

September 21, 2017

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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 is the First Amendment to Tax Agreement and the First Amended Application
for Real Property Tax Exemption with respect to the above-captioned matter.

Very truly yours,


Russell E. Gaenzle

REG/lap

Enclosures

cc: Laurie Villasuso, 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 #:
7017 1070 0000 4273 2681

Mr. Alex Jamieson, Supervisor
Town of Chester
1786 Kings Highway
Chester, New York 10918
CERTIFIED MAIL RECEIPT #
7017 1070 0000 4273 2704

Mr. John Schuler, Assessor
Town of Chester
1786 Kings Highway
Chester, New York 10918
CERTIFIED MAIL RECEIPT #
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Mr. Sean Michel, Superintendent
Chester Union Free School District
64 Hambletonian Avenue
Chester, New York 10918
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Mr. John I. McCarey
Real Property Tax Service
124 Main Street
Goshen, New York 10924
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Mr. John Thomas Bell, Mayor
Village of Chester
47 Main Street
Chester, New York 10918
CERTIFIED MAIL RECEIPT #
7017 1070 0000 4273 2711

Ms. Angela O'Neill, Treasurer
Village of Chester
47 Main Street
Chester, New York 10918
CERTIFIED MAIL RECEIPT #
7017 1070 0000 4273 2735

Mr. Frank Sambets, President, BOE
Chester Union Free School District
64 Hambletonian Avenue
Chester, New York 10918
CERTIFIED MAIL RECEIPT #
7017 1070 0000 4273 2759

FIRST AMENDMENT TO TAX AGREEMENT

By and Between

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

AND

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

DATED AS OF JUNE 1, 2017

*Relating to the X, LLC, 717 LLC AND BAZS, LLC Project
109-115 Brookside Avenue in the Village and Town of Chester, Orange County, New York
TMID Nos.: Part of 107-2-14.2, Part of 107-2-15 and Part of 2-1-61.2*

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

FIRST AMENDMENT TO TAX AGREEMENT

THIS FIRST AMENDMENT TO TAX AGREEMENT (the "First Amendment to Tax Agreement"), dated as of the 1st day of June, 2017, is by and between **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices 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").

W I T N E S S E T H :

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; and

WHEREAS, the Agency and the Company previously entered into that certain Tax Agreement (the "Original Tax Agreement"), dated as of April 1, 2016, with respect the Company's properties located at 109-115 Brookside Avenue in the Village and Town of Chester, Orange County, New York (TMID Nos.: Part of 107-2-14.2, Part of 107-2-15 and Part of 2-1-61.2) (collectively, the "Facility"); and

WHEREAS, as a result of a longer than anticipated construction period, the Company has requested that the Agency amend the Original Tax Agreement, by and between the Agency and the Company, in order to delay commencement of the financial assistance provided thereunder by two (2) years; and

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:

The Original Tax Agreement is hereby as amended as follows:

1. Section 1.1 is hereby deleted in its entirety and replaced with the following:

Section 1.1 A. Subject to the completion and filing by the taxable status date (**March 1, 2019**) (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 **2020** County and Town calendar tax year and the **2019/2020** 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, 2020, June 30, 2019 and September 1, 2019**, 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.

The parties agree and acknowledge that payments made hereunder 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.

2. Section 1.5 is hereby deleted in its entirety and replaced with the following:

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the **2020** County and Town calendar tax year through the **2029** County and Town calendar tax year and (ii) the **2019/2020** Village and School District fiscal tax years through the **2028/2029** Village and School District fiscal tax years. This Tax Agreement shall expire on **December 31, 2029**; provided, however, the Company shall pay the **2029/2030** Village and School District tax bills and the **2030** 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.

3. **Schedule A** attached to the Original Tax Agreement is hereby deleted in its entirety and replaced with **Schedule A** attached hereto.

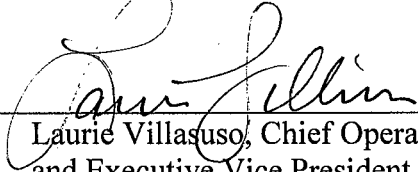
4. This First Amendment to Tax Agreement may be executed in several counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

[Remainder of this Page Intentionally Left Blank]


[Signature Page to First Amendment to Tax Agreement]

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

**ORANGE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Laurie Villasuso, Chief Operating Officer
and Executive Vice President


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, as amended
by and between the Orange County Industrial Development Agency
and
X, LLC, 717 LLC and BAZS, LLC

"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
Year 2	2019	2018/2019	Base Valuation
Year 3	2020	2019/2020	Base Valuation, plus (Added Value x .00)
Year 4	2021	2020/2021	Base Valuation, plus (Added Value x .10)
Year 5	2022	2021/2022	Base Valuation, plus (Added Value x .20)
Year 6	2023	2022/2023	Base Valuation, plus (Added Value x .30)
Year 7	2024	2023/2024	Base Valuation, plus (Added Value x .40)
Year 8	2025	2024/2025	Base Valuation, plus (Added Value x .50)
Year 9	2026	2025/2026	Base Valuation, plus (Added Value x .60)
Year 10	2027	2026/2027	Base Valuation, plus (Added Value x .70)
Year 11	2028	2027/2028	Base Valuation, plus (Added Value x .80)
Year 12	2029	2028/2029	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 Tax Agreement") 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 Tax Agreement, 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

FIRST AMENDMENT

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)** 2. **OCCUPANT (IF OTHER THAN IDA)**
(If more than one occupant attach separate listing)

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

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)
First Amendment to Lease Agreement, which was recorded on or about September 8, 2017.

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, 2029

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 First Amendment to Tax Agreement

- b. Projected expiration date of agreement December 31, 2029

c. Municipal corporations to which payments will be made

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

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 09/21/17 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, Laurie Villasuso, COO and EVP of Orange County Industrial Development Agency hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

09/08/17
Date


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