

SIXTH AMENDMENT TO PAYMENT IN LIEU OF TAXATION AGREEMENT

THIS SIXTH AMENDMENT TO PAYMENT IN LIEU OF TAXATION AGREEMENT ("Sixth Amendment"), effective the 1st day of November, 2023 which amends that certain Payment in Lieu of Taxation Agreement, made the 1st day of August, 2017 ("PILOT Agreement") 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 located at 548 Broadway, Monticello, New York 12701 ("Agency") and ADELAAR DEVELOPER, LLC, a Delaware limited company, having its principal offices located at 909 Walnut Street, Suite 200, Kansas City, Missouri 64106 ("Company").

Unless otherwise defined herein, all capitalized terms shall have the meaning given them in the PILOT Agreement.

RECITALS

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York ("Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York ("State"); and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve its standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities at such rentals and on such other terms and conditions as it deems advisable; and

WHEREAS, the Agency was created pursuant to and in connection with the provisions of the Enabling Act, Chapter 560 of the Laws of 1970 of the State (collectively, referred to as the "Act") and is empowered under the Act to undertake the providing, financing and leasing of the facility described below; 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 set forth in Resolution No. 38-23, adopted on October 16, 2023, the Agency authorized an amendment of the Company's PILOT to extend the PILOT benefit period by two (2) years.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual terms, conditions, limitations and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed as follows:

1. Amendment to PILOT. Article I of the PILOT is hereby deleted and a revised Article I is inserted in its place and stead, to read as follows:

“1.1 Exemption From General Ad Valorem Property Taxes. Pursuant to a Payment In Lieu of Tax Agreement, by and between the Agency and EPT CONCORD II, LLC, dated October 21, 2013, the Facility is currently exempt from Real Estate Taxes with the exemption granted commencing with the July 1, 2014 School year and the January 1, 2015 County and Town tax year. For the purposes of the foregoing, "Real Estate Taxes" shall mean all general ad valorem real property taxes levied against the Facility by the Taxing Jurisdictions. The Company shall provide the Agency the information necessary for the completion and filing of an exemption application relating to this PILOT Agreement ("Exemption Application"), and the Agency shall file the Exemption Application within thirty (30) days of the execution and delivery of this PILOT Agreement. Notwithstanding anything contained herein or in the Lease to Agency, dated the same date hereof by and between the Agency and the Company ("Lease Agreement") and the Leaseback to Company, dated the same date hereof by and between the Agency and the Company ("Leaseback Agreement") to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay, subject to the Company's right to challenge the underlying assessments on the Facility pursuant to ¶6 hereof) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes, except to the extent that such denial results solely from the failure of the Agency to timely file the Exemption Application with the appropriate assessors or Boards of Assessment Review by the Taxable Status Date.

1.2 Agreement to make payments in lieu of taxes. As long as the Agency holds a leasehold interest in the Facility, the Company agrees to pay to the Agency at 548 Broadway, Monticello, New York 12701, or at such other address as shall be designated from time to

time by the Agency, annual payments in lieu of taxes (each, a "PILOT Payment") computed in accordance with this PILOT Agreement.

Subject Premises. PILOT Payments shall be made on account of the following premises located in the Town:

Section, Block and Lot
15-1-14.4

1.3. Computation of PILOT Payments. This ¶1.3 shall be applicable to the twenty (20) year period with the first such year designated as "Year 1". Year 1 relates to the payment due February 1, 2018.

(a) TVSP Years 1 and 2. For the PILOT Payment dates February 1, 2018 and February 1, 2019, the Total Value Subject to PILOT ("TVSP") shall be \$1,285,000.00. The PILOT Payments for February 1, 2018 and February 1, 2019 have been billed to the Company and paid.

(b) TVSP Years 3-12. For the PILOT Payment dates applicable to 2020 to 2029, the TVSP shall be in the amount of \$11,250,000.00. The PILOT Payments for February 1, 2020, February 1, 2021, February 1, 2022 and February 1, 2023 have been billed to the Company and paid.

(c) Calculation of Annual PILOT Payment Years 1-12. The calculation of the annual PILOT Payments for 2018 through 2029 shall be made as follows:

(i) The TVSP from ¶1.3(a)(years 1 and 2) and 1.3(b) (years 3-12) shall be multiplied by the equalization rate as defined in ¶1.3(f) hereof; and

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

(d) For Year 13 Through Year 20. For 2030 through and including 2037, the TVSP shall be the following amounts for the following years:

<u>Payment Date</u>	<u>TVSP</u>
February 1, 2030	{[Assessed Value — (\$11,250,000 x Eq rate)] x 12.50%} + (\$11,250,000 x Eq rate)
February 1, 2031	{[Assessed Value — (\$11,250,000 x Eq rate)] x 25.00%} + (\$11,250,000 x Eq rate)
February 1, 2032	{[Assessed Value — (\$11,250,000 x Eq rate)] x 37.50%} + (\$11,250,000 x Eq rate)
February 1, 2033	{[Assessed Value — (\$11,250,000 x Eq rate)] x 50.00%} + (\$11,250,000 x Eq rate)
February 1, 2034	{[Assessed Value — (\$11,250,000 x Eq rate)] x 62.50%} + (\$11,250,000 x Eq rate)
February 1, 2035	{[Assessed Value — (\$11,250,000 x Eq rate)] x 75.00%} + (\$11,250,000 x Eq rate)
February 1, 2036	{[Assessed Value — (\$11,250,000 x Eq rate)] x 87.50%} + (\$11,250,000 x Eq rate)
February 1, 2037	{[Assessed Value — (\$11,250,000 x Eq rate)] x 100.00%} + (\$11,250,000 x Eq rate)

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

- (e) Calculation of Annual PILOT Payment Years 13-20. The calculation of the annual PILOT Payments for 2030 through and including 2037 shall be made by multiplying the TVSP calculated in ¶ 1.3(d) by the tax rates identified in ¶ 1.3(g).
- (f) Equalization Rate. The equalization rate to be used in making the computation contemplated by 1.3(c)(i) and 1.3(d) 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(c)(i) and 1.3(d) shall be one hundred (100%) percent.
- (g) Tax Rates. For the purposes of determining the amount of the PILOT Payments as contemplated by 1.3(c)(ii) and 1.3(e) 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.

The chart which follows set forth the anticipated years of the overall twenty (20) year period for PILOT Payments under the Agency's Destination Resort Uniform Tax Exemption Program; the date that a PILOT Payment is due; and the appropriate tax periods utilized in determining the tax rates for computing the PILOT Payment.

Year	PILOT Payment Due Date	School Fiscal Year Beginning	County and Town
1	February 1, 2018	July 1, 2017	January 1, 2018
2	February 1, 2019	July 1, 2018	January 1, 2019
3	February 1, 2020	July 1, 2019	January 1, 2020
4	February 1, 2021	July 1, 2020	January 1, 2021
5	February 1, 2022	July 1, 2021	January 1, 2022
6	February 1, 2023	July 1, 2022	January 1, 2023
7	February 1, 2024	July 1, 2023	January 1, 2024
8	February 1, 2025	July 1, 2024	January 1, 2025
9	February 1, 2026	July 1, 2025	January 1, 2026
10	February 1, 2027	July 1, 2026	January 1, 2027
11	February 1, 2028	July 1, 2027	January 1, 2028

12	February 1, 2029	July 1, 2028	January 1, 2029
13	February 1, 2030	July 1, 2029	January 1, 2030
14	February 1, 2031	July 1, 2030	January 1, 2031
15	February 1, 2032	July 1, 2031	January 1, 2032
16	February 1, 2033	July 1, 2032	January 1, 2033
17	February 1, 2034	July 1, 2033	January 1, 2034
18	February 1, 2035	July 1, 2034	January 1, 2035
19	February 1, 2036	July 1, 2035	January 1, 2036
20	February 1, 2037	July 1, 2036	January 1, 2037

- 1.4 Other Agreements Relating to PILOT Payments. The Agency shall remit to the Taxing Jurisdictions amounts received hereunder within thirty (30) days of receipt and shall allocate the PILOT Payments among the Taxing Jurisdictions in the same proportion as normal taxes would have been allocated but for the Agency's involvement.

The PILOT Payments provided for herein shall commence as of February 1, 2018. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the period provided in this Agreement. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for in this PILOT Agreement and specifically agrees that the exemptions provided for in this PILOT Agreement, to the extent actually received (based upon the number of years elapsed), supersede and are in substitution of the exemptions provided by §485b of the Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Taxing Jurisdictions can rely upon and enforce this waiver to the same extent as if they were signatories hereto.

- 1.5. Determination of TVSP. The Agency and the Company have agreed upon the TVSP of the Facility. Such valuation was made without regard to the actual cost of construction of improvements to be made at the Facility. Such valuation shall not be increased or decreased if the Facility or any related work on or improvements are completed in substantial conformity with the plans and specifications. If there is a substantial change relating to the Facility or any related work or improvements during the construction phase, the Agency may redetermine the improvement value of the Facility. An increase in building size shall not be deemed to be a substantial change, unless such increase or decrease is more than five (5%) percent.
- 1.6. Termination of Use; Modification. If the substantial use of the Facility shall be discontinued by the Company, the TVSP may be modified. It is understood that the benefits of this Agreement have been extended to the Company on the grounds set forth in various related agreements between the parties; that new jobs at the Facility will be an economic asset to the County's economy; that the creating of new jobs in the County is

considered beneficial to the well-being of the County as of the date of this Agreement and for the foreseeable future; and that the discontinuance of the substantial use of the Facility by the Company would alter the purpose for which this Agreement was made. In such event, the Agency may give notice to the Company that modification is required. If the parties cannot agree on the basis of modification the Agency may increase the TVSP to an amount not exceeding the assessed value of the Facility as determined by the Town Assessor.”

2. Notices. Article XIV, Section 14(a), of the PILOT is hereby deleted and a revised Article XIV, Section 14(a), is inserted in its place and stead, to read as follows:

“(a) Notices. All notices provided for by this Agreement shall be made in writing, and shall be deemed to have been given on the date of delivery if personally served on the party to whom notice is to be given; or on the date of receipt if transmitted by electronic mail to the party to whom notice is to be given; or on the next day after mailing if mailed to the party to whom notice is to be given by overnight courier of national reputation providing evidence of receipt and properly addressed, or on the third day after mailing if mailed to the party to whom notice shall be given by First Class, Certified mail, postage prepaid and properly addressed to the following:

To the Agency:

County of Sullivan Industrial Development Agency
548 Broadway
Monticello, New York 12701
Attn: Executive Director

with a copy to:

Walter F. Garigliano P.C.
449 Broadway, P.O. Drawer 1069
Monticello, New York 12701
Attn: Walter F. Garigliano, Esq.

To the Company:

Adelaar Developer, LLC
909 Walnut Street, Suite 200
Kansas City, Missouri 64106
Attn: Asset Management

Adelaar Developer, LLC
909 Walnut Street, Suite 200
Kansas City, Missouri 64106
Attn: General Counsel

with a copy to:

EPR Properties
909 Walnut Street, Suite 200
Kansas City, Missouri 64106
Attn: General Counsel

with an additional copy to:

Mintzer Mauch PLLC
290 Madison Avenue, 4th Floor
New York, New York 10017
Attn: Helen Mauch, Esq.

and to such other addresses and/or addressees as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this ¶14(a). All notices shall be deemed given when mailed or personally delivered in the manner provided in this ¶14(a). Any electronic notice sent outside of regular business hours shall be deemed given on the next business day.”

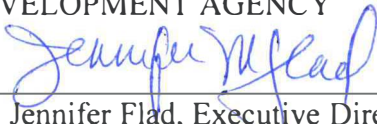
3. Expenses. All fees and costs related to this Sixth Amendment of the PILOT Agreement shall be paid by the Company.

4. Integration. Except as herein amended, all other terms and conditions of the PILOT Agreement shall remain in full force and effect. If there shall be any conflict or inconsistency between the terms of this Sixth Amendment or the PILOT Agreement as amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment and Fifth Amendment, the terms of this Sixth Amendment shall control.

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

COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY



By: Jennifer Flad, Executive Director

Adelaar Developer, LLC



By: Gregory E. Zimmerman, Vice President