Date. The closing of title (the "Closing") shall be on the first business day occurring forty-five (45) days following the Option Exercise Date or such other date to which the parties mutually agree, such date not to exceed sixty (60) days following the Option Exercise Date (the "Closing Date").
- c. The Premises shall be transferred from the Seller to Purchaser or its designee by Quit Claim Deed in proper statutory form for recordation, subject to Permitted Exceptions. "Permitted Exceptions" means (i) easements, restrictions and other encumbrances and matters of record as of the date of this Agreement, (ii) any state of facts as an accurate survey or inspection of the Premises would reveal, (iii) real estate taxes and assessments not yet due and payable as of the Closing Date, and (iv) any lien or encumbrance or matter caused by Purchaser or Purchaser Representatives, provided, however, Seller shall cause to be removed on or before the Closing Date any mortgage or other lien which has been voluntarily created by Seller. Seller may direct that the purchase price payable at closing or any portion thereof be used to effectuate the payoff of any such mortgage or other lien. During the Option Term, Seller shall not grant or enter into any encumbrance affecting the Premises which would remain in effect and be binding on Purchaser or the Premises after the Closing.
- d. Other Terms and Conditions. The Purchase and Sale Agreement shall contain other terms and conditions consistent with the custom in commercial real estate transactions for similar properties in Orange County, New York. The sales Contract shall state that the Purchaser is purchasing the property "AS IS". It is the Purchaser's responsibility to perform its complete Due Diligence to Purchaser's satisfaction.. The Seller will make no representations regarding the condition of the Premises, the zoning or permitted use of the Premises, or any and all matters concerning the environmental condition of the Premises with the exception of those representations contained in Section 10 herein.

11. REPRESENTATIONS AND WARRANTIES. The Seller makes the following representations and warranties concerning the Premises:

- a. To Seller's knowledge, there are no condemnations or similar proceedings affecting any part of the Premises. To Seller's Actual Knowledge, no condemnation or similar proceedings are threatened or planned.

- b. Seller has not entered into any contracts, agreements or arrangements with respect to the Premises, other than matters of record, which would be binding on Purchaser or the Premises after the Closing.
- c. The Seller has not entered into any commitment, obligation, or agreement, including but not limited to any right of first refusal or option to purchase granted to a third party, that would or could prevent the Seller from completing the sale of the Premises as contemplated by this Agreement.
- d. The Seller has sole and exclusive possession of the Premises, subject to Permitted Exceptions.
- e. Seller has obtained any and all required Board Resolutions and/or Consents and approvals necessary to execute this Option Agreement.

11. CONDITIONS PRECEDENT. (a) The obligation of the purchaser to close on the purchase of the Premises is conditioned upon all representations and warranties of the Seller being true and correct when made and as of the Closing Date, as if such representations and warranties were made on the Closing Date. Seller shall have no liability and Seller shall not be deemed to be in breach or default under this Agreement, however, in the event of the discovery of a condition or fact or the occurrence of any change or circumstance which results in any of the representations and warranties of Seller being untrue, unless such condition, fact or change or circumstance was caused by the willful act of Seller.

a. The obligation of Purchaser to close on the Purchase of the Premises is also conditioned upon Purchaser obtaining at the Closing an owner's title insurance policy at regular rates from a title insurance company licensed to conduct business in New York and selected by Purchaser, insuring Purchaser's fee simple title to the Premises, subject only to Permitted Exceptions. For the avoidance of doubt, except as set forth in Section 9.c., Seller shall have no obligation to remove or caused to be removed any exceptions to title or to cure any defect or other condition.

b. If any of the conditions contained in this Section are not satisfied as of the Closing Date, then Purchaser shall have the right to either (i) waive the condition and close title without abatement of purchase price, or (ii) terminate this Agreement (and the Contract if entered into) by notice given to Seller whereupon, except for obligations which expressly survive the termination of this Agreement or Seller's liability on account of any breach or default, this Agreement shall be null and void and of no further force or effect. Unless the failure to satisfy the condition is caused by a breach or default by Seller under the express terms of this Agreement, Seller shall retain the Option Fees paid to Seller and shall have no liability on account of such failure. If the failure to satisfy the

condition is caused by the breach or default by Seller, then the provisions of Section 13 shall govern with respect to Purchaser's rights and remedies and Seller's liability.

12. **DEFAULT BY PURCHASER; REMEDIES OF SELLER.** In the event Purchaser breaches or defaults in any material respect any of its obligations under this Agreement or the Contract, then unless such breach or default is cured by Purchaser within twenty (20) days after Purchaser receives notice of the breach or default from Seller, Seller, as its sole and exclusive remedy, shall have the right to terminate this Agreement (and the Contract if it has been entered into) and retain all Monthly Option Fees paid to Seller, whereupon, except for obligations which expressly survive the termination of this Agreement, neither party shall have any further obligations or liability hereunder.

13. **DEFAULT BY SELLER, REMEDIES OF PURCHASER.** In the event Seller breaches or defaults in any material respect any of its obligations under this Agreement or the Contract, including without limitation any failure on the part of Seller to enter into a Forbearance Agreement with Northeast Community Savings Bank within fifteen (15) days from the date of signing this Agreement, under which Forbearance Agreement, the Bank has agreed to forbear from foreclosing on the Premises so long as the monthly mortgage payments are kept current thereunder, then unless such breach or default is cured by Seller within twenty (20) days after Seller receives notice of the breach or default from Purchaser, Purchaser, as its sole and exclusive remedy, shall have the right to either (i) terminate this Agreement (and the Contract if it has been entered into), receive the return of any Monthly Option Fees and the Additional Payment paid to or on behalf of Seller, whereupon, except for obligations which expressly survive the termination of this Agreement, neither party shall have any further obligations or liability hereunder, or (ii) pursue specific performance of Seller's obligations under this Agreement and the Contract.

14. **BROKERAGE FEES.** Buyer agrees to pay John J. Lease Realtors ("Broker") a commission of \$5,000.00 to be paid within 24 hours of the execution of the Option Agreement. Seller shall be responsible for any and all other brokerage or real estate agency finder fees or commissions which may be due. The Seller agrees to indemnify, defend and hold harmless the Purchaser for any claims, costs or expenses (include reasonable attorneys' fees) related to real estate agency fees commissions or finder's fees or similar compensation (or claims therefor) arising out of any arrangement between the Seller and a claimant other than the Broker. The Purchaser agrees to indemnify, defend and hold harmless the Seller for any claims, costs or expenses (include reasonable attorneys' fees) related to real estate agency fees or commissions or finder's fees or similar compensation (or claims therefor) arising out of any arrangement between the Purchaser and a claimant other than the Broker. The provisions of this Section shall survive the termination of this Agreement or the Closing.

15. **APPLICATION FOR A GAMING FACILITY LICENSE.** Within one hundred twenty (120) days after applications may first be submitted pursuant to the Act, the Purchaser or an affiliate of Purchaser shall, at its sole cost and expense, submit an application

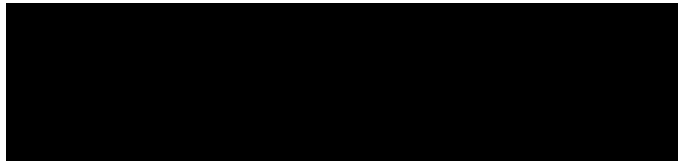
pursuant to the Act to the approving authority thereunder for a gaming facility license relating to a gaming facility to be constructed on the Premises (the "Application"). Thereafter, as long as this Agreement remains in effect, Purchaser shall pursue the Application diligently and in good faith and at its sole cost and expense. As long as this Agreement remains in effect, neither Purchaser nor its Affiliates shall submit an application for a gaming facility license relating to any other property located in the development region under the Act which consists of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster counties.

16. MISCELLANEOUS.

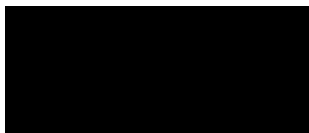
a. Execution by Both Parties. This Agreement shall not become effective and binding until fully executed and delivered by both the Purchaser and the Seller.

b. Notice. All notices, demands and/or consents or other communications provided for in this Agreement, or otherwise given in connection with this Agreement, shall be in writing and shall be delivered to the other party hereto by hand, or by certified mail with postage pre-paid, or by nationally recognized overnight courier (such as Federal Express), or by email. Such notices shall be deemed to have been served on the date of hand delivery, three (3) days after the date mailed, postage pre-paid, the date of delivery by the overnight courier, or on the date of transmission by email provided transmission occurs by 5:00 PM in the time zone of the recipient (and provided that a copy of the emailed notice is sent by overnight courier to the recipients for next business day delivery), as the case may be. All such notices and communications shall be addressed as follows (or to such other address as either party may specify to the other in writing):

If to Seller:



With a copy to:





If to Purchaser:

Daniel Gerrity, Manager  
Newburgh Casino Associates LLC  
342 Jefferson St.  
Saratoga Springs, NY 12866  
[dgerrity@saratogagaming.com](mailto:dgerrity@saratogagaming.com)

With a copy to:

Richard L. Burstein, Esq.  
Nolan & Heller, LLP  
39 N Pearl Street  
Albany, NY 12207  
[rburstein@nolanandheller.com](mailto:rburstein@nolanandheller.com)

Counsel for a party may give notice on such party's behalf.

c. Governing Law. This Agreement shall be governed and construed in accordance with the internal law of the State of New York, without regard to principles of conflicts of laws.

d. Recording. The parties agree that this Agreement shall not be recorded.

e. Successor and Assigns. This Agreement shall inure to the benefit of and be binding upon and enforceable against the parties hereto and their respective successors and/or assigns.

f. Entire Agreement. This Agreement contains all of the terms, promises, covenants, conditions and representation made or entered into by and between the Seller and the Purchaser and supersedes all prior discussions and agreements whether written or oral between the Seller and the Purchaser with respect to the Option and the Premises and constitutes the sole and entire agreement between the parties with respect thereto. This Agreement may only be modified or amended by a writing executed by both the Seller and the Purchaser.

g. Headings; Exhibits. The headings inserted at the beginning of each paragraph and/or subparagraph are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any terms or provisions hereof. The Exhibits referenced in this Agreement and annexed hereto are hereby incorporated into this Agreement and shall be deemed to be a part of this Agreement.

h. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts shall constitute but one and the same instrument. A facsimile or electronic transmission of a duly executed counterpart of this Agreement shall be as valid, in all respects, as an original.

i. Attorneys' Fees. In the event any action or proceeding is commenced to obtain a declaration of rights hereunder, to enforce any provision hereof or to seek rescission of this Agreement for default contemplated herein, whether legal or equitable, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees in addition to all other relief to which it may be entitled therein. All indemnities provided for herein shall include, but without limitation, the obligation to pay costs of defense in the form of court costs and attorneys' fees.

[Remainder of Page Intentionally Left Blank]

CONFIDENTIAL

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under proper authority:

NEWBURGH CASINO ASSOCIATES LLC

By:   
~~Daniel W. Garity~~  
Title: ~~Manager~~

SINGH REALTY CORP

By: \_\_\_\_\_  
Nirmal Singh  
Title: Vice President

CONFIDENTIAL

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under proper authority:

NEWBURGH CASINO ASSOCIATES LLC

By: \_\_\_\_\_  
Daniel W. Gerrity  
Title: Manager

SINGH REALTY CORP

By: Nirmal Singh  
Nirmal Singh  
Title: Vice President

CONFIDENTIAL

ACKNOWLEDGMENTS

STATE OF NEW YORK )  
ALBANY ) ss.:  
COUNTY OF SARATOGA )

*James Featherstonhaugh*

On the 17<sup>th</sup> day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared ~~Daniel W. Gerrity~~ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

*Madelin H. Kibrick Kauffman*

Notary Public

MADELINE H. KIBRICK KAUFFMAN  
Notary Public, State of New York  
No. 02KI4912560  
Qualified in Albany County  
Commission Expires: October 19, 2017

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF PUTNAM )

On the \_\_\_ day of \_\_\_\_\_, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared **Nirmal Singh** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

CONFIDENTIAL

ACKNOWLEDGMENTS

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF SARATOGA )

On the \_\_\_ day of \_\_\_\_\_, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared **Daniel W. Gerrity** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF PUTNAM )

On the 16<sup>th</sup> day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared **Nirmal Singh** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**FRANK J. CORIGLIANO**  
Notary Public, State of New York  
No. 02CO5061890  
Qualified in Putnam County  
Commission Expires December 1, 2014

EXHIBIT A  
LEGAL DESCRIPTION OF PARCEL

CONFIDENTIAL

## SCHEDULE A DESCRIPTION

Title Number AAO04-2064

Page 1

ALL that certain plot, piece or parcel of land situate, lying and being in the Town of Newburgh, County of Orange and State of New York, more particularly bounded and described as follows:

BEGINNING at a point in the northerly line of New York State Highway Route 17K where the same is intersected by the dividing line between lands now or formerly of Delong on the west and lands now or formerly of Samuel L. Grimes on the east;

RUNNING THENCE North  $76^{\circ} 06' 38''$  East 57.38 feet to a bend therein;

THENCE South  $77^{\circ} 15' 30''$  East 293.40 feet to another bend therein;

THENCE South  $74^{\circ} 52' 55''$  East 27.79 feet to another bend therein;

THENCE South  $60^{\circ} 20' 35''$  East 45.46 feet to the point of beginning; and

RUNNING THENCE South  $60^{\circ} 20' 35''$  East 39.86 feet along the said northerly line of New York State Highway Route 17K to a bend therein;

THENCE South  $76^{\circ} 51' 42''$  East 162.54 feet still along the same to a point;

THENCE North  $08^{\circ} 51' 00''$  171.36 feet to a point;

THENCE North  $76^{\circ} 51' 42''$  West 200.00 feet to a point;

THENCE South  $08^{\circ} 51' 00''$  West 160.00 feet to the aforementioned northerly line of New York State Highway Route 17K, and to the point or place of BEGINNING.

BEING KNOWN AS Lot 1 on map entitled, "Proposed Subdivision and Topographic Map of Glendale Associates, Town of Newburgh, Orange County, New York" filed in the Orange County Clerk's Office on June 19, 1972 as Filed Map # 2803 as prepared by the Raimondi Associates, P.C. 110 State Road, Monroe, New York.