

APPROVING RESOLUTION

A regular meeting of the Orange County Industrial Development Agency held on November 15, 2023 at 5:30 p.m. (local time) at the Orange County Government Center Community Room, 255 Main Street, Goshen, New York.

The meeting was called to order by Dean Tamburri and upon the roll being duly called, the following members were:

MEMBERS PRESENT: D. Tamburri, J. Criost, M. Greene, G. Palladino, S. Walski, V. Odock

THE FOLLOWING PERSONS WERE ALSO PRESENT: W. Fioravanti, K. Reilly, S. Katzoff, J. Rpijas, B. Leentjes, M. Baioer, R. Baier

The following Resolution was offered by Giovanni Palladino and seconded by Marc Greene:

RESOLUTION APPROVING (i) THE REAPPOINTMENT OF THE COMPANY OR ITS SUB-AGENT AS AGENT OF THE AGENCY UNTIL MARCH 1, 2024; AND (ii) AUTHORIZING THE EXECUTION OF ANY AND ALL NECESSARY DOCUMENTS TO EFFECUTATE THE REAPPOINTMENT

WHEREAS, the Orange County Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 390 of the Laws of 1972 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, at the request of X, LLC, 717 LLC AND BAZS, LLC (collectively, the "**Company**"), by resolution adopted April 14, 2016 (the "**Final Resolution**") the Agency agreed to undertake a project (the "**Original Project**") consisting of: (A) the acquisition or retention by the Agency of a leasehold interest in a portion of a parcel of land located at 109-115 Brookside Avenue in the Village and Town of Chester, Orange County, New York [TMID #s: Part of 107-2-14.2, Part of 107-2-15 and Part of 2-1-61.2] (collectively, the "**Land**") and the existing improvements thereon consisting principally of two 18-hole mini-golf courses, go-kart track, climbing wall, arcade, batting cages, a roller skating rink, laser tag area, 200-seat restaurant, rock climbing area and indoor arcade (collectively the "**Existing Improvements**"); (B)(i) the removal of the existing batting cages to make room for new rides and (ii) the construction on the Land of

an approximately 15,000 square-foot addition to the existing building to accommodate new rides, arcade equipment, inflatable bounces, digital billboards and related improvements and equipment in furtherance of the Company's existing amusement park (collectively, the "**Original Improvements**"); (C) the acquisition in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "**Original Equipment**" and, collectively with the Land, the Existing Improvements and the Original Improvements, the "**Original Project Facility**"); and (D) the granting of certain financial assistance in the form of exemptions from real estate taxes, State and local sales and use tax and mortgage recording tax, if necessary (collectively the "**Financial Assistance**"); and

WHEREAS, the Company and Agency entered into a lease transaction, dated as of April 1, 2016, to effectuate the undertaking of the Original Project and the conference of the approved Financial Assistance (the "**Lease Transaction**"). As part of the Lease Transaction for purposes of undertaking and completing the Original Project Facility, the Company was awarded an amount not to exceed \$162,500 in exemptions from State and local sales and use tax (the "**Exemption**"), and Leentjes Amusements Corp. (d/b/a The Castle) (collectively, "**Leentjes**") was appointed as the sub-agent of the Agency through December 31, 2017 (the "**Appointment**") for the purpose of undertaking and completing the Original Project; and

WHEREAS, as of October 8, 2023 the Company has a balance of approximately **\$93,320.51** in unused State and local sales and use tax exemption remaining available for the Original Project (the "**Remaining Exemption**"); and

WHEREAS, the Company previously requested three extensions of time relative to the use of the Exemption and the appointment of Leentjes, the latest ran through December 31, 2022; and

WHEREAS, as part of the prior extension requests, the Company also requested, and was provided, with an amendment of their payment in lieu of tax ("**PILOT**") agreement to extend the term to allow for disruptions caused by the pandemic and other unanticipated issues impacting completion; and

WHEREAS, by letter dated November 6, 2023, the Company advised that the Project completion has been delayed due to unanticipated events including the COVID-19 pandemic, uncertain impacts of the LEGOLAND New York development, local approval delays and the skyrocketing costs of building materials and equipment; and

WHEREAS, in light of these unanticipated delays, the Company is requesting a reappointment of Leentjes as their sub-agent until March 1, 2024, or further resolution of the Agency in conjunction with requested modifications of the Original Project as more fully set forth herein, to provide the Company with an opportunity to utilize the Remaining Exemption to further the Original Project (the "**Reappointment**"); and

WHEREAS, the Reappointment is in furtherance of the Financial Assistance that was previously approved for the Project, which underwent an environmental review pursuant to the State Environmental Quality Review Act ("**SEQRA**"), and the present Reappointment request is

insubstantial and does not require reconsideration or further review by the Agency under SEQRA.

NOW, THEREFORE, be it resolved by the members of the Orange County Industrial Development Agency as follows:

(1) Based upon the representations made by the Company to the Agency, including but not limited to there being no event of default under the Lease Documents (as defined herein), the Agency hereby makes the following findings and determinations:

(a) The granting of the Reappointment does not require reconsideration or further review under SEQRA.

(b) The Agency authorizes the Reappointment with respect to the Original Project through and including **March 1, 2024**, conditioned upon the Company: (i) representing and warranting that there are no events of default under any of the documents executed and delivered by the Company in conjunction with the Lease Transaction, including but not limited to a lease agreement, a leaseback agreement and an environmental compliance and indemnification agreement, each dated as of April 1, 2016 (collectively, the "***Lease Documents***"); (ii) confirming that all insurance executed and delivered in conjunction with the Project and the Lease Transaction remains in full force and effect all in accordance with the Lease Documents and will submit to the Agency proof of same; (iii) submitting to the Agency any applicable information requested by the Agency with respect to the Reappointment so that they can accurately track and report Original Project and Financial Assistance information as required under the Act; (iv) executing and delivering any and all documents required by the Agency in connection with the Reappointment and to carry out the intent of this Resolution; (v) submitting any applicable administrative fees and all legal fees incurred by the Agency in exchange for the Agency's grant of the Reappointment; and (vi) submitting any proof required by the Agency demonstrating that the Company has not realized State and local sales and use tax exemptions in excess of what was authorized for the Project.

(2) The Agency is authorized to execute all documents necessary to effectuate the reappointment (collectively, the "***Reappointment Documents***") including but not limited to revisions or amendments of the Lease Documents, issuance of a new Sales Tax Appointment Letter and the appropriate "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for each of Leentjes and any other sub-agents in accordance with the Lease Documents; and each the Chairman, the Vice Chairman, Chief Executive Officer and/or the Chief Operating Officer of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the documents, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein as the (Vice) Chairman deems appropriate and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution. The execution thereof by the Chairman, the Vice Chairman, Chief Executive Officer and/or the Chief Operating Officer constitutes conclusive evidence of such approval.

(3) Bousquet Holstein PLLC, as counsel to the Agency, is hereby authorized to work with the Agency and others to prepare, for submission to the Chairman, Vice Chairman, Chief Executive Officer and/or the Chief Operating Officer, all Documents necessary to effect the intent of this Resolution.

(4) The Company shall provide or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project and the Company shall, and cause each Additional Agent, to make such records available to the Agency and the State Commissioner of Taxation and Finance (the "**Commissioner**") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request.

(5) No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

(6) The Secretary of the Agency is hereby authorized and may distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(7) This Resolution shall become effective immediately. A copy of this Resolution, together with any attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

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

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Dean Tamburri	X			
Vincent Odock	X			
Marc Greene	X			
Giovanni Palladino	X			
James Rinaldi			X	
Susan Walski	X			
Jeffrey D. Crist	X			

The resolutions were thereupon duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

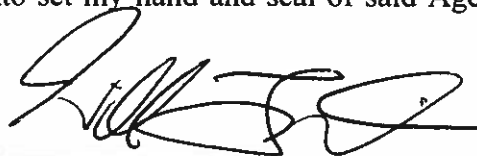
I, the undersigned Chief Executive Officer of the Orange County Industrial Development Agency, **DO HEREBY CERTIFY:**

That I have compared the foregoing extract of the minutes of the meeting of the Orange County Industrial Development Agency (the "Agency") including the resolution contained therein, held on November 15, 2023, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this 15TH day of November, 2023.



William Fioravanti, Chief Executive Officer

(S E A L)