

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on October 16, 2023 at 11:00 a.m. local time at the Sullivan County Government Center, 100 North Street, Monticello, New York 12701.

The meeting was called to order by Vice Chairman Edward T. Sykes, and, upon the roll being called, the following members of the Agency were:

	<u>PRESENT</u>	<u>ABSENT</u>
Suzanne Loughlin	[]	[√]
Edward T. Sykes	[√]	[]
Carol Roig	[√]	[]
Howard Siegel	[√]	[]
Scott Smith	[]	[√]
Paul Guenther	[]	[√]
Sean Brooks	[√]	[]
Philip Vallone	[√]	[]
Kathleen Lara	[√]	[]

The following persons were also present:

- Jennifer M. Flad, Executive Director
- John W. Kiefer, Chief Executive Officer
- Julio Garaicoechea, Project Manager
- Bethanii Padu, Economic Development Coordinator
- Walter F. Garigliano, Agency General Counsel

The following resolution was duly offered by Howard Siegel, and seconded by Kathleen Lara, to wit:

Resolution No. 38 - 23

***RESOLUTION AUTHORIZING AN AMENDMENT OF THE
ADELAAR DEVELOPER, LLC (“COMPANY”) PAYMENT IN
LIEU OF TAXATION AGREEMENT TO EXTEND THE PILOT
BENEFIT PERIOD BY TWO (2) YEARS***

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, the Company presented an application (“Application”) to the Agency, a copy of which is on file with the Agency, requesting the Agency’s assistance with respect to a certain

project consisting of the: (i) the acquisition by the Agency a leasehold interest or other interest in certain property located east of Chalet Road in the Town of Thompson (“Town”), County of Sullivan, State of New York, being more particularly identified as tax map number 15-1-14.4 and containing in the aggregate approximately 131 acres (“Land”); (ii) the construction and equipping on the Land of an approximately 425,000 square-foot indoor water park resort hotel including, but not limited, to (a) an approximately seven-story 324 unit hotel/resort, (b) an approximately 20,000 square-foot conference center with a 6,500 square foot ballroom, (c) an approximately 85,000 square-foot indoor water park, (d) a split-level lobby core on an approximately 47,000 square-foot foot print (94,000 square feet total), (e) a porte-cochere, (f) outdoor pools with concession areas and bars, (g) an outdoor pavilion stage adjacent to the conference center to be used for concerts and other events, and (h) related amenities (collectively, the “Improvements”), (iii) the acquisition in and around the Land and the Improvements of certain items of equipment and other tangible personal property (“Equipment” and collectively with the Land and the Improvements, the “Facility” or “Project”); and

WHEREAS, by resolutions, dated March 19, 2013 and March 13, 2017, the Agency authorized the Company to act as its agent for the purposes of constructing and equipping the Project subject to, among other conditions, the Company entering into a Payment in Lieu of Taxation Agreement (“PILOT Agreement”) (Destination Resort Program UTEP); and

WHEREAS, the Company, on behalf of the Agency and as the Agency's agent, constructed, installed and equipped the Project materially in accordance with the plans and specifications presented to the Agency; and

WHEREAS, the Agency and the Company executed a PILOT Agreement making provision for payments in lieu of taxes by the Company for the benefit of the County, Town and the Monticello Central School District (“School”) (collectively, the County, the Town and the School are referred to as the “Taxing Jurisdictions”); and

WHEREAS, the Project is operated by Catskill Resorts TRS, LLC (“CRTRS”), an affiliate of the Company; and

WHEREAS, CRTRS and the Company are each indirect subsidiaries of and owned by EPR Properties, a Maryland real estate investment trust (“EPR”), a New York Stock Exchange traded public company; and

WHEREAS, by the First Amendment to Payment in Lieu of Taxation Agreement, the Agency accepted a guaranty of EPR as security for the PILOT Payment due in February 2021; and

WHEREAS, by the Second Amendment to Payment in Lieu of Taxation Agreement, the Company and the Agency suspended employment goals for the two (2) employment years October 1, 2019 to September 30, 2020 and October 1, 2020 to September 30, 2021; and

WHEREAS, by the Third Amendment to Payment in Lieu of Taxation Agreement, the Agency accepted a guaranty of EPR as security for the PILOT Payment due in February 2022; and

WHEREAS, by the Fourth Amendment to Payment in Lieu of Taxation Agreement, the Agency accepted a guaranty of EPR as security for the PILOT Payment due in February 2023; and

WHEREAS, by the Fifth Amendment to Payment in Lieu of Taxation Agreement, the Agency accepted a guaranty of EPR as security for the PILOT Payment due in February 2024; and

WHEREAS, by letter from Bob Stanion, Director – Asset Management, dated March 7, 2023, the Company requested the benefit period under the PILOT Agreement be extended for five (5) years due to the delays and challenges caused by the COVID-19 pandemic; and

WHEREAS, the Agency has considered the Company’s request and based upon the findings hereinafter set forth, is willing to extend the PILOT benefit period for two (2) years on the terms and conditions hereinafter set forth.

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

Section 1. The Agency hereby adopts the following findings:

- 1) The Kartrite Waterpark (“Kartrite”) was shut down entirely from March 2020 through July 2021.
- 2) The closure of the Kartrite was mandatory following issuance of Executive Order No. 202.6 issued March 16, 2020.
- 3) The authorization to reopen “family entertainment centers” at twenty-five (25%) percent capacity on March 26, 2021, did not provide a practical path to reopening the Kartrite due to mandatory staffing of lifeguards and safety personnel within the waterpark regardless of the number of persons in attendance at the waterpark.
- 4) The lifting of capacity restrictions on May 19, 2021 also did not provide a practical path to reopening the Kartrite since six (6’) foot social distancing requirements remained in effect and could not be achieved in a waterpark setting.
- 5) The social distancing requirements were lifted in July 1, 2021, at which time the Kartrite reopened.
- 6) The closure of the Kartrite for such an extended period resulted in hiring challenges and labor shortages which impacted the ability to run the Kartrite efficiently following reopening.

Section 2. In reliance on these findings, the Agency is willing to extend the PILOT benefit period for a period of two (2) years.

Section 3. The extension of the PILOT benefit period will necessarily require an extension of the Lease to Agency and Leaseback to Company by two (2) years.

Section 4. The Chairperson or Executive Director, either acting individually, is hereby authorized to execute an Amended and Restated Payment in Lieu of Taxation Agreement; an Amended and Restated Lease to Agency together with a recording memorandum related thereto; an Amended and Restated Leaseback to Company together with a recording memorandum related thereto; and any other additional documents or instruments necessary to implement the intent of these resolutions.

Section 5. The foregoing are conditioned on compliance by the Company of each of the following:

- 1) The Company shall pay the Agency an administrative fee in the amount of Two Thousand Five Hundred and 00/100 (\$2,500.00) Dollars to defray the Agency's cost of implementing these resolutions and notifying impacted Taxing Jurisdictions.
- 2) The Company shall reimburse the Agency or directly pay all professional fees of the Agency incurred to implement the extension of the PILOT benefit period.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and 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 the foregoing resolutions 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 7. These resolutions shall take effect immediately.

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

Suzanne Loughlin	<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
Carol Roig	<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
Sean Brooks	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Philip Vallone	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Kathleen Lara	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

The resolution was thereupon duly adopted.

STATE OF NEW YORK :
:SS
COUNTY OF SULLIVAN :

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

- I have compared the foregoing copy of a resolution of the County of Sullivan Industrial Development Agency (“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.
- Such resolution was passed at a meeting of the Agency duly convened in public session on October 16, 2023 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>
Suzanne Loughlin	[]	[√]
Edward T. Sykes	[√]	[]
Carol Roig	[√]	[]
Howard Siegel	[√]	[]
Scott Smith	[]	[√]
Paul Guenther	[]	[√]
Sean Brooks	[√]	[]
Philip Vallone	[√]	[]
Kathleen Lara	[√]	[]

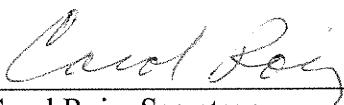
- The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

Suzanne Loughlin	[] Yes	[] No	[√] Absent	[] Abstain
Edward T. Sykes	[√] Yes	[] No	[] Absent	[] Abstain
Carol Roig	[√] Yes	[] No	[] Absent	[] Abstain
Howard Siegel	[√] Yes	[] No	[] Absent	[] Abstain
Scott Smith	[] Yes	[] No	[√] Absent	[] Abstain
Paul Guenther	[] Yes	[] No	[√] Absent	[] Abstain
Sean Brooks	[√] Yes	[] No	[] Absent	[] Abstain
Philip Vallone	[√] Yes	[] No	[] Absent	[] Abstain
Kathleen Lara	[√] 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 103(a) 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 103(a) 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 16th day of October, 2023.



Carol Roig, Secretary