

## OMNIBUS AMENDMENT TO PROJECT DOCUMENTS

*THE OMNIBUS AMENDMENT TO PROJECT DOCUMENTS*, dated September \_\_\_\_, 2014 ("Amendment") is effective as hereinafter provided by and among EPT CONCORD II, LLC, a Delaware limited liability company, having its principal offices located at 909 Walnut Street-200, Kansas City, Missouri 64106 ("EPT Concord"), EPR CONCORD II, L.P., a Delaware limited partnership, having its principal offices located at 909 Walnut Street-200, Kansas City, Missouri 64106 ("EPR Concord" and together with EPT Concord collectively, referred to as the "EPT Entities") and 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").

Unless otherwise defined herein, all capitalized terms shall have the meaning given them in the Master Developer Documents (as defined hereinafter).

### 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*, on or about October 21, 2013, the Agency and EPT Concord entered into a lease/leaseback transaction to facilitate the (i) acquisition by the Agency of a leasehold interest or other interest in approximately seventy-one (71) parcels of land ("EPT Concord Land"); (ii) construction and equipping on the Land 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) indoor and outdoor water parks, (e) recreational vehicle parks, (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; (iii) acquisition in and around the Land and the Improvements of certain items of equipment and other tangible personal property; and (iv) payment of certain costs and expenses incidental to the issuance of any Bonds, subject to EPT Concord entering into a Master Development and Agent Agreement ("MDAA"); and

*WHEREAS*, the Agency and EPT Concord entered into a MDAA 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 Application of EPT Concord to the Agency for Financial Assistance dated February 12, 2013 ("Initial Phase"); and

*WHEREAS*, EPT Concord has agreed with the Agency, on behalf of the Agency and as the Agency's agent, to acquire, construct, install and equip the Initial Phase in accordance with the plans and specifications presented to the Agency; and

*WHEREAS*, the Agency and EPT Concord entered into an Environmental Compliance and Indemnification Agreement, Bill of Sale to Agency, Bill of Sale to Company, Lease to Agency and memorandum thereto, Leaseback to Company and memorandum thereto and Payment in Lieu of Tax Agreement (collectively together with the MDAA, the "Master Developer Documents") all dated October 21, 2013; and

*WHEREAS*, EPT Concord and Monticello Raceway Management, Inc. ("MRMI") have agreed to a form of ground lease ("MRMI Ground Lease") relating to the 186 acres of land as more particularly described on the MRMI Ground Lease description attached hereto as Exhibit A and made a part hereof; and

*WHEREAS*, on or about February 6, 2013, MRMI submitted an application to the Agency to undertake a project consisting of (i) the acquisition by the Agency a leasehold interest or other interest in certain property located at Joyland Road and Thompsonville Road in the Town of Thompson, Sullivan County, and State, being more particularly identified as all or part of tax map numbers 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 of a "Casino Resort", consisting of a casino, hotel, a half-mile harness horse racetrack, grandstand showroom, simulcast facility, 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 Development"); and

*WHEREAS*, MRMI and its affiliate Montreign Operating Company, LLC ("Montreign") have agreed to enter into a straight lease transaction with the Agency (the "Casino Development Transaction") pursuant to transaction documents dated September \_\_, 2014, which transaction documents shall be effective only upon the occurrence of future events, all as described in the Closing Conditions Letter by and among MRMI, Montreign, EPT Concord and the Agency and which date is referred to herein as the "Effective Date"; and

*WHEREAS*, the Agency and EPT Concord wish to enter into this Amendment to acknowledge the transfer of a portion of the EPT Land to EPR Concord and amend the Master Developer Documents to acknowledge and account for the Casino Development Transaction.

*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:

### Effective Upon Execution

1. Acknowledgment of EPT Concord Transfer to EPR Concord. Pursuant to rights established at the time of execution of the Master Developer Documents, on December 31, 2013 EPT Concord transferred a portion of the EPT Concord Land consisting of all or parts of 68 parcels to EPR Concord. The transfer was made by Warranty Deed, dated December 20, 2013 and filed in the Sullivan County Clerk's office on December 31, 2013 as Instrument #2013-9913. Each of the Master Developer Documents are hereby amended to add EPR Concord as a party thereto, effective December 31, 2013. As between EPT Concord, EPR Concord and the Agency, all obligations of the "Company" as set forth in the Master Developer Documents shall be the joint and several obligations of EPT Concord and EPR Concord.

2. Recording Memos – EPR Concord. Within ten (10) days of execution of this Amendment, EPT Concord, EPR Concord 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 transfer outlined in ¶1 from EPT Concord to EPR Concord.

3. Informational Letter. The Agency has delivered to the EPT Entities and the EPT Entities acknowledge receipt of the Informational Letter Regarding Sales and Use Tax Exemptions attached hereto as Exhibit 3.

### Effective on the Effective Date

4. Description of Land. The description of the EPT Land in the Master Development Documents is amended to exclude the 186± acres subject to the Casino Ground Lease.

5. Recording Memos – MRMI. Within ten (10) days of the Effective Date, EPT Concord, EPR Concord 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 to exclude the Casino Land from the description referenced in the Recording Memos.

6. Amendment To MDAA. The MDAA is hereby amended to substitute the Sales Tax Abatement Letter annexed hereto in lieu of Exhibit B to the MDAA.

7. Amendment To EPT CONCORD PILOT. ¶1.3 of the EPT Concord PILOT is hereby deleted and the following is inserted in its place and stead:

"1.3 Computation of PILOT Payments. The PILOT Payment shall be made in the amount:

(a) Years 1 – 10. For the years 2015 through and including 2024, the total value subject to PILOT ("TVSP") shall be \$17,127,000 for all periods prior

to the Effective Date and \$14,986,125 for all periods following the Effective Date.

(b) Calculation of Annual PILOT Payment in Lieu of Tax. The calculation of the annual PILOT Payments years 1 – 10 (2015 - 2024) shall be made, as follows:

(i) The TVSP shall be multiplied by the equalization rate as defined in ¶1.3(e) hereof; and

(ii) The annual PILOT Payment shall be determined by multiplying the amount derived in ¶1.3(b)(i) hereof by the tax rates identified in ¶1.3(f) hereof.

(c) TVSP for Years 2025 - 2034. For the PILOT years 11 - 20, the TVSP shall be the following amounts for the following years:

<u>Payment Date</u>	<u>TVSP</u>
February 1, 2025	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 75.00\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2026	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 77.50\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2027	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 80.00\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2028	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 82.50\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2029	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 85.00\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2030	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 87.50\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2031	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 90.00\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2032	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 92.50\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2033	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 95.00\% \} + (\$14,986,125 \times \text{Eq rate})$
February 1, 2034	$\{[\text{Assessed Value} - (\$14,986,125 \times \text{Eq rate})] \times 97.50\% \} + (\$14,986,125 \times \text{Eq rate})$

The Assessed Value shall be that value determined by the Town Assessor, and set on the final tax roll of the Town.

(d) Calculation of Annual PILOT Payment 2025-2034. The calculation of the annual PILOT Payments for the years 2025 through and including 2034 shall be made by multiplying the TVSP calculated in 1.3(c) by the tax rates identified in ¶1.3(f) hereof.

(e) Equalization Rate. The equalization rate to be used in making the computation contemplated by ¶1.3(b)(i) and ¶1.3(c) hereof shall mean the equalization rate for the Town used by the County to allocate and levy County taxes in connection with the January 1st tax roll immediately preceding the due date of the PILOT Payment. In the event that the equalization rate shall exceed one hundred (100%) percent, the equalization rate used in making the computation contemplated by ¶1.3(b)(i) and ¶1.3(c) shall be one hundred (100%) percent.

(f) Tax Rates. For the purposes of determining the amount of the PILOT Payments as contemplated by ¶1.3(b)(ii) and ¶1.3(d) hereof, the tax rates

for each Taxing Jurisdiction shall mean the last tax rate used before the Taxable Status Date for levy of taxes by each such jurisdiction. For County and Town purposes, the tax rates used to determine the PILOT Payment shall be the tax rates relating to the calendar year which includes the PILOT Payment due date. For school tax purposes, the tax rates used to determine the PILOT Payment shall be the rate relating to the school tax year which began in the calendar year immediately preceding the year in which the PILOT Payment is due.”

8. Binding Effect. ¶s 1-3 hereof shall be effective upon execution of this Amendment. ¶s 4-7 hereof shall be effective as of the Effective Date.

9. 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.

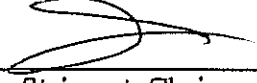
10. Integration. In the event of a conflict between the terms of any of the Master Developer Documents and this Amendment, the terms and conditions hereof shall control.

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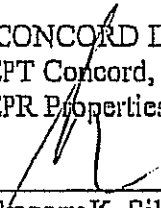
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*IN WITNESS WHEREOF*, the parties hereto have executed this Amendment effective as of the date hereof.

COUNTY OF SULLIVAN INDUSTRIAL  
DEVELOPMENT AGENCY

  
\_\_\_\_\_  
By: Ira Steingart, Chairman

EPT CONCORD II, LLC  
By: EPT Concord, LLC  
By: EPR Properties

  
\_\_\_\_\_  
By: Gregory K. Silvers, Vice-President

EPR CONCORD II, L.P.  
By: EPR IRS Holdings, Inc., its sole General  
Partner

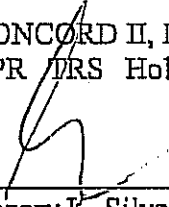
  
\_\_\_\_\_  
By: Gregory K. Silvers, ~~Executive~~-Vice-President

EXHIBIT A  
GROUND LEASE LEGAL DESCRIPTION

EXHIBIT 3  
INFORMATIONAL LETTER  
REGARDING SALES AND USE TAX EXEMPTIONS