

## RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency ("Agency") was convened on May 12, 2025 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 Chairman Howard Siegel, and, upon the roll being called, the following members of the Agency were:

|                 | <u>PRESENT</u> | <u>ABSENT</u> |
|-----------------|----------------|---------------|
| Howard Siegel   | [     ]        | [     ]       |
| Kathleen Lara   | [     ]        | [     ]       |
| Philip Vallone  | [     ]        | [     ]       |
| Scott Smith     | [     ]        | [     ]       |
| Paul Guenther   | [     ]        | [     ]       |
| Sean Brooks     | [     ]        | [     ]       |
| Ira Steingart   | [     ]        | [     ]       |
| Joseph Perrello | [     ]        | [     ]       |

The following persons were also present:

Jennifer M. Flad, Executive Director

Ira Steingart, 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 \_\_\_\_\_, and seconded by \_\_\_\_\_, to wit:

Resolution No. \_\_\_\_ - 25

*RESOLUTION AUTHORIZING THE AMENDMENT AND  
RESTATEMENT OF THE EMPIRE RESORTS REAL ESTATE II,  
LLC ("ERREII") TRANSACTION DOCUMENTS TO  
ACCOMMODATE AND PERMIT SULLIVAN COUNTY RESORT  
FACILITIES LOCAL DEVELOPMENT CORPORATION TO ISSUE  
ITS TAX-EXEMPT REVENUE BONDS*

*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*, 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 (“Lease”), Leaseback to Company (“Leaseback”), Payment in Lieu of Tax Agreement (“PILOT 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. (“EPR II”); and

*WHEREAS*, the EPT Entities and ERREII, a wholly owned subsidiary of Montreign Operating Company, LLC (“MOC”), entered into an agreement whereby ERREII leased a portion of the EPT Land from the EPT Entities effective only if MOC was 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; 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, ERREII and EPR II entered into agreements wherein it was agreed that ERREII will be the entity developing an entertainment village hotel; and

*WHEREAS*, on or about August 17, 2017, ERREII presented an application (“EV Hotel Project 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, in the Town, County, State and identified on the Town tax map as all or a portion of tax map numbers 23.-1-54.6 (“EV Hotel Project 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 (“EV Hotel Project Equipment”); (iv) construction of improvements to the EV Hotel, the EV Hotel Project Land and the EV Hotel Project Equipment (collectively, the EV Hotel, the EV Hotel Project Land and the EV Hotel Project Equipment are referred to as the “EV Hotel Project”); and (v) lease of the EV Hotel Project from the Agency to ERREII; 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 EV Hotel Project and the proposed financial assistance being contemplated by the Agency (the “EV Hotel Project 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 EV Hotel Project Public Hearing together with the Notice of EV Hotel Project Public Hearing published and forwarded to the affected taxing jurisdictions ten (10) days prior to said EV Hotel Project Public Hearing were attached to Resolution No. 40-17; and

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

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

*WHEREAS*, the Agency gave due consideration to the EV Hotel Project Application of ERREII and to representations by ERREII that the proposed financial assistance is an inducement to ERREII to undertake the EV Hotel Project; and

*WHEREAS*, prior to adoption of Resolution No. 40-17 on August 23, 2017, the Agency considered the following matters as more fully set forth in its then in effect UTEPs:

- 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 ERREII if the EV Hotel Project does not fulfill the purposes for which the exemption was granted;
- D. Impact of EV Hotel 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 EV Hotel Project;
- F. Demonstrated public support for the EV Hotel Project;
- G. Likelihood of accomplishing the EV Hotel Project in a timely fashion;
- H. Environmental impact;
- I. Extent to which the EV Hotel Project will require additional services including, but not limited to educational, police, transportation, EMS and fire;
- J. Extent to which the EV Hotel Project will provide additional revenues; and
- K. Extent to which the EV Hotel 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 EV Hotel Project fell within the Agency’s “Destination Resort Program<sup>a</sup>” under the Agency’s then in effect UTEP; and

*WHEREAS*, the Agency desired to encourage ERREII 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 EV Hotel Project; and

*WHEREAS*, the Agency’s Executive Director negotiated the EV Hotel Project Transaction Documents with ERREII; and

*WHEREAS*, on or about March 1, 2018, the Agency (i) designated ERREII as its agent for the purpose of acquiring, constructing, installing and equipping the EV Hotel Project; (ii) negotiated and entered into an Agent Agreement, a Lease, a Leaseback and a PILOT Agreement with ERREII (collectively, the “EV Hotel Project Transaction Documents”); (iii) took a leasehold interest in the EV Hotel Project Land, the improvements and personal property thereon which constitute the EV Hotel Project; and (iv) provide financial assistance to ERREII in the form of (a) sales tax exemption for purchases related to the acquisition, construction, installation and equipping of the EV Hotel Project; (b) a real property tax abatement on increased value resulting from improvements to the EV Hotel Project Land through a PILOT Agreement; and (c) a mortgage recording tax exemption for financing related to the EV Hotel Project; and

*WHEREAS*, on or about March 1, 2018, the Agency and the EPT Entities entered into a Fifth Omnibus Amendment of the EPT Transaction Documents to amend the project description to remove the EV Hotel Project Land from the project description and reduce the TVSP as established in Section 1.3(a) of the EPT PILOT Agreement; and

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<sup>a</sup> The Destination Resort Program was eliminated by the Agency on March 14, 2022 by Resolution No. 10-22.

*WHEREAS*, by letter dated March 9, 2022, ERREII requested the Agency amend the EV Hotel Project Transaction Documents to reflect proposed amendments to the EV Hotel Project; and

*WHEREAS*, ERREII proposed to amend the EV Hotel project to construct a golf club house inside The Alder Hotel, including locker rooms, a pro shop and offices; and

*WHEREAS*, based on representations made by ERREII to the Agency, a review of the short-form EAF and supporting SEQR documents, the Agency finds that (a) pursuant to 6 NYCRR Section 617.5(c)(1), (2), and (9), the EV Hotel Project is a “Type II action”; and (b) therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under Article 8 of the Environmental Conservation Law; and

*WHEREAS*, on or about March 31, 2022, the Agency and ERREII entered into an (i) First Amendment to Agent and Project Agreement; (ii) Amended and Restated Agent and Project Agreement; (iii) Omnibus Amendment to Project Documents and (iv) First Amended PILOT Agreement to amend the EV Hotel Project Transaction Documents as follows:

- A. Modify the description of the EV Hotel Project to include construction of a golf club house inside The Alder Hotel, including locker rooms, a pro shop and offices;
- B. Increase the total budget by \$300,000;
- C. Increase the total authorized exempt purchases by an additional \$250,000;
- D. Increase the sales tax exemption by an additional \$20,000;
- E. Extend the date for completion to June 1, 2023; and
- F. Amend the PILOT Agreement governing the EV Hotel Project to increase the TVSP for periods on and after January 1, 2025; and

*WHEREAS*, by letter from Karen M. Cho, General Counsel, dated June 7, 2023, MOC requested a three (3) year extension of the PILOT benefit period; and

*WHEREAS*, by Resolution 39-23, duly adopted by the Agency on October 16, 2023, the Agency authorized extension of the MOC PILOT for the Resorts World Catskills (“RWC”) casino for a period of two (2) years based on the findings adopted by Resolution 39-23; and

*WHEREAS*, the Employment Goals for ERREII’s project are based on the employment obligations of MOC; and

*WHEREAS*, by letter dated November 6, 2023, Karen M. Cho, General Counsel to RWC, requested a two (2) year extension of ERREII’s PILOT.

*WHEREAS*, the Agency considered ERREII’s request and based upon the findings set forth in Resolution No. 44-23, agreed to extend the PILOT benefit period for two (2) years; and

*WHEREAS*, to implement the extension of the PILOT benefit period for two (2) years, on December 31, 2023, ERREII and the Agency entered into a Second Amended Payment in Lieu of

Taxation Agreement (“Second Amended PILOT” and together with previously executed documents between the Agency and ERREII, the “ERREII Transaction Documents”); and

*WHEREAS*, extension of the PILOT benefit period necessarily required an extension of the Lease and Leaseback; and

*WHEREAS*, to memorialize the extension of the Lease and Leaseback, on December 31, 2023, ERREII and Agency entered into a First Amendment to Lease to Agency and First Amendment to Leaseback to Company, together with recording Memorandums to evidence the extension of term on the public record (collectively, the “2023 Lease Amendments” and together with the Second Amended PILOT and together with previously executed documents between the Agency and ERREII, the “ERREII Transaction Documents”); and

*WHEREAS*, on May 12, 2025, the Sullivan County Resort Facilities Local Development Corporation (“SCRFLDC”) by its Resolution No. 02-25, authorized SCRFLDC to acquire the ERREII’s assets and an interest in the Land (collectively, the “ERREII Assets”) and the financing thereof through the issuance, execution, sale and delivery of one or more series of SCRFLDC tax-exempt revenue bonds (“Bonds”); authorizing SCRFLDC to enter into a Sub-Lease of the ERREII Assets for the useful life thereof; and authorizing SCRFLDC to mortgage the ERREII Assets and grant security interests therein to secure the Bonds; and

*WHEREAS*, in order to accommodate the issuance of the Bonds and implement the related transactions and security documents and instruments related thereto, it will be necessary to amend and restate the ERREII Transaction Documents; and

*WHEREAS*, the Agency desires to authorize its Chairman, Executive Director or Chief Executive Officer, each acting individually, to execute the amendments and restatements of the ERREII Transaction Documents to amend and restate the ERREII Transaction Documents and related agreements to permit SCRFLDC to issue the Bonds.

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

Section 1. The Chairman, Executive Director or Chief Executive Officer of the Agency, each acting individually, are hereby authorized, on behalf of the Agency to take all reasonable actions approved by Agency counsel to amend and restate the ERREII Transaction Documents and related agreements to permit SCRFLDC to issue the Bonds.

The actions contemplated herein involves a “Type II” action as said term is defined under SEQRA, for which no formal review is necessary.

Section 2. The foregoing are conditioned on compliance by ERREII of each of the following:

- 1) ERREII shall pay the Agency an administrative fee in the amount of Ten Thousand and 00/100 (\$10,000.00) Dollars to defray the Agency's cost of implementing these resolutions and notifying impacted Taxing Jurisdictions.
- 2) ERREII shall reimburse the Agency or directly pay all professional fees of the Agency incurred to implement the amendment and restatement of the ERREII Transaction Documents as hereby authorized.

Section 3. 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 4. 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:

|                 |                              |                             |                                 |                                  |
|-----------------|------------------------------|-----------------------------|---------------------------------|----------------------------------|
| Howard Siegel   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Absent | <input type="checkbox"/> Abstain |
| Kathleen Lara   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Absent | <input type="checkbox"/> Abstain |
| Philip Vallone  | <input 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 type="checkbox"/> Absent | <input type="checkbox"/> Abstain |
| Paul Guenther   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Absent | <input type="checkbox"/> Abstain |
| Sean Brooks     | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Absent | <input type="checkbox"/> Abstain |
| Ira Steingart   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Absent | <input type="checkbox"/> Abstain |
| Joseph Perrello | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Absent | <input type="checkbox"/> Abstain |

The resolutions were thereupon duly adopted.

STATE OF NEW YORK :  
:SS  
COUNTY OF SULLIVAN :

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

1. 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.
2. Such resolution was passed at a meeting of the Agency duly convened in public session on May 12, 2025 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> |
|-----------------|----------------|---------------|
| Howard Siegel   | [ ]            | [ ]           |
| Kathleen Lara   | [ ]            | [ ]           |
| Philip Vallone  | [ ]            | [ ]           |
| Scott Smith     | [ ]            | [ ]           |
| Paul Guenther   | [ ]            | [ ]           |
| Sean Brooks     | [ ]            | [ ]           |
| Ira Steingart   | [ ]            | [ ]           |
| Joseph Perrello | [ ]            | [ ]           |

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

|                 |         |        |            |             |
|-----------------|---------|--------|------------|-------------|
| Howard Siegel   | [ ] Yes | [ ] No | [ ] Absent | [ ] Abstain |
| Kathleen Lara   | [ ] Yes | [ ] No | [ ] Absent | [ ] Abstain |
| Philip Vallone  | [ ] Yes | [ ] No | [ ] Absent | [ ] Abstain |
| Scott Smith     | [ ] Yes | [ ] No | [ ] Absent | [ ] Abstain |
| Paul Guenther   | [ ] Yes | [ ] No | [ ] Absent | [ ] Abstain |
| Sean Brooks     | [ ] Yes | [ ] No | [ ] Absent | [ ] Abstain |
| Ira Steingart   | [ ] Yes | [ ] No | [ ] Absent | [ ] Abstain |
| Joseph Perrello | [ ] 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 12<sup>th</sup> day of May, 2025.

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Kathleen Lara, Secretary