

RESOLUTION

A special meeting of County of Sullivan Industrial Development Agency ("Agency") was convened in public session at the Sullivan County Government Center, 100 North Street, Village of Monticello, Sullivan County, New York on August 23, 2017, at 11:00 a.m. local time.

The meeting was called to order by Chairman Ira Steingart, and, upon roll being called, the following members of the Agency were:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[√]	[]
Suzanne Loughlin	[]	[√]
Sean Rieber	[]	[√]
Edward T. Sykes	[√]	[]
Howard Siegel	[√]	[]
Scott Smith	[]	[√]
Paul Guenther	[]	[√]
Joseph Perrello	[√]	[]
Carol Roig	[√]	[]

The following persons were also present:

Steve White, Chief Executive Officer

Julio Garaicoechea, Project Manager

Walter F. Garigliano, Agency General Counsel

The following resolution was duly offered by Howard Siegel, and seconded by Joseph Perrello, to wit:

Resolution No. 40 - 17

RESOLUTION OF THE COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY APPOINTING EMPIRE RESORTS REAL ESTATE II, LLC ("COMPANY") AS ITS AGENT FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING THE PROJECT (HEREINAFTER DEFINED); MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AGREEMENT BETWEEN THE AGENCY AND THE COMPANY; AUTHORIZING THE AGENCY TO EXECUTE THE LEASE TO AGENCY ("LEASE"), LEASEBACK TO COMPANY ("LEASEBACK"), PAYMENT IN LIEU OF TAX AGREEMENT ("PILOT AGREEMENT") AND RELATED DOCUMENTS WITH RESPECT TO THE ACQUISITION, CONSTRUCTION, INSTALLATION AND EQUIPPING OF THE PROJECT

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York ("State"), as amended, and Chapter 560 of the Laws of 1970 of the State, as amended and codified as Section 960 of the General Municipal Law (collectively, the "Act"), the Agency was created with the authority and power to own, lease and sell property as authorized by the Act; and

WHEREAS, EPT Concord II, LLC ("EPT II") for itself and on behalf of an entity or entities to be formed (collectively the, "EPT Entities") submitted an application ("EPT Application") to the Agency on February 12, 2013, requesting that the Agency undertake a certain project in one or more phases, (the "Master Development Project") for the benefit of the EPT Entities consisting of: (i) the acquisition by the Agency of a leasehold interest or other interest in approximately seventy-one (71) parcels of land containing in the aggregate approximately 1,735 acres within the Town of Thompson, Sullivan County, New York (the "EPT Land"), (ii) the construction and equipping on the EPT Land of a master planned destination resort community to include (a) an 18-hole golf course with clubhouse and maintenance facilities, (b) a casino resort to include a casino, hotel, harness horse racetrack, grandstand/showroom, simulcast facility, banquet event center, restaurants and related facilities, (c) hotels, (d) a waterpark, (e) a recreational vehicle park, (f) an entertainment village with a cinema and supporting retail facilities, (g) a residential village containing a mix of unit types including condominiums, apartments, townhouses and detached single-family homes, a civic center and an active adult residential community, all or a portion of which will be connected, via a multi-use trail system, to open space (collectively, the "EPT Improvements"), and (iii) the acquisition in and around the EPT Land and the EPT Improvements of certain items of equipment and other tangible personal property (the "EPT Equipment", and collectively with the EPT Land and the EPT Improvements, the "EPT Project"); and

WHEREAS, on October 21, 2013, the Agency and EPT II entered into a Master Development and Agent Agreement authorizing the EPT Entities to proceed with certain work limited in scope to soil erosion and sediment control, clearing and grubbing, earthwork, construction of new roads and improvements and enhancements to existing roads, constructed wetlands, landscaping, sanitary sewer, water, storm sewer, electric power, telephone service, cable tv, internet connectivity, demolition of existing structures, and all other related facility, equipment, improvements and infrastructure costs as set forth in the EPT Application together with a Lease to Agency, Leaseback to Company, Payment in Lieu of Tax Agreement and related documents (collectively the, "EPT Transaction Documents"); and

WHEREAS, on or about December 31, 2013, with the consent of the Agency, EPT II transferred a portion of the EPT Land to EPR Concord II, L.P.; and

WHEREAS, the EPT Entities and the Company have entered into an agreement whereby the Company will lease a portion of the EPT Land from the EPT Entities provided Montreign Operating Company, LLC ("MOC") a wholly owned subsidiary of Empire Resorts, Inc., is selected by the New York State Gaming Facility Location Board to apply to the New York State

Gaming Commission (“NYSGC”) for the award of a license to operate a Gaming Facility (as herein after defined), and;

WHEREAS, on December 21, 2015, the NYSGC awarded a Gaming Facility License (the “Gaming Facility License”) to MOC, and;

WHEREAS, subsequent to the award of the Gaming Facility License, in December 2015, the Company, a wholly owned subsidiary of MOC, and EPR Concord II, L.P. (and its successors or related entities) entered into agreements wherein it was agreed that the Company will be the new entity developing the Entertainment Village Hotel; and

WHEREAS, the Company has presented an application (“Application”) to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project consisting of the: (i) acquisition, construction, installation and equipping of a an approximately 124,000 square foot six-story building to include up to 162 rooms, mixed-use spaces including a coffee shop, a restaurant, a night club, and retail, and parking for up to 289 cars (the “EV Hotel”), situate on one (1) parcel of real estate consisting of approximately 22 acres located along Joyland Road and Thompsonville Road, Town of Thompson (“Town”), County of Sullivan (“County”), State and identified on the Town tax map as all or a portion of tax map numbers 23.-1-54.6 (“Land”); (ii) acquisition, construction and equipping of the EV Hotel Project; (iii) acquisition, construction and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“Equipment”); (iv) construction of improvements to the EV Hotel, the Land and the Equipment (collectively, the EV Hotel, the Land and the Equipment are referred to as the “Facility” or the “Project”); and (v) lease of the Project from the Agency to the Company; and

WHEREAS, the total financial assistance being contemplated by the Agency is greater than \$100,000 and therefore the proposed action was subject to a public hearing; and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring, constructing, installing and equipping the Project; (ii) negotiate and enter into an Agent Agreement, a Lease, a Leaseback and a PILOT Agreement with the Company (collectively, the “Transaction Documents”); (iii) hold a leasehold interest in the Land, the improvements and personal property thereon which constitute the Project; and (iv) provide financial assistance to the Company in the form of (a) sales tax exemption for purchases related to the acquisition, construction, installation and equipping of the Project; (b) a real property tax abatement on increased value resulting from improvements to the Land through the PILOT Agreement; and (c) a mortgage recording tax exemption for financing related to the Project; and

WHEREAS, contemporaneously with the Effective Date of the Lease Agreement, Leaseback Agreement and PILOT Agreement between the Agency and the Company, the Agency and the EPT Entities shall enter into an Omnibus Amendment of the EPT Transaction Documents to amend the project description to remove the Land from the project description; to proportionally reduce the annual rent as contemplated by Section 2.6 of the EPT Leaseback

Agreement and reduce the TVSP as established in Section 1.3(a) of the EPT PILOT Agreement, the same to be effective as of the Effective Date of the PILOT Agreement; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on Wednesday, August 23, 2017 at 10:30 a.m., local time, at the Legislative Hearing Room, Sullivan County Government Center, 100 North Street,, Monticello, New York, the Agency held a public hearing with respect to the Project and the proposed financial assistance being contemplated by the Agency (the “Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A summary of the Minutes of the Public Hearing together with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions ten (10) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“SEQRA”), the Town of Thompson Planning Board, acted as Lead Agency; and

WHEREAS, the Company obtained the necessary environmental and land use approvals for the Project. Specifically, on May 24, 2017, the Town of Thompson Planning Board (“Town Planning Board”) issued its Negative Declaration of Environmental Significance pursuant to SEQRA for the Project. Subsequently, on May 24, 2017, the Town Planning Board adopted a resolution independently finding that the Company had complied with SEQRA and granting the Final Site Development Plan Approval for the Project; and

WHEREAS, the Agency has given due consideration to the Application of the Company and to representations by the Company that the proposed financial assistance is an inducement to the Company to undertake the Project; and

WHEREAS, the Agency has considered the following matters as more fully set forth in its Uniform Tax Exemption Policies:

- A. Permanent private sector job creation and retention;
- B. Estimated value of the tax exemption;
- C. Whether the affected taxing jurisdictions shall be reimbursed by the Company if the Project does not fulfill the purposes for which the exemption was granted;
- D. Impact of Project on existing and proposed business or economic development projects;
- E. The amount of private sector investment generated or likely to be generated by the Project;
- F. Demonstrated public support for the Project;
- G. Likelihood of accomplishing the Project in a timely fashion;
- H. Environmental impact;
- I. Extent to which the Project will require additional services including, but not limited to educational, police, transportation, EMS and fire;

- J. Extent to which the Project will provide additional revenues; and
- K. Extent to which the Project will serve the public purposes of the Act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State;

; and

WHEREAS, the Project falls within the Agency's "Destination Resort Program" under the Agency's Uniform Tax Exemption Policy; and

WHEREAS, the Agency desires to encourage the Company to advance the job opportunities, health, general prosperity and economic welfare of the people of Sullivan County, New York by providing the contemplated financial assistance and undertaking the Project; and

WHEREAS, the Agency's Chief Executive Officer has negotiated the Transaction Documents with the Company; and

WHEREAS, the Transaction Documents have been prepared by Agency General Counsel.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

Section 1. The Company has presented to the Agency, among other things:

- (A) An Application in form acceptable to the Agency;
- (B) A Cost/Benefit Analysis; and
- (C) An EAF and Technical Memorandum.

Section 2. Based upon (i) the representations made by the Company to the Agency, and (ii) a review of the EAF and related documents, the Agency hereby determines that:

- (A) The Project consists of the acquisition, construction, installation and equipping of the Project; and
- (B) The Project is an Unlisted Action under the SEQR. Based upon the review by the Agency of the EAF and representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that (i) the Project will result in no major impacts and therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a "significant effect on the environment" as such quoted term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State; and (iii) no "environmental impact statement" as such quoted term is defined in SEQR need be prepared for this action. This determination

constitutes a negative declaration of environmental significance for purposes of SEQR. The Agency's findings are set forth in a Negative Declaration of Environmental Significance which is attached hereto and made part hereof.

A copy of this resolution shall together with the attachments thereto be placed on file in the office of the Agency where the same shall be available for public inspection during business hours, and notices of this negative declaration shall be filed in such offices, posted in such places, and published in such publications as shall be necessary to conform with the requirements of SEQR.

Section 3. The Agency has determined that the proposed financial assistance exceeds the sum of \$100,000.00 and therefore a public hearing on due notice was held on August 23, 2017 at 10:30 a.m., in the Legislative Hearing Room, Sullivan County Government Center, 100 North Street, Monticello, County, State at which hearing comments relating to the proposed financial assistance were solicited. Said public hearing was open to the general public and public notice of the time and place of said public hearing was duly given in accordance with the applicable provisions of the General Municipal Law of the State.

Section 4. Based upon representations made by the Company to the Agency, the Agency hereby makes, finds and determines as follows:

- (A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;
- (B) It is desirable and in the public interest for the Agency to (i) acquire an interest in the Land and to take title to or a leasehold interest in the improvements and personal property constituting the Project; (ii) appoint the Company as its agent for purposes of acquiring, constructing, installing and equipping the Project, and (iii) lease or installment sell the Land, improvements and personal property constituting the Project to the Company pursuant to the Lease, the Leaseback and subject to the PILOT Agreement;
- (C) The Agency has the authority to take the actions contemplated therein under the Act; and
- (D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in the County and otherwise furthering the purposes of the Agency as set forth in the Act.

Section 5. Subject to the Company executing an Agent Agreement in form and substance approved by the Executive Director, the Agency hereby authorizes the Company to proceed with the acquisition, construction, installation and equipping of the

Project and hereby appoints the Company as the true and lawful agent of the Agency to acquire, construct, install and equip the Project on behalf of the Agency; with the authority to delegate its status as agent of the Agency to the Company's agents, subagents, contractors, subcontractors, suppliers, vendors and other such parties as the Company may choose. The appointment described above includes the following activities as they relate to the acquisition, construction, installation and equipping of the Project, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the Project; (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the acquisition, construction, installation and equipping of the Project; (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description in connection with the acquisition, construction, installation and equipping of the Project; and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Project, including all repairs and replacements of such property. This agency appointment includes the power to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents for the Agency, and in general to do all things which may be requisite or proper for completing the Project, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. The aforesaid appointment of the Company as agent of the Agency to construct and equip the Project shall expire on December 31, 2017 if the Transaction Documents have not been executed and delivered.

Section 6. The Transaction Documents which were negotiated by the Agency's Chief Executive Officer, are hereby approved as to form and substance on condition that: (i) the payments under the Leaseback include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreements are consistent with the Agency's "Destination Resort Program" under the Agency's Uniform Tax Exemption Policy.

Section 7. The Chairman, Executive Director or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Transaction Documents in the form presented at this meeting all with such changes, variations, omissions and insertions as the Chairman, Executive Director or Chief Executive Officer of the Agency shall approve, the execution thereof by the Chairman, Executive Director or Chief Executive Officer of the Agency to constitute conclusive evidence of such approval.

Section 8. The officers, employees and agents of the Agency are hereby authorized and directed in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and

documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of this resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 9. It is hereby found and determined that all formal actions of the Agency concerning and relating to the adoption of this resolution were adopted in an open meeting of the Agency; and that all deliberations of the Agency and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 10. The Chief Executive Officer, Executive Director or General Counsel of the Agency is hereby authorized and directed (i) to distribute copies of this resolution to the Company; and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 11. The Chief Executive Officer, Chairman and/or Vice Chairman of the Agency are hereby authorized on behalf of the Agency, to execute and deliver an Omnibus Amendment of Project Documents by and between the Agency and the EPT Entities for the purpose of amending the project description to remove the Land from the project description; and to proportionally reduce the annual rent as contemplated by Section 2.6 of the EPT Leaseback Agreement; and reduce the TVSP as established in Section 1.3(a) and (c) of the EPT PILOT Agreement, the same to be effective as of the Effective Date of the Company Transaction Documents.

Section 12. This resolution shall take effect immediately.

THE MEMBERS VOTED ON THE FOREGOING RESOLUTION AS FOLLOWS:

Ira Steingart	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Suzanne Loughlin	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Sean Rieber	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Edward T. Sykes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Howard Siegel	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Scott Smith	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Paul Guenther	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Joseph Perrello	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Carol Roig	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

and therefore, the resolution was declared duly adopted.

STATE OF NEW YORK :
 :SS
 COUNTY OF SULLIVAN :

I, the undersigned (Assistant) Secretary of the Agency DO HEREBY CERTIFY THAT:

1. I have compared the foregoing copy of a resolution of the Agency with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.
2. Such resolution was passed at a meeting of the Agency duly convened in public session on the 23rd day of August 23, 2017 at 11:00 a.m. at the Sullivan County Government Center, 100 North Street, Village of Monticello, Sullivan County, New York, at which the following members were present:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[<input checked="" type="checkbox"/>]	[]
Suzanne Loughlin	[]	[<input checked="" type="checkbox"/>]
Sean Rieber	[]	[<input checked="" type="checkbox"/>]
Edward T. Sykes	[<input checked="" type="checkbox"/>]	[]
Howard Siegel	[<input checked="" type="checkbox"/>]	[]
Scott Smith	[]	[<input checked="" type="checkbox"/>]
Paul Guenther	[]	[<input checked="" type="checkbox"/>]
Joseph Perrello	[<input checked="" type="checkbox"/>]	[]
Carol Roig	[<input checked="" type="checkbox"/>]	[]

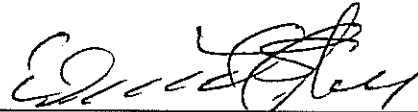
3. The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

Ira Steingart	[<input checked="" type="checkbox"/>] Yes	[] No	[] Absent	[] Abstain
Suzanne Loughlin	[] Yes	[] No	[<input checked="" type="checkbox"/>] Absent	[] Abstain
Sean Rieber	[] Yes	[] No	[<input checked="" type="checkbox"/>] Absent	[] Abstain
Edward T. Sykes	[<input checked="" type="checkbox"/>] Yes	[] No	[] Absent	[] Abstain
Howard Siegel	[<input checked="" type="checkbox"/>] Yes	[] No	[] Absent	[] Abstain
Scott Smith	[] Yes	[] No	[<input checked="" type="checkbox"/>] Absent	[] Abstain
Paul Guenther	[] Yes	[] No	[<input checked="" type="checkbox"/>] Absent	[] Abstain
Joseph Perrello	[<input checked="" type="checkbox"/>] Yes	[] No	[] Absent	[] Abstain
Carol Roig	[<input checked="" type="checkbox"/>] Yes	[] No	[] Absent	[] Abstain

and therefore, the resolution was declared duly adopted.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the 23rd day of August, 2017.



By: Edward T. Sykes, Assistant Secretary