

1 **MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE**
2 **Emergency Ordinance 2019-03**

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5 **Introduced By:** **Mayor Robert R. Ashby, Jr.**
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7 **Date Introduced:** **February 5, 2019**
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9 **Amendments Adopted:** **February 19, 2019**
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11 **Amendment Adopted Upon Reconsideration:** **March 5, 2019**
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13 **Date Adopted:** **February 19, 2019 and March 5, 2019 (upon reconsideration)**
14
15 **Date Effective:** **March 5, 2019**
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19 **AN EMERGENCY ORDINANCE concerning**

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21 **GREAT WOLF RESORT ECONOMIC DEVELOPMENT AGREEMENT**

22
23 **FOR** the purpose of approving a certain Economic Development Agreement by and
24 between the Town of Perryville and GWR Perryville LLC (“Great Wolf”) to provide certain
25 economic incentives to induce Great Wolf to construct and manage a resort hotel consisting of at
26 least 450 rooms with certain amenities in the Town of Perryville; providing a certain effective
27 date for this Ordinance; and generally providing for Great Wolf to locate a resort hotel in the
28 Town of Perryville.

29
30 **EXPLANATORY STATEMENT:** Great Wolf Resorts “Great Wolf” has proposed
31 constructing and managing a project (“Project”) adjacent to the Hollywood Casino in the Town
32 of Perryville. The project will consist of a resort hotel of at least four hundred fifty (450) guest
33 rooms, an indoor water-park, a family entertainment center, various restaurants, conference
34 facilities and other amenities. This hotel will enhance the value of the local tax base, foster and
35 support economic growth and opportunity, provide employment opportunities for Town
36 residents, ensure that new investments will market the area as a thriving place to work, live, and
37 visit, improve the Town’s ability to attract tourists, and enhance business and commercial
38 activity within the TOWN.

39
40 In order to bring this project to fruition Great Wolf must receive economic incentives
41 from the State of Maryland, Cecil County and the Town of Perryville. The Town’s incentives
42 include grants of portions of certain hotel occupancy taxes and personal property taxes generated
43 from the Project, credits against certain utility connection and facility fees, and certain utility
44 improvements.

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46 The Town has reviewed and evaluated the Project, Great Wolf’s submittals for the
47 Project and other materials developed by the Town, the State of Maryland and Cecil County,

48 Great Wolf's performance in many similar ventures around the United States, the incentives
49 requested by Great Wolf, the economic and other benefits to be derived by the Town from the
50 project, and the requirements of the Town's Hotel Economic Development Incentive Program
51 ("Program") enacted by Ordinance ~~2019-02~~ 2019-04 as Chapter ~~53~~ 52 of the Town of Perryville
52 Code. Town staff and the Mayor and Commissioners conclude that:

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54 (1) Great Wolf is eligible for participation in the Program;

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56 (2) Great Wolf's submittals comply with the requirements of Chapter ~~53~~ 52 and
57 the Program;

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59 (3) The proposed hotel will fulfill the purpose of the Program;

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61 (4) The Program incentives requested by the Great Wolf are reasonable,
62 proportionate to the benefits to be received by the Town, and likely to fulfill the purposes of the
63 Program; and

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65 (5) The Program incentives requested by Great Wolf and agreed to by the Town
66 are financially sustainable by the Town.

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68 In furtherance of Great Wolf's desire to construct and operate the project in the Town of
69 Perryville, and the Town's desire to bring this economic development opportunity to the Town,
70 the Town and Great Wolf have negotiated an Economic Development Agreement
71 ("Agreement"), a copy of which is attached to this Ordinance and incorporated by reference.
72 The Mayor and Commissioners find that this Agreement is in the public interest and in
73 furtherance of the welfare of the Town and its residents. Now, therefore,

74 **SECTION 1. BE IT ENACTED BY THE MAYOR AND COMMISSIONERS OF**
75 **THE TOWN OF PERRYVILLE** that the Economic Development Agreement by and between
76 the Town of Perryville and GWR Perryville LLC attached to this Ordinance and incorporated by
77 reference is approved and the Mayor is authorized to execute the Agreement on behalf of the
78 Town.

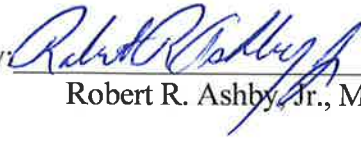
79 **SECTION 2. AND BE IT FURTHER ENACTED BY THE MAYOR AND**
80 **COMMISSIONERS OF THE TOWN OF PERRYVILLE** that this ~~Ordinance shall become~~
81 ~~effective on the later to occur of the effective date of Ordinance 2019-02 2019-04 or the~~
82 ~~expiration of twenty (20) days following approval of this Ordinance by the Mayor and~~
83 ~~Commissioners. If Ordinance 2019-02 2019-04 is not enacted or does not become effective, this~~
84 ~~Ordinance shall stand repealed without further action of the Mayor and Commissioners~~
85 Emergency Ordinance shall become effective immediately upon approval by the Mayor and
86 Commissioners.

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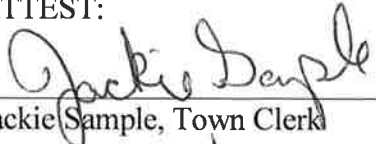
ADOPTED this 5th day of March, 2019, by a vote of 5 yeas, 0 nays, and 0 abstentions.

SEAL:

**MAYOR AND COMMISSIONERS OF
THE TOWN OF PERRYVILLE**

By: 
Robert R. Ashby, Jr., Mayor

ATTEST:


Jackie Sample, Town Clerk

Date: March 5, 2019

EXPLANATION:

Underlining indicates amendments adding matter to bill.
Strike-Out indicates matter stricken from bill by amendment.

**TOWN OF PERRYVILLE
ECONOMIC DEVELOPMENT AGREEMENT**

This Economic Development Agreement (this “Agreement”) is made and entered into by and between the TOWN OF PERRYVILLE (“TOWN”), a political subdivision of the State of Maryland, and GWR PERRYVILLE LLC, a Delaware limited liability company (together with its successors and permitted assigns, the “COMPANY”), for the purposes and considerations stated below. The TOWN and the COMPANY are also referred to herein individually as a “Party” and collectively as the “Parties”.

WHEREAS, the TOWN desires to provide economic development incentives to COMPANY to develop and build the Project in Perryville, Maryland; and

WHEREAS, the TOWN has the authority under Maryland Code, Local Government Article Section 5-205, and Chapter 53 52 of the Perryville Town Code to make grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the TOWN, and generally affecting the public welfare of the TOWN and its occupants; and

WHEREAS, the Property has been designated a Maryland Enterprise Zone by the State of Maryland, and the COMPANY intends to seek certain real property tax credits and income tax credits through such program in connection with the Project (collectively, the “Enterprise Zone Credits”); and

WHEREAS, COMPANY is entering into an agreement with Cecil County whereby Cecil County shall provide certain similar incentives to COMPANY to construct and operate the Project (the “County Agreement”); and

WHEREAS, the TOWN determines that a grant of funds to COMPANY will serve the public purpose of enhancing value of the local tax base, fostering and supporting economic growth and opportunity, ensuring new investments will market the area as a thriving place to work, live, and visit, and enhancing business and commercial activity within the TOWN; and

WHEREAS, the TOWN has determined that COMPANY was formed on January 22, 2019, and therefore is less than two (2) years old as of the Effective Date, and that the Effective Date shall be the effective time of the Personal Property Tax Grant described herein; and

WHEREAS, the TOWN characterizes the Personal Property Tax Grant as a single grant made as of the Effective Date and paid in annual installments for up to twenty-five (25) years, subject to the COMPANY’s payment of its annual personal property taxes, as further described herein; and

WHEREAS, the TOWN and COMPANY desire that the COMPANY develop and build the Project in Perryville, Maryland; and

WHEREAS, the construction of the Project will likely encourage increased economic development in the TOWN, provide increases in the TOWN's property tax revenues, provide employment opportunities for TOWN residents and improve the TOWN's ability to attract tourists.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

- A. **Affiliate** means, with respect to any specified person or entity, any other person or entity that, directly or indirectly, controls, is under common control with, or is controlled by such specified person or entity. For purposes of this definition, the term "control" and all derivations thereof means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, through ownership of voting securities or through partnership interest.
- B. **BCI** means the monthly building cost index for Baltimore, Maryland, as published in Engineering News-Record.
- C. **County** means Cecil County, Maryland.
- D. **Deed of Trust** means any mortgage, deed of trust, security agreement, or other security instrument encumbering COMPANY's interest in any portion of the Project.
- E. **Effective Date.** The date that the latter of each of the COMPANY and TOWN has fully executed this Agreement.
- F. **Grant** means each payment to COMPANY under the terms of this Agreement computed as part of the Personal Property Tax Grant or Hotel Occupancy Tax ("HOT") Grant, as more specifically defined in Section 3.

- G. **HOT Grant** means an economic development grant in an amount equal to a percentage of the Hotel Occupancy Taxes collected from the Project.
- H. **Hotel Occupancy Tax** means the hotel occupancy tax imposed by Cecil County, Maryland, pursuant to authority contained in Maryland Code, Local Government Article Section 20-401, *et seq.*
- I. **Personal Property Tax Grant** means an economic development grant in an amount of up to One Million Five Hundred Thousand Dollars (\$1,500,000.00), payable in annual installments equal to a percentage of the personal property tax revenue generated by the value of the personal property located at the Project.
- J. **Project** means the construction and management of a resort hotel of at least four hundred fifty (450) guest rooms on the Property. The resort will include an indoor water-park, family entertainment center, various restaurants and other amenities, initially including conference facilities and amenities similar to Great Wolf Lodge® branded facilities as of the Effective Date (provided, TOWN acknowledges that space and amenities within the Project may be repurposed in the discretion of the COMPANY and that Great Wolf Lodge branded facilities' amenities vary based on footprint and regional market analysis).
- K. **Project Completion Date** means the date that construction of the Project is complete and all certificates of occupancy have been obtained in order to open the Project to the general public.
- L. **Property** means approximately Forty-Four (44) acres of land located in the Town of Perryville upon which COMPANY will construct the Project. The Property is generally depicted in **Exhibit A** and a preliminary test fit of the Project is depicted in **Exhibit B**, both of which are attached hereto and incorporated herein for all purposes.

SECTION 2. TERM.

- A. **Term of Agreement.** The term of this Agreement shall commence on the Effective Date and shall end upon payment of the final Grant for which the COMPANY is entitled under this Agreement, unless otherwise earlier terminated in accordance with the terms herein (the "Term").
- B. **Termination.** This Agreement shall terminate, the terms herein shall have no further effect, and such termination will not represent an Event of Default, as follows:

1. COMPANY shall have the absolute right to terminate this Agreement in its sole discretion at any time. Upon such termination, COMPANY shall remain entitled to all Grants accrued prior to the effective date of such termination; provided, however, any future payment installments of the Property Tax Grant shall not be deemed accrued as of the termination date in the event of such termination by COMPANY or in the event of a termination due to a breach by COMPANY. In the event of a termination under this Section 2.B.1., COMPANY shall not be liable for any damages or incur any obligations arising from this Agreement, whatsoever; and
2. Subject to the notice and cure provisions set forth in Section 6.C., Section 6.D. and Section 6.E. of this Agreement, one Party may elect to terminate this Agreement upon a breach by the other Party of a term or condition of this Agreement.

SECTION 3. OBLIGATIONS OF TOWN.

- A. **Payment of Grants.** Subject to COMPANY's continued satisfaction of all terms and conditions of this Agreement, including those set forth in Section 4 of this Agreement, TOWN shall provide to COMPANY, the following incentives and the incentives and benefits set forth in Sections 3.C., 3.D. and 3.E.:

1. Personal Property Tax Grant.

- a. Administration. Personal Property Tax Grant installment payments shall begin with the first personal property tax amount owed by COMPANY to TOWN following the Project Completion Date, as each such personal property tax amount is calculated under this Agreement.
- b. Calculation. TOWN shall provide COMPANY a Personal Property Tax Grant of up to One Million Five Hundred Thousand and 0/100 Dollars (\$1,500,000.00), payable in annual installments, each in an amount equal to fifty percent (50.0%) of the personal property tax revenue generated by the Project following the Project Completion Date; provided, however, that TOWN shall cease providing Personal Property Tax Grant payments once the aggregate amount of Personal Property Tax Grant payments provided to COMPANY has reached One Million Five Hundred Thousand and 0/100 Dollars (\$1,500,000.00). For purposes of clarity, there shall be no time limit on the period for which Personal Property Tax Grant payments are owed by TOWN to COMPANY; instead, the Personal Property Tax Grant payments shall continue until such aggregate amount is reached or until the termination of this Agreement, whichever first occurs.

- c. Payment. TOWN shall distribute an annual personal property tax bill to COMPANY in the ordinary course showing the amount of personal property tax owed by COMPANY. Nothing in this Agreement shall limit or restrict COMPANY's rights to challenge or appeal the personal property tax assessment under the process applicable to similarly situated taxpayers. Within ten (10) business days of TOWN's receipt of COMPANY's payment of the applicable personal property tax in full, TOWN shall remit payment back to COMPANY in the amount of the applicable portion of the Personal Property Tax Grant.
- d. Structural Change. In the event TOWN combines personal property tax values with the real property tax values for purposes of calculating the ad valorem taxes payable for this Project, then the Personal Property Tax Grants will continue to be paid in an amount equal to the greater of (i) the most recent payment under the Personal Property Tax Grant and (ii) the amount of payment under the Personal Property Tax Grant that would have been paid based on a current assessment of personal property and the most recent millage rate.

2. **HOT Tax Grant.**

- a. Administration. COMPANY shall remit the applicable HOT generated by the Project directly to Cecil County; provided, however, to the extent set forth in a separate agreement between COMPANY and the County, such HOT may be reduced by the amount of the County's then applicable administrative fee otherwise charged to TOWN for collection and processing of HOT.
- b. Calculation. TOWN shall provide COMPANY with HOT Grants, each in an amount equal to (i) ninety-seven and one-half percent (97.5%) of the HOT generated by the Project (at the then current tax rate of HOT), and paid by the County to the TOWN over the period from Project Completion Date until the tenth anniversary of the Project Completion Date, and (ii) ninety-five percent (95.0%) of the HOT generated by the Project (at the then current tax rate of HOT), and paid by the County to the Town, over the period from the tenth anniversary of the Project Completion Date until the twenty-fifth anniversary of the Project Completion Date. HOT Grants shall begin with the first HOT amount paid by COMPANY and remitted by the County to the TOWN following the Project Completion Date.
- c. Payment. TOWN shall remit to COMPANY each HOT Grant within ten (10) business days after the County remits the COMPANY'S applicable HOT payment to TOWN.

d. **Structural Change.** TOWN acknowledges and agrees that the intent of the HOT Grant is to share HOT generated by the Project with COMPANY in the amounts set forth above. To the extent the current structure and administration of HOT charged to the Project is amended, whether through the County changing its administrative fee, the TOWN enacting and collecting its own HOT or a similar hotel transient tax, or otherwise, the TOWN agrees that it will work with COMPANY to preserve the economics of the HOT refunds described in this Section 3.A.2. only through the use of HOT revenues generated by the Project.

B. **Challenge to Payment Amount.** TOWN shall initially determine the amount of each of the Personal Property Tax Grant payments and each of the HOT Grants due to COMPANY; provided, however, that the COMPANY may appeal the TOWN's determination of the amount of a Grant to the TOWN's Mayor and Commissioners within sixty (60) days after such Grant has been initially determined and communicated to the COMPANY. In the event COMPANY has not reached a resolution of its challenge within fourteen (14) days of its appeal to the TOWN's Mayor and Commissioners (the "Informal Appeal Period"), each Party shall endeavor to mutually agree upon an arbitrator to hear the appeal; provided, however, if the Parties do not so mutually agree within fourteen (14) days of the conclusion of the Informal Appeal Period, each Party shall select an independent arbitrator within fourteen (14) days thereafter to represent it and such arbitrators' duty shall be to mutually agree on a neutral arbitrator to hear the dispute. The selected arbitrator shall hear the appeal within thirty (30) days of his or her selection to hear the appeal (or such longer period as the arbitrator may dictate) and the arbitrator's determination of the amount of the Grant shall be final. COMPANY and TOWN shall share equally the costs of arbitration and the neutral arbitrator.

C. **Sewer Connection and Sewer Facility Fees.** As reflected on **Exhibit D** attached hereto, TOWN shall reduce by One Million One Hundred Twenty-Eight Thousand and 00/100 Dollars (\$1,128,000.00) its sewer connection and sewer facility fees otherwise payable by COMPANY in connection with the Project. TOWN shall credit to COMPANY the amount of One Million One Hundred Twenty-Eight Thousand and 00/100 Dollars (\$1,128,000.00) upon COMPANY paying in full the remaining Four Million Eight Hundred Twelve Thousand Dollars (\$4,812,000.00) (the "Net Sewer and Water Connection Fees and Sewer Facility Fee") as depicted on **Exhibit D**, which such amount shall represent the entire amount owed by COMPANY for sewer and water connection and sewer facility fees for the Project, provided that the Town may charge additional sewer and water connection and facility fees if the Project exceeds 500 rooms, or otherwise alters its facilities or amenities, to the extent that the Project requires additional water or sewer capacity (average daily usage and average daily volume) in excess of that shown on **Exhibit**

C. COMPANY shall not pay the Net Sewer and Water Connection Fees and Sewer Facility Fee before December 1, 2019.

D. **Utilities.**

1. TOWN shall perform, at its sole cost and expense, all water and sewer improvements up to the Property necessary to meet the sewer, domestic and fire protection water services usage requirements for the Project as detailed on **Exhibit C** attached hereto and in conformance with the Project schedule to be submitted by the COMPANY (collectively, the "Town Sewer and Water Improvements").
2. TOWN shall not be obligated to perform the Town Sewer and Water Improvements, other than the Civil Drawings (defined below), until COMPANY has paid to the TOWN, in full, the Net Sewer and Water Connection Fees and Sewer Facility Fee, which shall be non-refundable. TOWN shall commence and incur the expense of producing the civil engineering drawings necessary to fully plan the Town Sewer and Water Improvements (the "Civil Drawings") so that the Civil Drawings are fully complete no later than December 1, 2019. COMPANY shall have the right to utilize the existing water and sewer infrastructure during construction of the Project following payment of the Net Sewer and Water Connection Fees and Sewer Facility Fee, subject to the payment of normal water and sewer user fees. TOWN warrants that the water service infrastructure portion of the Town Sewer and Water Improvements shall be fully completed, functional and ready for public use no later than twelve (12) months after COMPANY's payment of the Net Sewer and Water Connection Fees and Sewer Facility Fee, and the sanitary sewer infrastructure portion of the Town Sewer and Water Improvements shall be fully completed, functional and ready for public use no later than fourteen (14) months after the COMPANY's payment of the Net Sewer and Water Connection Fees and Sewer Facility Fee. In the event TOWN does not meet such deadline or indicates to COMPANY that it cannot meet such deadline, COMPANY shall have the right, upon thirty (30) days' prior written notice, and provided that TOWN has not completed the water infrastructure and sanitary sewer infrastructure by the end of the notice period, to self-perform the Town Sewer and Water Improvements at the TOWN's sole expense, which such expense may be invoiced by COMPANY to TOWN in one or more progressive installments as work is completed and shall be paid by TOWN within thirty (30) days of its receipt of invoice.
3. In addition, TOWN shall cooperate and provide non-monetary assistance to COMPANY in securing all other utilities access as necessary to meet the minimum utility usage requirements for the Project as detailed on **Exhibit**

C attached hereto and in conformance with the Project schedule to be submitted by the COMPANY, including, without limitation, securing any necessary utility easements.

- E. **Project Approvals.** TOWN agrees to work cooperatively and promptly with COMPANY to obtain all necessary TOWN zoning and/or land use approvals, permits and/or licenses (which permits and/or licenses necessary for the Project shall be at COMPANY's expense) necessary to construct and operate the Project as currently contemplated, and to further provide all reasonably requested information and confirmations with respect to the Project's conformance with TOWN zoning requirements, including, without limitation, conformance with the existing CEMUD district requirements, and TOWN shall not take any action to intentionally frustrate or impede the development, construction and operation of the Project. Further, TOWN agrees to facilitate and support an application for COMPANY to construct a monument sign substantially as described on **Exhibit E** attached hereto in the vicinity of the intersection of Chesapeake Overlook Parkway and State Route 222, provided that such application includes permission for the erection of the sign by the owner of the property and the sign meets applicable regulations of Maryland Department of Transportation State Highway Administration, the approving authority for signage along the State Highway System. Except as otherwise expressly provided herein or permitted pursuant to this Agreement, Town shall not impose requirements or conditions upon the development and construction of the Project in connection with any of the approvals, permits or licenses that are inconsistent with the terms and conditions of this Agreement. This shall not prevent TOWN from applying to the Project requirements and conditions of general applicability under TOWN laws and regulations.
- F. **Roadway Improvements.** TOWN represents and warrants to COMPANY that (i) TOWN will not require COMPANY to perform or fund any Town road improvements in connection with the Project; and (ii) TOWN will cooperate and assist COMPANY in working with the State to address any offsite road improvements the State may require in connection with the Project; and (iii) TOWN warrants that Chesapeake Overlook Parkway will be a public road prior to the Project opening for business.

SECTION 4. OBLIGATIONS OF COMPANY.

- A. **Certification of Project Completion.** Before the TOWN provides COMPANY with any incentives or benefits under Section 3.A. of this Agreement, COMPANY shall certify to the TOWN that the Project is complete.
- B. **Job Creation.** Commencing in the first full calendar year that the Project is open for operation, and continuing during the term of this Agreement, no less than five

hundred (500) on-site jobs, in any combination of full-time jobs and part-time jobs, shall be attributed directly to the Project, as calculated by (i) including any jobs that may be attributable to a management company and any independent contractors working at the Project, and (ii) taking the average of such attributable jobs over a twelve (12) month period to account for any seasonal fluctuations. Nothing contained herein is meant to restrict COMPANY, or any subsequent owner, from continuing to operate the Project as efficiently as possible during the term of this Agreement and compliance will be established so long as the Project, including the hotel and appropriate amenities as updated from time to time, continues to operate at this location. Upon request by TOWN, COMPANY shall certify to TOWN the number of on-site jobs attributed directly to the project during the previous calendar year; provided, however, TOWN shall not make such request more than once per year. Further, TOWN acknowledges that the obligations under this Section 4.B. shall be excused for the duration of any Force Majeure condition.

- C. **Perryville Resident Hiring Opportunities.** COMPANY shall hold at least one job fair in the Town of Perryville for initial Project hiring and thereafter shall, upon the TOWN's request, coordinate with the TOWN's designated office to ensure publicly posted job openings are periodically communicated to such office.
- D. **Use of Grant Funds.** COMPANY shall use grant funds only for the purposes authorized by Section ~~53-7.B.~~ 52-7.B of the Perryville Town Code.
- E. **Change in Hotel Operator.** As required by Section ~~53-7.C.~~ 52-7.C. of the Perryville Town Code, if the operator of the hotel in the Project changes during the term of this Agreement, in order to continuing receiving incentives each subsequent operator must demonstrate that it has experience developing or successfully operating full service hotels pursuant to "industry standards" and hospitality venues; provided, however, TOWN agrees that (i) it shall not unreasonably withhold its determination that any subsequent hotel operator of the Project satisfies Section ~~53-7.C.~~ 52-7.C. of the Perryville Town Code, and (ii) if a subsequent hotel operator, collectively with its affiliates, has at least four (4) years' experience of managing or operating a full service hospitality facility with at least one hundred twenty-five (125) guest rooms then such subsequent operator will be automatically deemed to have satisfied the requirements of Section ~~53-7.C.~~ 52-7.C. of the Perryville Town Code; provided, however a subsequent operator may still demonstrate the experience required by Section ~~53-7.C.~~ 52-7.C. of the Perryville Town Code even if it does not have the exact experience described in this (ii). In the event the TOWN determines that a proposed subsequent operator does not satisfy Section ~~53-7.C.~~ 52-7.C. of the Perryville Town Code, the COMPANY may dispute such determination under Section 7.R. of this Agreement.
- F. **Annual Review.** TOWN, upon at least fifteen (15) business days' prior written request and at TOWN's expense, shall have the right to inspect COMPANY's hotel

reservation records to the extent necessary to confirm HOT reporting by COMPANY.

- G. Authorized to Transact Business in Maryland.** COMPANY at all times during the term of this Agreement shall be authorized to transact business in Maryland.

SECTION 5. MORTGAGE PROTECTION.

- A. Holders of Deed(s) of Trust.** Notwithstanding any other provisions of this Agreement, COMPANY shall have the right to grant one or more deeds of trust as security for one or more loans or other financing. Within ten (10) days after a Deed of Trust is recorded in the Official Public Records of Cecil County, Maryland, COMPANY shall provide the TOWN with a copy of such Deed of Trust, as well as any assignment or other transfer of the Deed(s) of Trust, and with the name and address of the holder of such Deed of Trust. The COMPANY's failure to provide such document(s) shall not affect any Deed of Trust, including without limitation, the validity, priority, or enforceability of such Deed of Trust. The act of recording the Deed of Trust or other document identified in this contract with the Cecil County Clerk shall not accomplish notice to the TOWN under this Agreement.
- B. Rights of Holders.** TOWN shall deliver a copy of any notice or demand to COMPANY concerning any Event of Default by COMPANY under this Agreement to each Holder who has previously sent a written notice to TOWN for such notices. TOWN shall have no duty to notify any Holder or subsequent transferee or successor in interest except at the addresses so provided. Any such Notice of Default shall be effective against any Holder when mailed to such Holder in accordance with this section. Each Holder shall have the right at its option to cure or remedy any Event of Default by COMPANY in accordance with the terms of this Agreement and/or any documentation described in the second to last sentence of Section 5.C. below, and to add the cost thereof to the secured debt and lien of its security interest. If an Event of Default in the initiation or completion of construction can only be remedied or cured by a Holder upon obtaining possession of the Project, such Holder may remedy or cure such Event of Default within a reasonable period of time after obtaining possession, provided such Holder seeks possession with reasonable diligence.
- C. Noninterference with Holders.** The provisions of this Agreement do not limit the right of Holders (a) to foreclose or otherwise enforce any Deed of Trust, (b) to pursue any remedies for the enforcement of any pledge or lien encumbering such portions of the Project, or (c) to accept, or cause its nominee to accept, a deed or other conveyance in lieu of foreclosure or other realization. In the event of (i) a foreclosure sale under any such Deed of Trust, (ii) a sale pursuant to any power of

sale contained in any such Deed of Trust, or (iii) a deed or other conveyance in lieu of any such sale, the purchaser or purchasers and their successors and assigns, and such portions of the Project shall be, and shall continue to be, subject to all of the conditions, restrictions, and covenants of all documents and instruments recorded pursuant to this Agreement. TOWN will execute such further documentation regarding the rights of any Holder as is customary with respect to construction or permanent financing, as the case may be, to the extent that such documentation is reasonably requested by any Holder and is determined by TOWN, in its sole determination, to be legally permissible for a town to execute. A refusal by TOWN to sign any requested document cannot form the basis of a condition of default in the Deed of Trust.

SECTION 6 EVENTS OF DEFAULT.

- A. Subject to the provisions addressing Events of Force Majeure (Section 7.F.), Section 6.B. below, and Notice and Opportunity to Cure (Section 6.C., Section 6.D. and Section 6.E.), each of the following shall constitute an “Event of Default” under this Agreement:
1. **Insolvency.** The dissolution or termination of COMPANY's existence as an ongoing business or concern, COMPANY's insolvency, appointment of receiver for COMPANY's or the Project, any assignment of all or substantially all of the assets of COMPANY for the benefit of creditors of COMPANY, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against COMPANY. However, in the case of involuntary proceedings, if such proceedings are discharged within one hundred eighty (180) days after filing, no Event of Default shall be deemed to have occurred.
 2. **Other Defaults.** Failure of COMPANY or TOWN to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, including TOWN's failure to timely make a Grant payment as described in Section 3.
- B. **Exception to default.** In no event will COMPANY or TOWN be deemed to be in default of this Agreement if the default results from the other party's actions, failure to act, omissions, or interference with the performance by COMPANY or TOWN of any of its obligations hereunder.
- C. **Notice of TOWN's Default.** In the event the COMPANY becomes aware of an Event of Default by the TOWN, COMPANY shall provide a written notice to TOWN of the nature of the Event of Default within thirty (30) days of COMPANY becoming aware of such Event of Default (“Notice of Default”). After receipt of the Notice of Default by TOWN, the provisions of Section 6.E. shall apply.

- D. **Notice of COMPANY's Default.** In the event the TOWN becomes aware of an Event of Default by the COMPANY, TOWN shall provide a Notice of Default to COMPANY of the nature of the Event of Default within thirty (30) days of TOWN becoming aware of such Event of Default. After receipt of the Notice of Default by COMPANY, the provisions of Section 6.E. shall apply.
- E. **Opportunity to Cure an Event of Default.** Upon the receipt of a Notice of Default by either Party, the following paragraphs shall apply:
1. COMPANY shall have a period of ninety (90) days after the other Party's delivery of the Notice of Default during which COMPANY shall cure the Event of Default ("Company Cure Period").
 2. If COMPANY fails to cure the Event of Default within the Company Cure Period to TOWN'S satisfaction but is actively trying to cure the Event of Default, COMPANY can notify TOWN of its efforts to cure and request an extension of the Company Cure Period. In such circumstance, COMPANY shall have a reasonable time to cure such default, not to exceed an additional sixty (60) days, provided that it is diligently pursuing the cure of such default.
 3. If COMPANY fails to cure the Event of Default within the Company Cure Period after expressing an intention not to cure, due to lack of meaningful effort to cure, or after an extension of the Company Cure Period has passed, TOWN has the right to pursue its remedies as stated in Section 6.F.
 4. TOWN shall have a period of ninety (90) days after the COMPANY's delivery of the Notice of Default during which TOWN shall cure the Event of Default; provided, however, in the case of TOWN's failure to remit a Grant payment to the COMPANY within a time limit set forth herein, TOWN's ability to cure such failure shall be limited to five (5) days from the Notice of Default (as applicable, the "Town Cure Period"). For purposes of clarity, there shall be no Town Cure Period in the event of the TOWN's default of its obligations to complete the Town Sewer and Water Improvements as described herein, and COMPANY shall be entitled to exercise its rights as specified in Section 3.D.2 without the need to deliver any Notice of Default, except that COMPANY still must provide the notice required in section 3.D.2.
 5. If TOWN fails to cure the Event of Default within the Cure Period to COMPANY'S satisfaction but is actively trying to cure the Event of Default, TOWN can notify COMPANY of its efforts to cure and request an extension of the Cure Period. In such circumstance, TOWN shall have a reasonable time to cure such default, not to exceed an additional sixty (60) days, provided that it is diligently pursuing the cure of such default.

6. If TOWN fails to cure the Event of Default within the applicable Town Cure Period after expressing an intention not to cure, due to lack of meaningful effort to cure, or after an extension of the Town Cure Period has passed, COMPANY has the right to pursue its remedies as stated in Section 6.G.
- F. **TOWN Remedies for COMPANY's Failure to Cure.** If COMPANY fails to cure an Event of Default in accordance with Section 6.E., the TOWN's sole remedy shall be to terminate this Agreement by sending a written notice to Company giving thirty (30) days' notice of termination. Notwithstanding any provision in this Agreement to the contrary, COMPANY shall not be required to pay any damages for a breach of any of its obligations under this Agreement and TOWN shall not be entitled to seek any monetary damages against COMPANY. COMPANY shall forfeit all Grants that accrue but are unpaid prior to the effective date of termination.
- G. **COMPANY Remedies for TOWN's Failure to Cure.** If TOWN fails to cure an Event of Default in accordance with Section 6.E., COMPANY may enforce any and all remedies available at law or equity, including monetary damages and/or specific enforcement of such obligation
- H. **Liability.** In no event will either Party be liable to the other Party for any indirect, special, punitive, exemplary, incidental or consequential damages. This limitation will apply regardless of whether or not the other Party has been advised of the possibility of such damages.

SECTION 7. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement.

- A. **Amendments.** This Agreement constitutes the entire understanding and agreement of the Parties as to the matters set forth in this Agreement. No alteration or amendment to this Agreement shall be effective unless made in writing and signed by all Parties.
- B. **Stabilization.** Any legislative or regulatory measure by TOWN that operates to annul, or materially amend or modify, the provisions of this Agreement or defeat the intent of this Agreement shall be deemed a breach of this Agreement and Event of Default by TOWN unless consented to by COMPANY.
- C. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, and all obligations of the Parties created hereunder are performable in Cecil County, Maryland. Venue

for any action arising under this Agreement shall lie in the state courts having jurisdiction in Cecil County, Maryland.

- D. **Assignment of Applicant's Rights.** COMPANY may transfer its rights and obligations pursuant to this Agreement without the consent of the TOWN to: (A) any Affiliate of COMPANY; (B) any lender as part of a collateral assignment thereto; and (C) upon prior written notice to TOWN (so long as such notice is not prohibited under any applicable confidentiality obligations of COMPANY), any assignee of COMPANY's interest in this Agreement that agrees to assume all rights and obligations of COMPANY hereunder. Any change of control of COMPANY that does not cause COMPANY to transfer its direct ownership rights in the Project shall not require consent of the TOWN. This provision is a material term of this Agreement. COMPANY may not make any other transfer or assignment of COMPANY's rights and obligations under this Agreement without the prior written consent of TOWN, which the Town shall not unreasonably refuse, condition or delay.
- E. **Binding Obligation.** TOWN warrants and represents that the individual executing this Agreement on behalf of TOWN has full authority to execute this Agreement and bind TOWN to the same. The individual executing this Agreement on COMPANY's behalf warrants and represents that he or she has full authority to execute this Agreement and bind COMPANY to the same.
- F. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- G. **Force Majeure.** If the performance of any obligation hereunder is delayed by reason of war, terrorism or the imminent threat thereof, insurrection, civil commotion, riots, labor disputes, strikes, lockouts, embargoes, hurricanes or named windstorms, unusual weather, fire, casualty, epidemics, quarantine, any other public health restrictions or public health advisories, disruption to local, national or international transport services, governmental restrictions, any rationing of public services or utilities, or litigation brought on by a third party (but only to the extent performance is enjoined by a court of competent jurisdiction as a result of such litigation), unavoidable casualties or other causes beyond the reasonable control of a party, or an increase of more than 5% in the BCI over any six (6) month period and continuing until the BCI has not increased by more than 2% over any three (3) month period (each, an "Event of Force Majeure"), the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.

- H. **Governmental Immunity.** The TOWN is not waiving immunity of any type or nature by entering into this Agreement.
- I. **Relationship of the Parties.** The relationship of the TOWN and COMPANY under this Agreement is not and shall not be construed or interpreted to be a partnership, joint venture or agency.
- J. **Third Party Beneficiaries.** This Agreement is not intended to confer any rights, privileges, or causes of action upon any third party
- K. **Exhibits.** The following exhibits are attached to and incorporated into this Agreement for all purposes.

EXHIBIT A: Property Description
EXHIBIT B: Site Plan
EXHIBIT C: Minimum Utility Usage Requirements
EXHIBIT D: Water and Sewer Connection Fees
EXHIBIT E: Monument Sign

- L. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, certified first class, postage prepaid, addressed to the Party to whom the notice is to be given at the addresses shown below. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, each Party agrees to keep the other informed at all times of its current address.

TOWN: Town of Perryville
P.O. Box 773
Perryville, MD 21903

COMPANY: GWR Perryville LLC
c/o Great Wolf Resorts, Inc.
Attn: Development: Perryville
350 N. Orleans St., Suite 10000B
Chicago, IL 60654

- M. **Compliance with Applicable Laws.** The Project, including the Property, the improvements constructed thereon, and the business operations associated therewith, at all times shall be constructed, operated and used in the manner that is

in accordance with all applicable federal, local and state laws, codes and regulations. This Agreement shall confer no vested rights on the Project unless specifically enumerated herein.

- N. **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.
- O. **Estoppel Certificate.** The COMPANY or its lender, at any time, and from time to time, by written notice to the TOWN may request TOWN to certify in writing that: (a) this Agreement is in full force and effect; (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications; (c) COMPANY is not in default of the performance of its obligations, or an Event of Default has occurred and has not been cured, to describe therein the nature and extent of any such Event of Default; and (such other certifications that COMPANY may reasonably request. The TOWN shall execute and return such certificate within ten (10) business days following receipt of COMPANY's written request, or as soon thereafter as practicable. COMPANY and TOWN acknowledge that a certificate may be relied upon by tenants, transferees, investors, partners and underwriters.
- P. **Recitals.** The Recitals at the beginning of this Agreement are material parts of this Agreement and not merely prefatory.
- Q. **Binding Effect.** This agreement shall be binding upon and inure to the benefit of the TOWN and COMPANY and their respective successors and permitted assigns.
- R. **Dispute Resolution.** Any dispute arising out of this Agreement that does not have a specified dispute resolution process herein, may be resolved by binding arbitration. In the event a Party desires to seek binding arbitration for a dispute under this Agreement, such Party shall provide written notice to the other Party and each Party shall endeavor to mutually agree upon an arbitrator to hear the dispute; provided, however, if the Parties do not so mutually agree within fourteen (14) days after such written notice, each Party shall select an independent arbitrator within fourteen (14) days thereafter to represent it and such arbitrators' duty shall be to mutually agree on a neutral arbitrator to hear the dispute. The selected arbitrator shall hear the appeal within thirty (30) days of his or her selection to hear the appeal (or such longer period as the arbitrator may dictate) and the arbitrator's determination of the amount of the Grant shall be final. COMPANY and TOWN shall share equally the costs of arbitration and the neutral arbitrator. For purposes of clarity, any disagreement as to whether a proposed subsequent operator of the Project satisfies Section ~~53-7.C.~~ 52-7.C. of the Perryville Town

Code (as described in Section 4.E. of this Agreement) may be finally determined by arbitration as set forth herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below, to be effective as of the Effective Date.

[Signature Page Follows]

TOWN:

TOWN OF PERRYVILLE

By: Robert R. Ashby, Jr.
Robert R. Ashby, Jr., Mayor

ACKNOWLEDGMENT

STATE OF MARYLAND)
) ss:
COUNTY OF CECIL)

Before me, the undersigned authority, a Notary Public in and for said County and State aforesaid, personally appeared Robert R. Ashby, Jr., with whom I am personally acquainted, and who, upon oath, acknowledged himself/herself to be the Mayor of Town of Perryville, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal at office this 5th day of March, 2019.

Jackie Dagle
Notary Public
My Commission Expires: 10/27/2020

[Signatures continue on next page]

COMPANY:

GWR PERRYVILLE LLC

By: [Signature]
Name: Steven J. Jacobsen
Title: V.P. Domestic Development

ACKNOWLEDGMENT

STATE OF Maryland)
) ss:
COUNTY OF Cecil)

Before me, the undersigned authority, a Notary Public in and for said County and State aforesaid, personally appeared Steven Jacobsen, with whom I am personally acquainted, and who, upon oath, acknowledged himself/herself to be the Vice President of GWR Perryville LLC, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal at office this 5th day of March 2019.

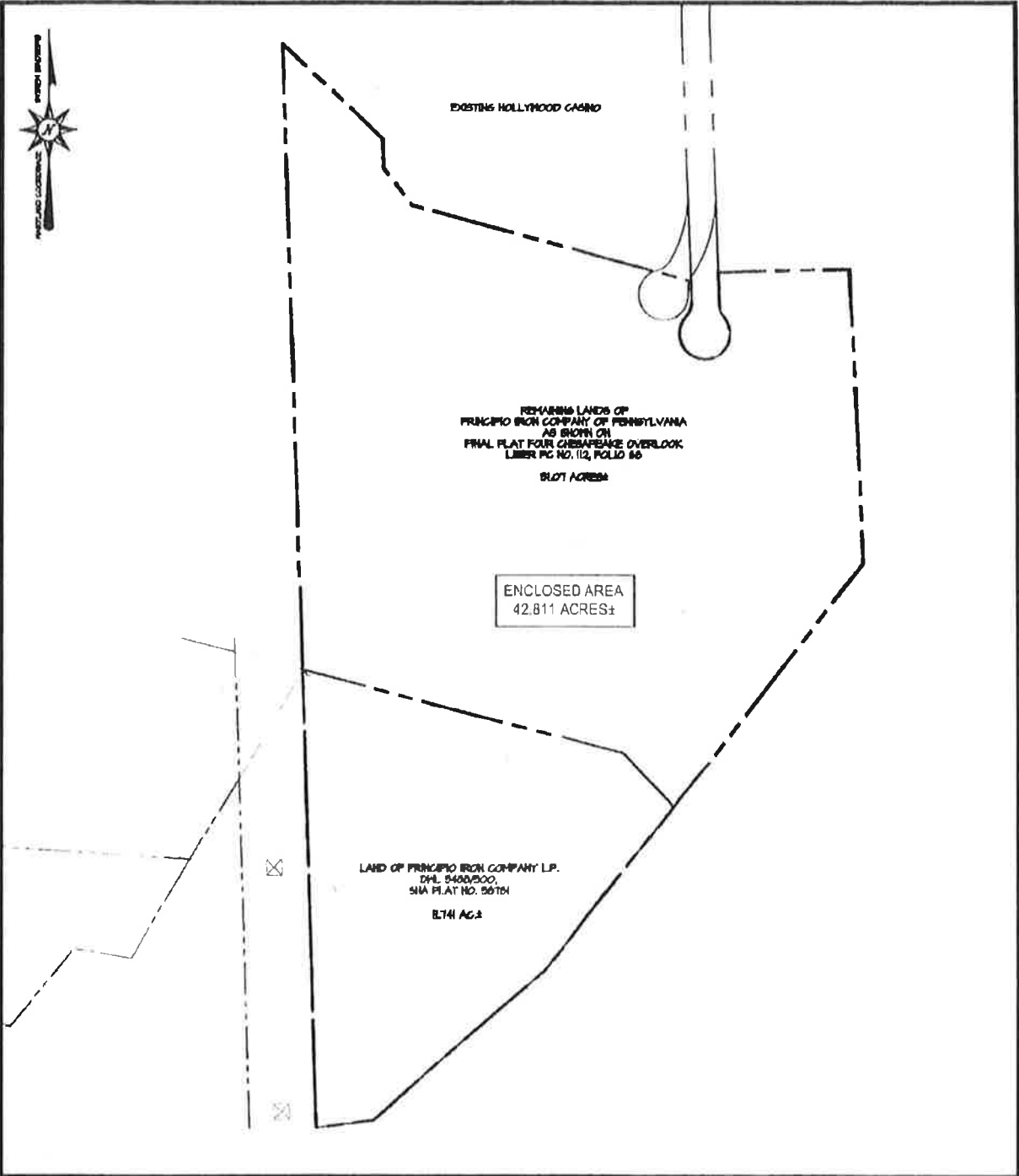
[Signature]
Notary Public
My Commission Expires: 10/27/2020

EXPLANATION:

Underlining indicates amendments adding matter to Agreement.
Strike-Out indicates matter stricken from Agreement by amendment.

EXHIBIT A

PROPERTY DESCRIPTION



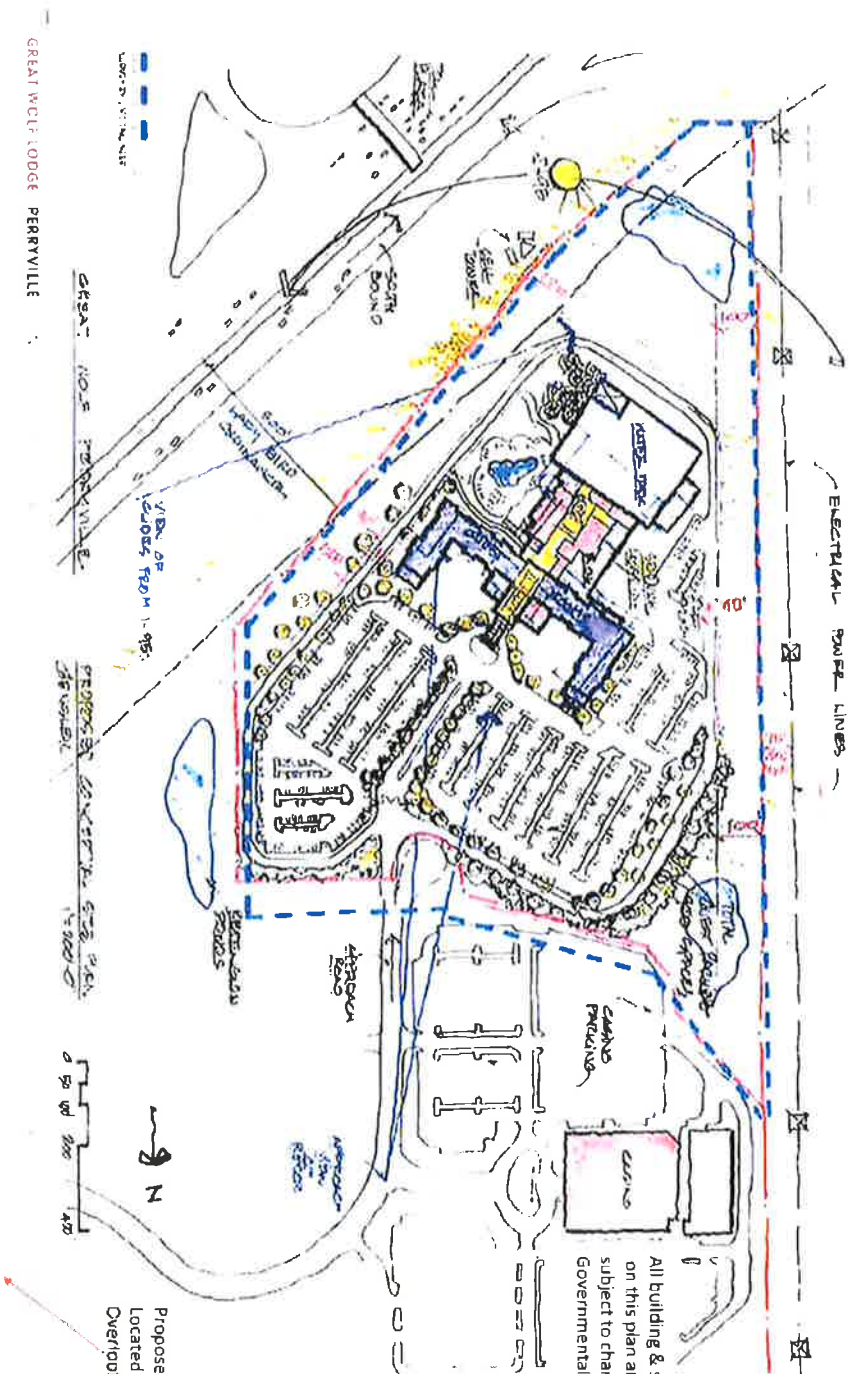
	MORRIS & RITCHIE ASSOCIATES, INC. ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS 3445-A BOX HILL CORPORATE CENTER DRIVE ABINGDON, MARYLAND 21009 PHONE (410) 515-8000 FAX (410) 515-9002	PROPERTY EXHIBIT GREAT WOLF RESORTS AT CHESAPEAKE OVERLOOK			
	MRAGTA.COM	DATE FEBRUARY 4, 2019	DRAWN BY AGD	DESIGN BY: AGD	REVIEW BY AGD

SCALE: 1" = 100'	DATE FEBRUARY 4, 2019	DRAWN BY AGD	DESIGN BY: AGD	REVIEW BY AGD	JOB NO. 20234
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EXHIBIT B

SITE PLAN

EXHIBIT B
 Preliminary Concept Site Plan



All building & site plan elements depicted on this plan are in concept form and subject to change based upon final design, Governmental approvals and cost models

Proposed GWL monument sign
 Located at Rt 22 and Chesapeake
 Overlook Blvd

GREAT WOLF LODGE PERRYVILLE

EXHIBIT C
MINIMUM UTILITY USAGE REQUIREMENTS

GREAT WOLF LODGE
OFF-SITE INFRASTRUCTURE AND UTILITIES PROVIDED TO PROPERTY
LINE
Utility Exhibit
1/7/2019

Project Size	Rooms	500
Water	Avg. Daily Usage (gallons)	135,000
	Minimum Pressure (psi)	65
	Min. Line Size (inches)	12
Sewer	Avg. Daily Volume (gallons)	115,000
	Min Line Size (inches)	12
Electric	Kilowatts	10,000
	Ampere	12,000
	Voltage	480/277
	Phase	3 phase - 4 wire
Electric (Temporary)	Ampere	2,500
	Phase	3 phase - 4 wire
Gas	Peak Load (CFH)	40,000
	Pressure After Meter	Medium to High
Phone	Minimum of 3 service providers	
Cable	Minimum of 3 service providers	

Note: 1) Line sizes for water & sewer are minimum sizes. Town of Perryville is required to confirm line sizes based upon projected uses. Final line sizes to be confirmed with GWL Civil engineers.

2) Separate water line may be required for Fire protection

3) The above usage requirements assume a project of up to 500 keys - Guest rooms. Town acknowledges & agrees that the above minimum requirements are subject to adjustment in the event a larger project is mutually approved.

EXHIBIT D
WATER AND SEWER CONNECTION FEES

Exhibit D

W/S	GPD	EDU's	Connection / Facility Fee
Water - Connection	135,000	540	\$ 2,700,000.00
Sewer - Connection	135,000	540	\$ 2,700,000.00
Sewer - Facility	135,000	540	\$ 540,000.00
			<u>\$ 5,940,000.00</u>
Sewer Connection / Facility Fee Incentive			\$ 1,128,000.00
Net Sewer and Water Connection Fees and Sewer Facility Fee			<u>\$ 4,812,000.00</u>

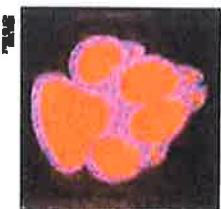
EXHIBIT E
MONUMENT SIGN

Monument Signage

Great Wolf Paw LED Sign Sample Size Approximately 11' tall, 7' wide max 120 SF each side - Total 240 SF



PS-1 8 1/2" DIAMETER x 1 1/2" PAW SPONS



Monument Sign Sample

Monument Branded structure sign will vary in height & width depending upon location
 Maximum 16'-0" height AFG
 Maximum 31'-0" width.
 Sign will also be face lighted by ground mounted lights

All signage shown is sample signage only, content will be customized upon site visit



Monument Sign

Color Specifications

- Primary color
- Secondary color
- Accent color

Standardized wood sign clear vertical grain color or stained, 1 1/2" thick with vertical 1/2" x 3/4" base framing

The above signage represents design intent only and are subject to change based upon brand/logo updates.