

OMNIBUS AMENDMENT TO PROJECT DOCUMENTS

THE OMNIBUS AMENDMENT TO PROJECT DOCUMENTS, dated as of January 19, 2017 is by and between the COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having its principal offices at One Cablevision Center, Ferndale, New York 12734 ("Agency") and MONTREIGN OPERATING COMPANY, LLC, a New York limited liability company having its principal office at 204 State Route 17B, P.O. Box 5013 Monticello, New York 12701 ("Montreign").

RECITALS

WHEREAS, the Agency was created by Chapter 560 of the Laws of 1970 of the State of New York, as amended, pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, Montreign and Monticello Raceway Management, Inc. ("MRMI" together with Montreign collectively referred to as, the "Company") for itself or on behalf of an entity or entities to be formed submitted an application to the Agency on February 6, 2013, requesting that the Agency undertake a certain project, in one or more phases, for the benefit of the Company consisting of: (i) the acquisition by the Agency of a leasehold interest or other interest in certain property located at Joyland Road and Thompsonville Road in the Town of Thompson ("Town"), Sullivan County ("County"), State and being more particularly identified as all or part of tax map numbers 23-1-52.1 and 23-1-48.1 (f/k/a 23-1-11.3, 23-1-48, 23-1-52 (portion), 23-1-53 (portion), 23-1-54.1, 23-1-54.2 (portion), 23-1-54.3 (portion)) and containing in the aggregate approximately 186 acres ("Casino Land"); (ii) the construction and equipping on the Casino Land a "Casino Resort", which will consist of, among other things, a casino, hotel, banquet event center, restaurants, support buildings and structured and surface parking and related facilities and amenities (collectively, the "Casino Improvements"), and (iii) the acquisition in and around the Casino Land and the Casino Improvements of certain items of equipment and other tangible personal property ("Casino Equipment," and collectively with the Casino Land and the Casino Improvements, the "Casino Facility" or "Casino Project"); and

WHEREAS, by resolution dated March 19, 2013 ("Casino Inducement Resolution"), the Agency authorized the Company to act as its agent to proceed with the acquisition, construction and equipping of the Casino Project; and

WHEREAS, on September 3, 2014, the Agency adopted a resolution approving the Casino Project and describing the financial assistance the Agency has committed to the Casino Project, in the form of: (i) an exemption from all State and local sales and use taxes with respect to the qualifying personal property included in or incorporated into the Casino Facility or used in the acquisition, construction, renovation or equipping of the Casino Facility and all personal property related thereto; (ii) granting of one or more mortgage liens on the Agency's interest in the Casino Facility ("Mortgages") to secure any indebtedness incurred by or for the benefit of the

Company in connection with the Casino Project, which Mortgages would be exempt from all mortgage recording taxes imposed in the State; and (iii) a partial (or full) real property tax abatement structured under the PILOT Agreement, by and between the Company and the Agency for the benefit of each municipality and school district having taxing jurisdiction over the Casino Project under the Agency's Destination Resort Program as defined in the Agency's Uniform Tax Exemption Policy. The Agent Agreement ("Agent Agreement"), Environmental Compliance and Indemnification Agreement ("ECIA"), Lease Agreement, Leaseback Agreement and PILOT Agreement are collectively referred to herein as the "2014 Casino Documents"; and

WHEREAS, on or about September 5, 2014, the Company and the Agency entered into the 2014 Casino Documents, which were to be effective as outlined in a letter agreement by and among the Agency, the Company and EPT Concord II, LLC ("EPT Concord") and EPR Concord II, L.P. ("EPR Concord" and together with EPT Concord collectively, referred to as the "EPT Entities") [MFI] ("Closing Conditions Letter"); and

WHEREAS, on September 5, 2014, the Agency and the EPT Entities entered into an Omnibus Amendment to Project Documents to amend the EPT Transaction Documents to remove the Casino 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 2014 Casino Documents; and

WHEREAS, the Agency and the Company entered into an Amendment to Closing Conditions Letter so that the Agent Agreement and the ECIA became effective as of May 1, 2015; and

WHEREAS, subsequent to the Company and Agency entering into the 2014 Casino Documents, the Company redesigned certain aspects of the Casino Project and determined it to be in the best interest of the Casino Project to significantly increase the Company's investment in the Casino Project. This request is necessary because, while the agreements pertaining to the Casino Project anticipated some variability in the Casino Project scope, the 2014 Casino Documents do not anticipate the significantly increased capital expenditure now proposed by the Company. The Closing Conditions Letter accounted for possible changes in the scope of the Casino Project by indicating that should a hybrid or modified Casino Project other than the projects then under consideration being undertaken, the 2014 Casino Documents will be amended, as necessary, to accommodate the changed size and scope of the Casino Project and to proportionally reduce or modify the Agency's fees, rents, employment obligations and Total Value Subject to PILOT as set forth in the 2014 Casino Documents; and

WHEREAS, the Company revised its plans to increase its anticipated minimum total capital investment in the Casino Project by approximately \$150,000,000 for a total minimum capital investment of approximately \$600,000,000 to create an enhanced Casino Project ("Enhanced Project"). The Enhanced Project will provide a higher level of amenities to patrons of the Montreign Resort Casino by expanding the size of the gaming floor and hotel rooms, redesigning the non-gaming portions and removing the harness horse racetrack and associated facilities; and

WHEREAS, on July 21, 2015, the Town of Thompson Town Board ("Town Board") issued its Negative Declaration of Environmental Significance pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA") for the Enhanced Project and on July 22, 2015, the Town of Thompson Planning Board adopted a resolution independently finding that the Company had complied with SEQRA and granting the Final Site Development Plan Approval for the Enhanced Project; and

WHEREAS, the Agency, as an Involved Agency during the environmental review of the Enhanced Project, determined that the Negative Declaration of Environmental Significance issued by the Town Board for the Enhanced Project and found that all of the provisions of SEQRA that are required to be complied with as a condition precedent to its consideration and determination of this application were satisfied; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on Monday, September 14, 2015, at 11:00 a.m., local time, at the Sullivan County Government Center Legislative Committee Room, 100 North Street, Monticello, New York 12701, the Agency held a public hearing with respect to the Enhanced Project and the proposed Financial Assistance being contemplated by the Agency whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views, which was recessed and held open for written comment until 5:00 p.m., Thursday, September 17, 2015; and

WHEREAS, by resolution #22-15, dated September 18, 2015, the Agency approved: (i) the Enhanced Project; (ii) financial assistance to the Company in the form of (a) sales and use tax exemption, (b) a mortgage recording tax exemption consistent with the policies of the Agency; and (c) a partial real property tax abatement; and (iii) ratifying and confirming its findings made in the Inducement Resolution, dated March 19, 2013 and in the prior approval Resolutions, dated September 3, 2014 and May 26, 2015; and

WHEREAS, the Company and the Agency entered into the following documents to memorialize the Enhanced Project, including but not limited to: Amended and Restated Agent Agreement, made September 18, 2015, Amended and Restated Lease to Agency, dated October 1, 2015, Amended and Restated Leaseback to Company, dated October 1, 2015 and Amended and Restated Payment in Lieu of Tax Agreement, dated October 1, 2015 (collectively, the "2015 Casino Documents" and together with the 2014 Casino Documents, the "Casino Documents"); and

WHEREAS, on December 28, 2015, EPT Concord II, LLC and MRMI entered into a ground lease ("Casino Ground Lease") relating to the 186 acres of land as more particularly described in the Casino Ground Lease; and

WHEREAS, on or about November 21, 2016, MRMI and Montreign entered into an Omnibus Assignment and Assumption Agreement whereby MRMI transferred and assigned to Montreign all of its right, title and interest in and to the Casino Documents and Montreign assumed all of MRMI's obligations under the Casino Documents; and

WHEREAS, on or about December 12, 2016, the Agency consented to the assignment from MRMI to Montreign; and

WHEREAS, effective as of January 19, 2017, EPT Concord and Montreign entered into a First Amendment to Casino Lease to, among other things, modify the definition of Leased Premises, and to correct a scrivener's error in the legal description of the Leased Premises (as defined in the Casino Lease); and

WHEREAS, the Agency and Montreign wish to enter into this Amendment to modify the legal description of the Casino Land in the Casino Documents.

NOW, THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged it is mutually agreed as follows:

1. Acknowledgment of Casino Land Legal Description. The description of the Casino Land in the Casino Documents is hereby deleted and the legal description of the Casino Land as described in Schedule A is inserted in its place and stead.

2. Recording Memos – Casino Land. Within ten (10) days of execution of this Amendment, Montreign and the Agency shall execute and record in the Office of the Sullivan County Clerk Amendments to the Memorandum of Lease to Agency and Memorandum of Leaseback to Company (“Recording Memos”) to acknowledge the new legal description of the Casino Land.

3. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but which together shall constitute a single instrument.

4. Integration. In the event of a conflict between the terms of any of the Casino Documents and this Amendment, the terms and conditions hereof shall control.

60333-005v3

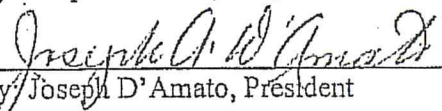
[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the date hereof.

COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY


By: Steve White, Chief Executive Officer

MONTREIGN OPERATING COMPANY, LLC
By: Empire Resorts, Inc., Sole Member


By: Joseph D'Amato, President