

May 18, 2016

**HARRIS BEACH** PLLC  
ATTORNEYS AT LAW

99 GARNSEY ROAD  
PITTSFORD, NY 14534  
(585) 419-8800

**RUSSELL E. GAENZLE**

DIRECT: (585) 419-8718  
FAX: (585) 419-8816  
RGAENZLE@HARRISBEACH.COM

TO ALL ON THE ATTACHED DISTRIBUTION LIST:

Re: Orange County Industrial Development Agency ("OCIDA")  
X, LLC, 717 LLC and BAZS, LLC Project  
109-115 Brookside Avenue in the Village and Town of Chester,  
Orange County, NY (Tax Map Nos.: Part of 107-2-14.2, Part of 107-2-15 and  
Part of 2-1-61.2)

Gentlemen and Ms. O'Neill:

Enclosed herewith please find a copy of the Tax Agreement and the Application for Real  
Property Tax Exemption with respect to the above-captioned matter.

Very truly yours,

*Russ Gaenzle*  
Russell E. Gaenzle

REG/lap  
Enclosures

cc: James R. Petro, Jr., OCIDA  
Brian Leentjes  
Robert Green, Esq.

## DISTRIBUTION LIST

Honorable Steven M. Neuhaus  
Orange County Executive  
40 Matthews Street  
Goshen, New York 10924  
CERTIFIED MAIL RECEIPT #:  
7015 1520 0003 5211 0898

Mr. Alex Jamieson, Supervisor  
Town of Chester  
1786 Kings Highway  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0003 5211 0911

Mr. John Schuler, Assessor  
Town of Chester  
1786 Kings Highway  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0003 5211 0935

Mr. Sean Michel, Superintendent  
Chester Union Free School District  
64 Hambletonian Avenue  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0003 5211 0959

Mr. John I. McCarey  
Real Property Tax Service  
124 Main Street  
Goshen, New York 10924  
CERTIFIED MAIL RECEIPT #:  
7015 1520 0003 5211 0904

Mr. John Thomas Bell, Mayor  
Village of Chester  
47 Main Street  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0003 5211 0928

Ms. Angela O'Neill, Treasurer  
Village of Chester  
47 Main Street  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0003 5211 0942

Mr. Frank Sambets, President, BOE  
Chester Union Free School District  
64 Hambletonian Avenue  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0003 5211 0966

**ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**X, LLC, 717 LLC AND BAZS, LLC  
(collectively, the "Company")**

---

**TAX AGREEMENT**

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**Dated as of April 1, 2016**

**Affected Tax Jurisdictions:  
Orange County  
Town of Chester  
Village of Chester  
Chester Union Free School District**

## TAX AGREEMENT

THIS TAX AGREEMENT, dated as of the 1<sup>st</sup> day of April, 2016 (the "Tax Agreement"), is by and between the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with its registered offices located at Orange County Business Accelerator, 4 Crotty Lane, Suite 100, New Windsor, New York 12553 (the "Agency") and **X, LLC, 717 LLC AND BAZS, LLC**, each a limited liability company formed and validly existing under the laws of the State of New York with an address of 366 Bellvale Road, Chester, New York 10918 (collectively, the "Company").

### WITNESSETH:

WHEREAS, the Agency was created by Chapter 390 of the Laws of 1972 of the State of New York 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 (the "State"); and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "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 "Improvements"); and (C) the acquisition in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to acquire, construct and equip the Facility, the Agency is willing to take a leasehold interest in the Land, Existing Improvements, Improvements and personal property constituting the Facility pursuant to the terms and conditions of a certain Lease Agreement, dated as of the date hereof (the "Lease Agreement"), and lease said Land, Existing Improvements, Improvements and personal property back to the Company pursuant to the terms and conditions of a certain Leaseback Agreement, dated as of the date hereof (the "Leaseback Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of Orange County (the "County"), the Town of Chester (the "Town"), the Village of Chester (the "Village") and the Chester Union Free School District (the "School District" and, collectively with the County, the Town and the Village, the "Affected Tax Jurisdictions").

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

Section I - Payment in lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the taxable status date (March 1, 2017) (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes commencing with the 2018 County and Town calendar tax year and the 2016/2017 Village and School District fiscal tax years. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County, Town, Village and School District. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the 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) 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 overall operating efficiency of the Facility is not impaired and 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 file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. Agreement to Make Payments. The parties agree and acknowledge that payments made under this Tax Agreement are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls. The Company shall pay annually to the Affected Tax Jurisdictions as a payment in lieu of taxes: (i) on or before January 1 of each calendar year for County and Town taxes, (ii) on or before June 30 for Village taxes and (iii) on or before September 1 of each calendar year for School District taxes; an amount equal to the Total Tax Payment (as calculated on Schedule A attached hereto, and in accordance with the other provisions set forth in this Tax Agreement). The first such Total Tax Payments shall be due on January 1, 2018, June 30, 2017 and September 1, 2017, respectively, and on each January 1,

June 30 and September 1 thereafter for the term of this Tax Agreement. Upon the expiration of this Tax Agreement, the Company shall pay the County, Town, Village and School District tax bills in the amounts and on the dates when due as if the Agency were not in title.

1.2 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder, if any, within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total Tax Payment among the Affected Tax Jurisdictions, the Agency shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County, Town, Village and special district purposes, the tax rates used to determine the allocation of the Total Tax Payment shall be the tax rates relating to the calendar year which includes the Tax Payment due date. For School District purposes, the tax rates used to determine the Tax Payment shall be the rates relating to the School District year which includes the Tax Payment due date.

1.4 Valuation of Future Additions to the Facility. If there shall be a future addition to the Facility constructed or added in any manner after the date of this Tax Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total Tax Payment. The Agency shall notify the Company of any proposed increase in the Total Tax Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased Tax payment until a different Total Tax Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total Tax Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding Tax Payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2018 County and Town calendar tax year through the 2027 County and Town calendar tax year and (ii) the 2016/2017 Village and School District fiscal tax years through the 2026/2027 Village and School District fiscal tax years. This Tax Agreement shall expire on December 31, 2027; provided, however, the Company shall pay the 2027/2028 Village and School District tax bills and the 2028 County and Town tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Tax Agreement executed by both parties after any applicable public hearings. 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 herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of years elapsed under the Leaseback

Agreement), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

## Section II - Special District Charges, Special Assessments and other charges.

2.1 Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

## Section III - Transfer of Facility.

3.1 In the event that the Facility is transferred from the Agency to the Company (the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section I hereof, or this Tax Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

## Section IV - Assessment and Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Tax Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

## Section V - Changes in Law.

5.1 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

## Section VI - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section I within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any events of default under the Leaseback Agreement after any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section I hereof are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows: with respect to payments to be made pursuant to Section I hereof, if said payment is not received by the Delinquency Date defined in Section 6.1 hereof, the Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

## Section VII - Assignment.

7.1 No portion of any interest in this Tax Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed.

## Section VIII - Miscellaneous.

8.1 This Tax Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

8.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:



To the Agency:

Orange County Industrial Development Agency  
Orange County Business Accelerator  
4 Crotty Lane, Suite 100  
New Windsor, New York 12553  
Attn: Executive Director

With Copy To:

Kevin T. Dowd, Esq.  
Attorney - Orange County IDA  
46 Daisy Lane  
Montgomery, New York 12549

And To:

Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Russell E. Gaenzle, Esq.

To the Company:

X, LLC  
717 LLC  
BAZS, LLC  
366 Bellvale Road  
Chester, New York 10918  
Attn.: Brian Leentjes, Member

With Copy To:

Robert Green, Esq.  
55 St. John Street  
Goshen, New York 10924

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8.3 This Tax Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the Federal or state courts located in Orange County, New York.

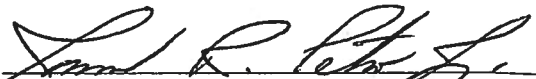
8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. None of the members of the Agency nor any person executing this Tax Agreement on its behalf shall be liable personally under this Tax Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Tax Agreement.

*[Signature Page Follows]*

**[Signature Page to Tax Agreement]**

IN WITNESS WHEREOF, the parties hereto have executed this Tax Agreement as of the day and year first above written.

**ORANGE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By:   
James R. Petro, Jr., Executive Director

**X, LLC**

By:   
Brian Leentjes, Member

**717 LLC**

By:   
Brian Leentjes, Member

**BAZS, LLC**

By:   
Brian Leentjes, Member

**SCHEDULE A**  
**TO**  
**TAX AGREEMENT DATED AS OF APRIL 1, 2016**  
**BY AND BETWEEN THE**  
**ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**AND X, LLC, 717 LLC AND BAZS, LLC**  
**(collectively, the "Company")**

"Total Tax Payment" shall be calculated as follows:

<u>Tax Year</u>	<u>County and Town Tax Year</u>	<u>Village and School Tax Year</u>	<u>Total Taxable Valuation</u>
Year 1	2018	2017/2018	Base Valuation, plus (Added Value x .00)
Year 2	2019	2018/2019	Base Valuation, plus (Added Value x .10)
Year 3	2020	2019/2020	Base Valuation, plus (Added Value x .20)
Year 4	2021	2020/2021	Base Valuation, plus (Added Value x .30)
Year 5	2022	2021/2022	Base Valuation, plus (Added Value x .40)
Year 6	2023	2022/2023	Base Valuation, plus (Added Value x .50)
Year 7	2024	2023/2024	Base Valuation, plus (Added Value x .60)
Year 8	2025	2024/2025	Base Valuation, plus (Added Value x .70)
Year 9	2026	2025/2026	Base Valuation, plus (Added Value x .80)
Year 10	2027	2026/2027	Base Valuation, plus (Added Value x .90)

For the term of this Tax Agreement, the Company shall continue to pay (i) full taxes based on the assessed value of the Land and (ii) the amounts required under that certain Payment In Lieu of Tax Agreement, dated as of August 1, 2006 with respect to the Existing Improvements (the "Original PILOT") before the completion of any Project improvements (the "Base Valuation"). During the term of this Tax Agreement, the Base Valuation shall be increased from time to time by the percentage increase in the assessed valuation in all taxable real property in the Village and Town of Chester, Orange County, New York, as of the respective tax status date for the tax year for which the recalculation is being made. The Total Taxable Valuation for each Total Tax Payment shall be calculated such that a graduated abatement factor ("Abatement Factor") shall be applied to the increased assessed valuation attributable to the Improvements made to the Project Facility by the Company, as an Agent of the Agency, for the Project (the "Added Value"). Notwithstanding anything contained herein or in the Leaseback Agreement to the contrary, upon the expiration of the Original PILOT, the Company shall pay an amount equal to full taxes with respect to the Existing Improvements.

Once the Total Taxable Valuation is established using the Abatement Factor, the Total Tax Payment shall be determined by multiplying the Total Taxable Valuation by the respective tax rate for each affected tax jurisdiction (after application of any applicable equalization rate). After Year 10, the Facility shall be subject to full taxation by the affected taxing jurisdictions.

Total Taxable Valuation = Base Valuation + (Added Value x Abatement Factor)

Total Tax Payment = Total Taxable Valuation (after equalization) x Tax Rate



NYS BOARD OF REAL PROPERTY SERVICES

RP-412-a (1/95)

INDUSTRIAL DEVELOPMENT AGENCIES  
APPLICATION FOR REAL PROPERTY TAX EXEMPTION

(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. **INDUSTRIAL DEVELOPMENT AGENCY (IDA)**

Name Orange County Industrial Development Agency  
Street 4 Crotty Lane, Suite 100  
City New Windsor, New York 12553  
Telephone no. Day (845) 234-4192  
Evening ( )  
Contact James R. Petro, Jr.  
Title Executive Director

2. **OCCUPANT (IF OTHER THAN IDA)**

(If more than one occupant attach separate listing)

Name X, LLC, 717 LLC and BAZS, LLC  
Street 366 Bellvale Road  
City Chester, New York 10918  
Telephone no. Day (845) 469-2116  
Evening ( )  
Contact Brian Leentjes  
Title Member

3. **DESCRIPTION OF PARCEL**

- a. Assessment roll description (tax map no./roll year) Part of 107-2-14.2, Part of 107-2-15 and Part of 2-1-61.2
- b. Street address 109-115 Brookside Avenue
- c. City, Town or Village Chester (Village/Town)
- d. School District Chester Union Free SD
- e. County Orange
- f. Current assessment \_\_\_\_\_
- g. Deed to IDA (date recorded; liber and page)  
Lease Agreement, a memorandum of which was recorded on or about May 2, 2016.

4. **GENERAL DESCRIPTION OF PROPERTY**

(if necessary, attach plans or specifications)

- a. Brief description (include property use) construct an approx. 15,000 sq. ft. addition to the existing building to house new amusement park rides, arcade games, etc.
- b. Type of construction \_\_\_\_\_
- c. Square footage Approx. 15,000 sf
- d. Total cost approx. \$2,350,000
- e. Date construction commenced Summer 2016
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)  
December 31, 2027

5. **SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION**

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment Please see attached Tax Agreement
- b. Projected expiration date of agreement December 31, 2027

c. Municipal corporations to which payments will be made

	Yes	No
County <u>Orange</u>	<u>X</u>	
Town/City <u>Chester</u>	<u>X</u>	
Village <u>Chester</u>	<u>X</u>	
School District <u>Chester Union Free SD</u>	<u>X</u>	

d. Person or entity responsible for payment

Name X, LLC, 717 LLC and BAZS, LLC  
Title \_\_\_\_\_

Address 366 Bellvale Road  
Chester, New York 10918

e. Is the IDA the owner of the property? Yes No (circle one)  
If "No" identify owner and explain IDA rights or interest in an attached statement. The IDA has a leasehold interest in the property.

Telephone 845-469-2116

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) Yes No

If yes, list the statutory exemption reference and assessment roll year on which granted:  
exemption Section 874 of NYS GML assessment roll year 2007

7. A copy of this application, including all attachments, has been mailed or delivered on 5/18/16 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

### CERTIFICATION

I, James R. Petro, Jr., Executive Director of Orange County Industrial Development Agency hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

5/2/16  
Date

James R. Petro, Jr.  
Signature

### FOR USE BY ASSESSOR

1. Date application filed \_\_\_\_\_
2. Applicable taxable status date \_\_\_\_\_
- 3a. Agreement (or extract) date \_\_\_\_\_
- 3b. Projected exemption expiration (year) \_\_\_\_\_
4. Assessed valuation of parcel in first year of exemption \$ \_\_\_\_\_
5. Special assessments and special ad valorem levies for which the parcel is liable: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Assessor's signature

**HARRIS BEACH <sup>PLC</sup>**

ATTORNEYS AT LAW

99 GARNSEY ROAD  
PITTSFORD, NY 14534  
(585) 419-8800

**RUSSELL E. GAENZLE**

DIRECT: (585) 419-8718  
FAX: (585) 419-8816  
RGAENZLE@HARRISBEACH.COM

June 3, 2016

TO ALL ON THE ATTACHED DISTRIBUTION LIST:

Re: Orange County Industrial Development Agency ("OCIDA")  
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109-115 Brookside Avenue in the Village and Town of Chester,  
Orange County, NY (Tax Map Nos.: Part of 107-2-14.2, Part of 107-2-15 and  
Part of 2-1-61.2)

To Whom It May Concern:

Enclosed please find a copy of the revised Tax Agreement and the Application for Real Property Tax Exemption together with blacklined pages showing the minor changes made with respect to the above-captioned matter. Please disregard the Tax Agreement sent to you under cover letter dated May 18, 2016 and replace it with the enclosed.

Very truly yours,

  
Russell E. Gaenzle

REG/lap  
Enclosures

cc: James R. Petro, Jr., OCIDA  
Brian Leentjes  
Robert Green, Esq.

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47 Main Street  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 2202

Ms. Angela O'Neill, Treasurer  
Village of Chester  
47 Main Street  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 2226

Mr. Frank Sambets, President, BOE  
Chester Union Free School District  
64 Hambletonian Avenue  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 2240

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**ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**X, LLC, 717 LLC AND BAZS, LLC  
(collectively, the "Company")**

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**TAX AGREEMENT**

---

**Dated as of April 1, 2016**

**Affected Tax Jurisdictions:  
Orange County  
Town of Chester  
Village of Chester  
Chester Union Free School District**



WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of Orange County (the "County"), the Town of Chester (the "Town"), the Village of Chester (the "Village") and the Chester Union Free School District (the "School District" and, collectively with the County, the Town and the Village, the "Affected Tax Jurisdictions").

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

Section I - Payment in lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the taxable status date (March 1, 2017) (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes commencing with the 2018 County and Town calendar tax year and the ~~2016/2017/2018~~ Village and School District fiscal tax years. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County, Town, Village and School District. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the 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) 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 overall operating efficiency of the Facility is not impaired and 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 file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. Agreement to Make Payments. The parties agree and acknowledge that payments made under this Tax Agreement are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls. The Company shall pay annually to the Affected Tax Jurisdictions as a payment in lieu of taxes: (i) on or before January 1 of each calendar year for County and Town taxes, (ii) on or before June 30 for Village taxes and (iii) on or before September 1 of each calendar year for School District taxes; an amount equal to the Total Tax Payment (as calculated on Schedule A attached hereto, and in accordance with the other provisions set forth in this Tax Agreement). The first such Total Tax Payments shall be due on January 1, 2018, June 30, 2017 and September 1, 2017, respectively, and on each January 1,

June 30 and September 1 thereafter for the term of this Tax Agreement. Upon the expiration of this Tax Agreement, the Company shall pay the County, Town, Village and School District tax bills in the amounts and on the dates when due as if the Agency were not in title.

1.2 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder, if any, within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total Tax Payment among the Affected Tax Jurisdictions, the Agency shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County, Town, Village and special district purposes, the tax rates used to determine the allocation of the Total Tax Payment shall be the tax rates relating to the calendar year which includes the Tax Payment due date. For School District purposes, the tax rates used to determine the Tax Payment shall be the rates relating to the School District year which includes the Tax Payment due date.

1.4 Valuation of Future Additions to the Facility. If there shall be a future addition to the Facility constructed or added in any manner after the date of this Tax Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total Tax Payment. The Agency shall notify the Company of any proposed increase in the Total Tax Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased Tax payment until a different Total Tax Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total Tax Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding Tax Payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2018 County and Town calendar tax year through the 2027 County and Town calendar tax year and (ii) the ~~2016/2017/2018~~ Village and School District fiscal tax years through the 2026/2027 Village and School District fiscal tax years. This Tax Agreement shall expire on December 31, 2027; provided, however, the Company shall pay the 2027/2028 Village and School District tax bills and the 2028 County and Town tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Tax Agreement executed by both parties after any applicable public hearings. 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 herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of years elapsed under the Leaseback Agreement),

**ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**X, LLC, 717 LLC AND BAZS, LLC  
(collectively, the "Company")**

---

**TAX AGREEMENT**

---

**Dated as of April 1, 2016**

**Affected Tax Jurisdictions:**

**Orange County  
Town of Chester  
Village of Chester  
Chester Union Free School District**

## TAX AGREEMENT

THIS TAX AGREEMENT, dated as of the 1<sup>st</sup> day of April, 2016 (the "Tax Agreement"), is by and between the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with its registered offices located at Orange County Business Accelerator, 4 Crotty Lane, Suite 100, New Windsor, New York 12553 (the "Agency") and **X, LLC, 717 LLC AND BAZS, LLC**, each a limited liability company formed and validly existing under the laws of the State of New York with an address of 366 Bellvale Road, Chester, New York 10918 (collectively, the "Company").

### WITNESSETH:

WHEREAS, the Agency was created by Chapter 390 of the Laws of 1972 of the State of New York 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 (the "State"); and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "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 "Improvements"); and (C) the acquisition in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to acquire, construct and equip the Facility, the Agency is willing to take a leasehold interest in the Land, Existing Improvements, Improvements and personal property constituting the Facility pursuant to the terms and conditions of a certain Lease Agreement, dated as of the date hereof (the "Lease Agreement"), and lease said Land, Existing Improvements, Improvements and personal property back to the Company pursuant to the terms and conditions of a certain Leaseback Agreement, dated as of the date hereof (the "Leaseback Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and



WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of Orange County (the "County"), the Town of Chester (the "Town"), the Village of Chester (the "Village") and the Chester Union Free School District (the "School District" and, collectively with the County, the Town and the Village, the "Affected Tax Jurisdictions").

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

Section I - Payment in lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the taxable status date (**March 1, 2017**) (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes commencing with the **2018** County and Town calendar tax year and the **2017/2018** Village and School District fiscal tax years. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County, Town, Village and School District. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the 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) 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 overall operating efficiency of the Facility is not impaired and 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 file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. Agreement to Make Payments. The parties agree and acknowledge that payments made under this Tax Agreement are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls. The Company shall pay annually to the Affected Tax Jurisdictions as a payment in lieu of taxes: (i) on or before January 1 of each calendar year for County and Town taxes, (ii) on or before June 30 for Village taxes and (iii) on or before September 1 of each calendar year for School District taxes; an amount equal to the Total Tax Payment (as calculated on Schedule A attached hereto, and in accordance with the other provisions set forth in this Tax Agreement). The first such Total Tax Payments shall be due on **January 1, 2018, June 30, 2017 and September 1, 2017**, respectively, and on each January 1,

June 30 and September 1 thereafter for the term of this Tax Agreement. Upon the expiration of this Tax Agreement, the Company shall pay the County, Town, Village and School District tax bills in the amounts and on the dates when due as if the Agency were not in title.

1.2 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder, if any, within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total Tax Payment among the Affected Tax Jurisdictions, the Agency shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County, Town, Village and special district purposes, the tax rates used to determine the allocation of the Total Tax Payment shall be the tax rates relating to the calendar year which includes the Tax Payment due date. For School District purposes, the tax rates used to determine the Tax Payment shall be the rates relating to the School District year which includes the Tax Payment due date.

1.4 Valuation of Future Additions to the Facility. If there shall be a future addition to the Facility constructed or added in any manner after the date of this Tax Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total Tax Payment. The Agency shall notify the Company of any proposed increase in the Total Tax Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased Tax payment until a different Total Tax Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total Tax Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding Tax Payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2018 County and Town calendar tax year through the 2027 County and Town calendar tax year and (ii) the 2017/2018 Village and School District fiscal tax years through the 2026/2027 Village and School District fiscal tax years. This Tax Agreement shall expire on December 31, 2027; provided, however, the Company shall pay the 2027/2028 Village and School District tax bills and the 2028 County and Town tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Tax Agreement executed by both parties after any applicable public hearings. 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 herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of years elapsed under the Leaseback

Agreement), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

## Section II - Special District Charges, Special Assessments and other charges.

2.1 Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

## Section III - Transfer of Facility.

3.1 In the event that the Facility is transferred from the Agency to the Company (the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section I hereof, or this Tax Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

## Section IV - Assessment and Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Tax Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

## Section V - Changes in Law.

5.1 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.



## Section VI - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section I within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any events of default under the Leaseback Agreement after any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section I hereof are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows: with respect to payments to be made pursuant to Section I hereof, if said payment is not received by the Delinquency Date defined in Section 6.1 hereof, the Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

## Section VII - Assignment.

7.1 No portion of any interest in this Tax Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed.

## Section VIII - Miscellaneous.

8.1 This Tax Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

8.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:



To the Agency:

Orange County Industrial Development Agency  
Orange County Business Accelerator  
4 Crotty Lane, Suite 100  
New Windsor, New York 12553  
Attn: Executive Director

With Copy To:

Kevin T. Dowd, Esq.  
Attorney - Orange County IDA  
46 Daisy Lane  
Montgomery, New York 12549

And To:

Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Russell E. Gaenzle, Esq.

To the Company:

X, LLC  
717 LLC  
BAZS, LLC  
366 Bellvale Road  
Chester, New York 10918  
Attn: Brian Leentjes, Member

With Copy To:

Robert Green, Esq.  
55 St. John Street  
Goshen, New York 10924

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8.3 This Tax Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the Federal or state courts located in Orange County, New York.

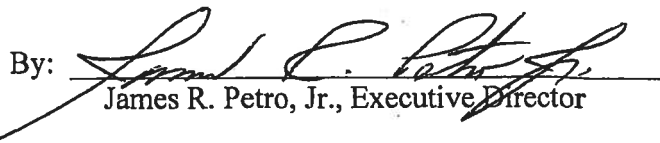
8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. None of the members of the Agency nor any person executing this Tax Agreement on its behalf shall be liable personally under this Tax Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Tax Agreement.

*[Signature Page Follows]*


**[Signature Page to Tax Agreement]**

IN WITNESS WHEREOF, the parties hereto have executed this Tax Agreement as of the day and year first above written.

**ORANGE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By:   
James R. Petro, Jr., Executive Director


**X, LLC**

By:   
Brian Leentjes, Member

**717 LLC**

By:   
Brian Leentjes, Member

**BAZS, LLC**

By:   
Brian Leentjes, Member

**SCHEDULE A**  
**TO**  
**TAX AGREEMENT DATED AS OF APRIL 1, 2016**  
**BY AND BETWEEN THE**  
**ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**AND X, LLC, 717 LLC AND BAZS, LLC**  
**(collectively, the "Company")**

"Total Tax Payment" shall be calculated as follows:

<u>Tax Year</u>	<u>County and Town Tax Year</u>	<u>Village and School Tax Year</u>	<u>Total Taxable Valuation</u>
Year 1	2018	2017/2018	Base Valuation, plus (Added Value x .00)
Year 2	2019	2018/2019	Base Valuation, plus (Added Value x .10)
Year 3	2020	2019/2020	Base Valuation, plus (Added Value x .20)
Year 4	2021	2020/2021	Base Valuation, plus (Added Value x .30)
Year 5	2022	2021/2022	Base Valuation, plus (Added Value x .40)
Year 6	2023	2022/2023	Base Valuation, plus (Added Value x .50)
Year 7	2024	2023/2024	Base Valuation, plus (Added Value x .60)
Year 8	2025	2024/2025	Base Valuation, plus (Added Value x .70)
Year 9	2026	2025/2026	Base Valuation, plus (Added Value x .80)
Year 10	2027	2026/2027	Base Valuation, plus (Added Value x .90)

For the term of this Tax Agreement, the Company shall continue to pay (i) full taxes based on the assessed value of the Land and (ii) the amounts required under that certain Payment In Lieu of Tax Agreement, dated as of August 1, 2006 with respect to the Existing Improvements (the "Original PILOT") before the completion of any Project improvements (the "Base Valuation"). During the term of this Tax Agreement, the Base Valuation shall be increased from time to time by the percentage increase in the assessed valuation in all taxable real property in the Village and Town of Chester, Orange County, New York, as of the respective tax status date for the tax year for which the recalculation is being made. The Total Taxable Valuation for each Total Tax Payment shall be calculated such that a graduated abatement factor ("Abatement Factor") shall be applied to the increased assessed valuation attributable to the Improvements made to the Project Facility by the Company, as an Agent of the Agency, for the Project (the "Added Value"). Notwithstanding anything contained herein or in the Leaseback Agreement to the contrary, upon the expiration of the Original PILOT, the Company shall pay an amount equal to full taxes with respect to the Existing Improvements.

Once the Total Taxable Valuation is established using the Abatement Factor, the Total Tax Payment shall be determined by multiplying the Total Taxable Valuation by the respective tax rate for each affected tax jurisdiction (after application of any applicable equalization rate). After Year 10, the Facility shall be subject to full taxation by the affected taxing jurisdictions.

$\text{Total Taxable Valuation} = \text{Base Valuation} + (\text{Added Value} \times \text{Abatement Factor})$

$\text{Total Tax Payment} = \text{Total Taxable Valuation (after equalization)} \times \text{Tax Rate}$



NYS BOARD OF REAL PROPERTY SERVICES

RP-412-a (1/95)

INDUSTRIAL DEVELOPMENT AGENCIES  
APPLICATION FOR REAL PROPERTY TAX EXEMPTION  
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. **INDUSTRIAL DEVELOPMENT AGENCY (IDA)**

Name Orange County Industrial Development Agency  
Street 4 Crotty Lane, Suite 100  
City New Windsor, New York 12553  
Telephone no. Day (845) 234-4192  
Evening ( )  
Contact James R. Petro, Jr.  
Title Executive Director

2. **OCCUPANT (IF OTHER THAN IDA)**

(If more than one occupant attach separate listing)

Name X, LLC, 717 LLC and BAZS, LLC  
Street 366 Bellvale Road  
City Chester, New York 10918  
Telephone no. Day (845) 469-2116  
Evening ( )  
Contact Brian Leentjes  
Title Member

3. **DESCRIPTION OF PARCEL**

- a. Assessment roll description (tax map no./roll year) Part of 107-2-14.2, Part of 107-2-15 and Part of 2-1-61.2
- b. Street address 109-115 Brookside Avenue
- c. City, Town or Village Chester (Village/Town)
- d. School District Chester Union Free SD
- e. County Orange
- f. Current assessment
- g. Deed to IDA (date recorded; liber and page) Lease Agreement, a memorandum of which was recorded on or about May 2, 2016.

4. **GENERAL DESCRIPTION OF PROPERTY** (if necessary, attach plans or specifications)

- a. Brief description (include property use) construct an approx. 15,000 sq. ft. addition to the existing building to house new amusement park rides, arcade games, etc.
- b. Type of construction
- c. Square footage Approx. 15,000 sf
- d. Total cost approx. \$2,350,000
- e. Date construction commenced Summer 2016
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA) December 31, 2027

5. **SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION**

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment Please see attached Tax Agreement
- b. Projected expiration date of agreement December 31, 2027

c. Municipal corporations to which payments will be made

	Yes	No
County <u>Orange</u>	<u>X</u>	
Town/City <u>Chester</u>	<u>X</u>	
Village <u>Chester</u>	<u>X</u>	
School District <u>Chester Union Free SD</u>	<u>X</u>	

d. Person or entity responsible for payment

Name X, LLC, 717 LLC and BAZS, LLC  
 Title \_\_\_\_\_  
 Address 366 Bellvale Road  
Chester, New York 10918

e. Is the IDA the owner of the property? Yes No (circle one)  
 If "No" identify owner and explain IDA rights or interest in an attached statement. The IDA has a leasehold interest in the property.

Telephone 845-469-2116

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) Yes No

If yes, list the statutory exemption reference and assessment roll year on which granted:  
 exemption Section 874 of NYS GML assessment roll year 2007

7. A copy of this application, including all attachments, has been mailed or delivered on 5/18/16 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

**CERTIFICATION**

I, James R. Petro, Jr., Executive Director of Orange County Industrial Development Agency hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

5/2/16  
 Date

James R. Petro, Jr.  
 Signature

**FOR USE BY ASSESSOR**

1. Date application filed \_\_\_\_\_
2. Applicable taxable status date \_\_\_\_\_
- 3a. Agreement (or extract) date \_\_\_\_\_
- 3b. Projected exemption expiration (year) \_\_\_\_\_
4. Assessed valuation of parcel in first year of exemption \$ \_\_\_\_\_
5. Special assessments and special as valorem levies for which the parcel is liable: \_\_\_\_\_

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Assessor's signature



Motion By: Steinberg  
Seconded By: Van Leeuwen

**INITIAL RESOLUTION**  
(Castle Fun Park Project)

A regular meeting of the Orange County Industrial Development Agency was held on March 10, 2016 at 2:00 p.m. (local time) at Orange County Business Accelerator, 4 Crotty Lane, Suite 100, New Windsor, New York 12553.

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a proposed project for the benefit of the below-defined Company.

RESOLUTION (i) ACCEPTING THE APPLICATION OF LEENTJES AMUSEMENTS CORP. (D/B/A THE CASTLE) WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DESCRIBED BELOW), (ii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT TO SUCH PROJECT AND (iii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO SUCH PROJECT.

WHEREAS, by Title 1 of Article 19-A of the General Municipal Law of the State of New York, as amended, and Chapter 390 of the Laws of 1972 of the State of New York, (collectively, the "Act"), the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "Agency") was created with the authority and power and for the purpose of, among other things, acquiring, constructing, reconstructing and equipping manufacturing, warehousing, research, commercial or industrial facilities as authorized by the Act; and

WHEREAS, **LEENTJES AMUSEMENTS CORP. (d/b/a THE CASTLE)**, for itself or on behalf of an affiliate or affiliates, or an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "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 of Chester, Orange County, New York [TMID #s: Part of 107-2-14.2 and Part of 107-2-15] (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 "Improvements"); and (C) the acquisition in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 19-A of the General Municipal Law, the Agency desires to adopt a resolution describing the Project and the financial assistance that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will hold a public hearing and (i) negotiate an agent agreement (the "Agent Agreement"), pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring, constructing and equipping the Facility, (ii) negotiate a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement") and a payment-in-lieu-of-tax agreement (the "Tax Agreement"), (iii) take title to, or a leasehold interest in, the Land, the Improvements, the Equipment and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement and Tax Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Facility, (b) a partial real property tax abatement structured within the Tax Agreement, and (c) if necessary, a mortgage recording tax exemption for financing or re-financing related to the Project (collectively the "Financial Assistance"); and

WHEREAS, the Project constitutes a "retail" project as defined under Section 862 of the Act and as such requires additional findings; and

WHEREAS, the Company has represented to the Agency that the Project is likely to attract a significant number of visitors from outside the economic development region (as established by Section 230 of the New York State Economic Development Law), and therefore the Project constitutes a "tourism destination" as defined in Section 862(2) of the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The Agency has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Orange County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(D) The Project will not result in the removal of a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of

one or more plants or facilities of the Company or any other proposed occupant of the Facility located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(E) Pursuant to Section 862 of the Act, the Project constitutes a "retail" project. Based on representations made by the Company to the Agency, the Agency hereby finds that the Project is likely attract a significant number of visitors from outside the economic development region, which includes Orange County, Dutchess County, Putnam County, Rockland County, Sullivan County, Ulster County and Westchester County, as established by section two-hundred thirty of the New York State Economic Development Law and therefore constitutes a "tourism destination" under the Act.

Section 2. The Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to hold a public hearing in compliance with the Act and negotiate the terms of (A) an Agent Agreement, pursuant to which the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement, pursuant to which the Company leases the Facility to the Agency, (C) a related Leaseback Agreement, pursuant to which the Agency conveys its interest in the Facility back to the Company, (D) a Tax Agreement, and (E) related documents; *provided*, the provisions of the Agent Agreement and the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

Section 3. The Agency is hereby authorized to conduct a public hearing in compliance with the Act.

Section 4. 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 5. These Resolutions shall take effect immediately.

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>
Robert T. Armistead	✓			
Mary Ellen Rogulski	✓			



Stephen Brescia	✓			
John Steinberg, Jr.	✓			
Henry VanLeeuwen	✓			
Robert J. Schreibeis, Sr.	✓			
Edward A. Diana			✓	

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK )  
COUNTY OF ORANGE ) ss:

I, the undersigned Secretary 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 the 10<sup>th</sup> day of March, 2016, with the original thereof on file in my office, 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 there was a quorum of the members of the Agency present throughout said meeting.

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.

10<sup>th</sup> IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this  
day of March, 2016.

Stephen Brescia  
Stephen Brescia, Secretary

Motion By:

Seconded By:

Brescia  
Rogulski

### FINAL RESOLUTION

*(Leentjes Amusements Corp. (d/b/a The Castle) Project)*

A regular meeting of the Orange County Industrial Development Agency was held on April 14, 2016 at 2:00 p.m. (local time) at The Accelerator, 4 Crotty Lane, Suite 100, New Windsor, New York 12553.

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a proposed project for the benefit of Leentjes Amusements Corp. (d/b/a The Castle) (the "Company").

RESOLUTION AUTHORIZING THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO (i) TAKE A LEASEHOLD INTEREST IN A CERTAIN PARCEL OF LAND LOCATED AT 109-115 BROOKSIDE AVENUE IN THE VILLAGE AND TOWN OF CHESTER, ORANGE COUNTY, NEW YORK (THE "LAND"); (ii) APPOINT LEENTJES AMUSEMENTS CORP. (D/B/A THE CASTLE) AS ITS AGENT TO UNDERTAKE A CERTAIN PROJECT AS MORE FULLY DESCRIBED BELOW; (iii) NEGOTIATE AND EXECUTE A LEASE AGREEMENT, LEASEBACK AGREEMENT AND RELATED TAX AGREEMENT; (iv) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A PARTIAL REAL PROPERTY TAX ABATEMENT THROUGH THE TAX AGREEMENT; AND (C) IF NECESSARY, A PARTIAL MORTGAGE RECORDING TAX EXEMPTION FOR FINANCING RELATED TO THE PROJECT; AND (v) EXECUTE RELATED DOCUMENTS.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 390 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "Act"), the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **LEENTJES AMUSEMENTS CORP. (D/B/A THE CASTLE)**, for itself or on behalf of an entity to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "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 and Part of 107-2-15] (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 "Improvements"); and (C) the acquisition in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to General Municipal Law Section 859-a, on April 13, 2016, at 1:00 p.m. local time, on the 1<sup>st</sup> Floor of the Welcome Center at The Castle Fun Center, 109 Brookside Avenue, Chester, New York 10918, the Agency held a public hearing with respect to the Project and the proposed financial assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions ten (10) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring, constructing and equipping the Facility pursuant to an agent agreement (the "Agent Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "Tax Agreement") with the Company (the abatement under such Tax Agreement to be in amount equal to the abatement available to the Company as a matter of right under New York Real Property Tax Law Section 485-b), (iii) take title to or a leasehold interest in the Land, the Improvements, the Equipment and personal property constituting the Project (once the Lease Agreement, Leaseback Agreement and Tax Agreement have been negotiated), and (iii) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (b) a partial real property tax abatement through the Tax Agreement, and (c) if necessary, a mortgage recording tax exemption for financing related to the Project; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"), on April 13, 2015 the Village of Chester Planning Board (the "Planning Board"), as Lead Agency pursuant to SEQRA, issued a negative declaration (the "Negative Declaration") with respect to the Project, a copy of which is attached hereto as Exhibit B; and

WHEREAS, the Lease Agreement, Leaseback Agreement, Tax Agreement and related documents have been negotiated and are presented to this meeting for approval and execution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's application and other correspondence submitted by the Company to the Agency, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Orange County and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Planning Board has issued a Negative Declaration with respect to the Project. The Project is a "Type II" Action as said term is defined under SEQRA and therefore, no further action need be taken. The review is uncoordinated. Based upon the review by the Agency of the Negative Declaration and related documents delivered by the Company to the Agency and other representations made by the Company to the Agency in connection with the Project, the Agency hereby ratifies the Planning Board's findings that (i) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a "significant effect on the environment" as such quoted terms are defined in SEQRA; and (iii) no "environmental impact statement" as such quoted term is defined in SEQRA, need be prepared for this action. This determination constitutes a negative declaration for purposes of SEQRA.

Section 2. Subject to the Company executing the Agent Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Agent Agreement shall expire on



December 31, 2017 (unless extended for good cause by the Executive Director of the Agency) if the Lease Agreement, Leaseback Agreement and Tax Agreement contemplated have not been executed and delivered.

Section 3. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$2,000,000**, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$162,500**. The Agency agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 4. The Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Lease Agreement whereby the Company leases the Project to the Agency, (B) the related Leaseback Agreement conveying the Project back to the Company, and (C) the Tax Agreement; provided, that, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the Tax Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 5. The Chairman, Vice Chairman and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related

transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement and Tax Agreement are collectively referred to as, the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency, if any, to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman and/or Executive Director of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman and/or Executive Director of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. These Resolutions shall take effect immediately.

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

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Robert T. Armistead	✓			
Mary Ellen Rogulski	✓			
Stephen Brescia	✓			
John Steinberg, Jr.	✓			
Henry VanLeeuwen			✓	
Robert J. Schreibeis, Sr.	✓			
Edward A. Diana			✓	

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK )  
COUNTY OF ORANGE ) ss:

I, the undersigned Secretary 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 April 14, 2016, with the original thereof on file in my office, 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 there was a quorum of the members of the Agency present throughout said meeting.

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 14<sup>th</sup>  
day of April, 2016.

Stephen Brescia  
Stephen Brescia, Secretary



Exhibit A

Public Hearing Minutes & Notice of Public Hearing

[See Attached]

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Orange County Industrial Development Agency (the "Agency") on Wednesday, April 13, 2016, at 1:00 p.m. local time, on the 1<sup>st</sup> Floor of the Welcome Center at The Castle Fun Center, 109 Brookside Avenue, Chester, New York 10918, in connection with the following matter:

**LEENTJES AMUSEMENTS CORP. (d/b/a THE CASTLE)**, for itself or on behalf of an affiliate or affiliates, or an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "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 and Part of 107-2-15] (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 "Improvements"); and (C) the acquisition in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility").

The Agency will acquire a leasehold interest in the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Agency's leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption and a real property tax abatement, all consistent with the policies of the Agency unless procedures for deviation are complied with.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's Project Application (including a cost-benefit analysis) and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: April 1, 2016

By: ORANGE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

**NOTICE LETTER**

April 1, 2016

**To:** The Chief Executive Officers of Affected Tax Jurisdictions on the Attached Distribution List

**Re:** **Orange County Industrial Development Agency**  
**Public Hearing for Leentjes Amusements Corp. (d/b/a The Castle)**

Ladies and Gentlemen:

On Wednesday, April 13, 2016, at 1:00 p.m. local time, on the 1<sup>st</sup> Floor of the Welcome Center at The Castle Fun Center, 109 Brookside Avenue, Chester, New York 10918, the Orange County Industrial Development Agency (the "Agency") will conduct a public hearing regarding the above-referenced project. Attached is a copy of the Notice of Public Hearing describing the project and the financial assistance contemplated by the Agency. The Notice has been submitted to the *Times Herald Record* for publication.

You are welcome to attend such hearing at which time you will have an opportunity to review the project application and present your views, both orally and in writing, with respect to the project. We are providing this notice to you, pursuant to General Municipal Law Section 859-(a), as the chief executive officer of an affected tax jurisdiction within which the project is located.

**By: ORANGE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

## AFFECTED TAX JURISDICTION OFFICIALS

### Orange County

Orange County Legislature  
Attn: Chairman  
Orange County Government Center  
15 Matthews Street, Suite 203  
Goshen, New York 10924  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 1274

Orange County Executive  
Orange County Government Center  
40 Matthews Street  
Goshen, New York 10924  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 1281

### Town of Chester

Town of Chester  
Attn: Town Supervisor  
1786 Kings Highway  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 1298

### Village of Chester

Village of Chester  
Attn: Mayor  
47 Main Street  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 1304

### Chester Union Free School District

Chester Union Free School District  
Attn: Superintendent  
64 Hambletonian Avenue  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 1311

Chester Union Free School District  
Attn: Board President  
64 Hambletonian Avenue  
Chester, New York 10918  
CERTIFIED MAIL RECEIPT #  
7015 1520 0002 8537 1328