



IDA Appointment of Project Operator or Agent For Sales Tax Purposes

ST-60

(4/13)

The industrial development agency or authority (IDA) must submit this form within 30 days of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent

For IDA use only

Name of IDA Counties of Warren and Washington Industrial Development Agency		IDA project number (use OSC numbering system for projects after 1998) 5202-17-01	
Street address 5 Warren Street		Telephone number (518) 792-1312	
City Glens Falls		State NY	ZIP code 12801
Name of IDA project operator or agent RAN Entertainment, LLC		Employer identification or social security number 81-3190181	
Street address 235 Corinth Road		Telephone number (518) 365-3735	Primary operator or agent? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
City Queensbury		State NY	ZIP code 12804
Name of project Skyzone Queensbury		Purpose of project (see instructions) Tourism Destination/Retail	
Street address of project site 235 Corinth Road			
City Queensbury		State NY	ZIP code 12804
Description of goods and services intended to be exempted from New York State and local sales and use taxes construction materials, fixtures, and furnishings			

Date project operator or agent appointed (mm/dd/yy) 01/23/17	Date project operator or agent status ends (mm/dd/yy) 07/31/18	Mark an X in the box if this is an extension to an original project <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: \$1,300,000.00	Estimated value of New York State and local sales and use tax exemption provided: \$91,000.00	

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Harold G. Taylor	Print title Chairman
Signature 	Date 2/1/17
	Telephone number (518) 792-1312

Instructions

Filing requirements

An IDA must file this form within 30 days of the date the IDA appoints any project operator or other person as agent of the IDA, for purposes of extending any sales and compensating use tax exemptions.

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA need not file this form if the IDA does not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the IDA must, within 30 days of the change, file a new form with the new information.

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA must, within 30 days, send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

Mailing instructions

Mail completed form to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 306, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5161.

Need help?

Internet access: www.tax.ny.gov
(for information, forms, and publications)

Sales Tax Information Center: (518) 485-2889
To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082



IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1)S, Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities, for more information.

Form with fields for Name of seller, Name of agent or project operator, Street address, City, town, or village, State, ZIP code, and Agent or project operator sales tax ID number.

Mark an X in one: [] Single-purchase certificate [X] Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Form with fields for Name of IDA, Name of project, IDA project number, Street address of project site, City, town, or village, State, ZIP code, and dates of appointment and status ends.

Exempt purchases

(Mark an X in boxes that apply)

- List of purchase categories A, B, and C with checkboxes. Option A is checked.

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence.

Signature and Date fields for the purchaser or purchaser's representative.

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter *N/A*.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

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This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

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speech disabilities using a TTY):

(518) 485-5082

**COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY**

5 Warren Street, Suite 210
Glens Falls, New York 12801

Telephone (518) 792-1312
website: www.warren-washingtonida.com

Effective as of January 23, 2017

TO WHOM IT MAY CONCERN:

Re: Counties of Warren and Washington
Industrial Development Agency
RAN Entertainment, LLC as duly appointed Agent
(Skyzone Queensbury Project)
(5202-17-01)

Ladies and Gentlemen:

The Counties of Warren and Washington Industrial Development Agency (the "Agency"), by this notice, hereby advises you as follows:

1. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and, therefore, in the exercise of its governmental functions, including the issuance of its bonds or notes, is exempt from the imposition of any New York State sales and use tax. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required.

2. Pursuant to an amended resolution adopted by the Agency on December 19, 2016 and a Preliminary Agreement dated as of January 16, 2017 (the "Agreement") between the Agency and RAN Entertainment, LLC, a New York limited liability company, (the "Operator") and RAN Saunders Property Development, LLC (the "Company"), the Agency has authorized the Operator to act as its agent to acquire, lease, construct, install and equip a recreational trampoline park tourist destination/retail facility in the Town of Queensbury, Warren County consisting of:

(i) the acquisition of an interest in a certain commercial parcel or parcels of land located at 235 Corinth Road, Town of Queensbury, County of Warren, State of New York and referred to as Tax Map Parcel Number 309.13-2-28 and a portion of 309.13-2-30 (the "Land"); (ii) the construction and equipping of a 22,200+/- square foot facility to house a recreational trampoline park facility (the "Facility"); (iii) the acquisition and installation therein of certain furnishings and fixtures (the "Equipment" together with the Land and the Facility, collectively the "Project Facility") to be used in connection with the contemplated uses; and (iv) the lease of the Project Facility to the Company, all pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended.

3. In connection with such resolutions and the Agreement and pursuant to the authority therein granted, the Agency has authorized the Operator to act as its agent in connection with the acquisition, construction, installation and equipping of the Project Facility and authorized the Operator to use this letter as its agent only for the payment of the costs of such acquisition, construction, installation and equipping of the Project Facility, all to the extent set forth in, and limited by, Exhibit A attached hereto.

4. The Agency has authorized the Operator to act as its agent and to appoint third-party agents as may be appropriate in connection with the acquisition, construction, and installation and equipping of the Facility.

5. As agent, RAN Entertainment, LLC has agreed that each contract, agreement, invoice, bill or purchase order entered into by RAN Entertainment, LLC, as agent of the Agent, for the acquisition, construction, installation and equipping of the Facility shall include language in substantially the following form:

“IN THE EVENT OF A DEFAULT BY RAN ENTERTAINMENT, LLC IN THE PAYMENT OF ANY MONIES DUE FOR WORK, LABOR, GOODS, SERVICES, MATERIALS OR EQUIPMENT FURNISHED IN ACCORDANCE WITH THIS AGREEMENT, SHOULD THE CONTRACTOR (OR VENDOR) SEEK PAYMENT FROM THE COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”), IT SHALL BE LIMITED TO A CLAIM AGAINST THOSE FUNDS REMAINING IN PROJECT ACCOUNTS THAT HAVE BEEN ESTABLISHED BY OR ON BEHALF OF THE AGENCY TO FINANCE THE PROJECT FACILITY. THE CONTRACTOR (OR VENDOR) AGREES THAT IT SHALL HAVE NO RIGHTS IN OR CLAIM TO ANY PROPERTY OR ANY FUNDS IN ANY ACCOUNT OF THE AGENCY OTHER THAN THOSE FUNDS OR ACCOUNTS SPECIFICALLY ESTABLISHED BY OR ON BEHALF OF THE AGENCY FOR THE PROJECT FACILITY. THE CONTRACTOR (OR VENDOR) FURTHER AGREES THAT IT MAY NOT MAKE A CLAIM OR OBTAIN A JUDGMENT AGAINST THE AGENCY, ITS MEMBERS, OFFICERS OR EMPLOYEES FOR ANY MONIES OTHER THAN THOSE MONIES REMAINING IN ACCOUNTS ESTABLISHED BY OR ON BEHALF OF THE AGENCY FOR THE PROJECT FACILITY.”

6. As described in the attached Exhibit A, the acquisition and construction of structures, facilities and improvements constituting a part of the Facility by RAN Entertainment, LLC, as agent, shall be exempt from the sales and use tax levied by the State of New York and any political subdivision thereof.

As of January 23, 2017

7. The Agency shall have no liability or performance obligations under any contract, agreement, invoice, bill or purchase order entered into by RAN Entertainment, LLC, as agent for the Agency hereunder. The Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever, and the Operator shall be the sole party liable thereunder.

8. This agency appointment includes the power to delegate such agency, in whole or in part to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents upon submission of proper documents to the Agency. In exercising this agency appointment, the Operator, its agents, subagents, contractors and subcontractors shall give the supplier or vendor a completed "Exempt Purchase Certificate" (Form ST-123) to show that the Operator, its agents, subagents, contractors and subcontractors are each acting as agent for the Agency. The supplier or vendor should identify the Project Facility on each bill or invoice and indicate thereon which of the Operator, its agents, subagents, contractors and subcontractors acted as agent for the Agency in making the purchase.

In order to be entitled to use this exemption, the Operator shall present to the supplier or other vendor of materials for the Project Facility, a completed "Contractor Exempt Purchase Certificate" (Form ST-120.1), checking box "(a)". The Operator shall give the supplier or vendor a copy of this letter to show that you (or the contractor) are acting as agent for the Agency in making the purchase. A copy of this letter retained by any vendor or seller may be accepted by such vendor or seller as a "statement and additional documentary evidence or such exemption" as provided by New York Tax Law §1132(c)(2), thereby relieving such vendor or seller from the obligation to collect sales and use tax with respect to the construction and installation and equipping the Project Facility.

In addition, General Municipal Law §874(8) requires the Operator and any other agents to file an Annual Statement with the New York State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Operator, its agents, consultants or subcontractors have claimed. The penalty for failure to file such statement is the removal of the authority to act as agent of the Agency. Upon each such annual filing, the Operator shall, within thirty (30) days of each filing, provide a copy of the same to the Agency; provided, however, in no event later than February 15th of each year.

9. Accordingly, until the earlier of (i) July 31, 2018; (ii) the completion of the Project Facility, or (iii) the termination or suspension of this Letter of Authorization for Sales Tax Exemption pursuant to and as provided in the Preliminary Agreement, all vendors, contractors and subcontractors are hereby authorized to rely on this letter (or on a photocopy or fax of this letter) as evidence that purchases of, and improvement and installation contracts relating to, the Project Facility property, to the extent effected by the Operator, as agent for the Agency, are exempt from all New York State sales and use taxes.

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

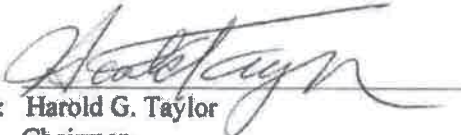
By: 
Name: Harold G. Taylor
Title: Chairman

Exhibit A

Exemptions from sales or use tax relating to (a) the acquisition and installation of Equipment, trade fixtures and other tangible personal property for use at the Project Facility, (b) the acquisition of building materials for construction of the buildings and related structures on the Project Facility, and (c) materials and equipment to be incorporated into the Project Facility, as well as purchases and rentals of supplies, tools, equipment, or services necessary to undertake and/or complete the Project Facility.



**FitzGerald Morris
Baker Firth**

Kara I. Lais
Partner
kil@fmbf-iaw.com

February 9, 2017

NYS Tax Department
IDA Unit
WA Harriman Campus
Albany, New York 12227

Certified RRR

Re: Counties of Warren and Washington IDA
RAN Entertainment, LLC as duly appointed agent
(Skyzone Queensbury Project)
(#5202-17-01)
NYS Form ST-60 Submission

Dear Sir or Madam:

Please find enclosed an executed Form ST-60 for the above-captioned IDA Project.

Thank you very much for your attention to this matter. Please do not hesitate to contact me with any questions or comments.

Very truly yours,


Kara I. Lais

KIL/dld

Cc: D. Mineconzo, WWIDA (*via email*)

PRELIMINARY AGREEMENT

THIS AGREEMENT having an effective date of January 14, 2016 between the **COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency"), a public benefit corporation of the State of New York having an address of 5 Warren Street, Glens Falls, New York 12801 and **RAN ENTERTAINMENT, LLC DBA SKYZONE QUEENSBURY** (the "Operator"), a New York limited liability company having a current address of 235 Corinth Road, Queensbury, New York 12804 and **RAN SAUNDERS PROPERTY DEVELOPMENT, LLC** (the "Company"), a New York limited liability company having a current address of 235 Corinth Road, Queensbury, New York 12804.

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of the Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 862 of the Laws of 1971 of the State, as amended (collectively, the "Act"), to undertake industrial development projects (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The policy and purposes of the Act are (i) to promote the economic welfare, recreation opportunities and prosperity of the inhabitants of the State; (ii) to protect and promote the health of the inhabitants of the State by conservation, protection and improvement of the State's natural, cultural and historical resources, including the environment; and (iii) to protect and promote the health of the inhabitants of the State and to increase trade through promoting the development of facilities to provide recreation for the citizens of the State and to attract tourists from other states. The Act further provides that the purposes of an industrial development agency are to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes.

1.03. The Company and the Operator has requested that the Agency provide financial assistance in the form of a payment of lieu of taxes, mortgage tax exemption and sales tax abatements regarding a tourist destination retail construction project (the "Project") to consist of: (i) the acquisition of an interest in a certain commercial parcel or parcels of land located at 235 Corinth Road, Town of Queensbury, County of Warren, State of New York and referred to as Tax Map Parcel Number 309.13-2-28 and a portion of 309.13-2-30 (the "Land"); (ii) the construction and equipping of a 22,200+/- square foot facility to house a recreational trampoline park facility (the "Facility"); (iii) the acquisition and installation therein of certain furnishings and fixtures (the "Equipment" together with the Land and the Facility, collectively the "Project Facility") to be used in connection with the contemplated uses; and (iv) the lease of the Project Facility to the Company, all pursuant to Title 1 of Article 18-A of the General Municipal Law of

the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the “Act”), as amended; and

1.04. The completion of the Project will not result in the removal of a commercial, industrial or manufacturing plant of the Company or the Operator from one area of the State of New York to another area of the State of New York. Further, the completion of the Project will not result in any loss of jobs and all existing jobs will be retained nor will the completion of the Project result in the abandonment of one or more plants or facilities of the Company and/or the Operator or any other proposed occupant of the Facility located within the State of New York.

1.05. The Agency has determined that the acquisition, construction and equipping of the Project Facility and the leasing or sale of the same to the Company will promote and further the purposes of the Act.

1.06. The Town of Queensbury Planning Board (the “Planning Board”) acted as “Lead Agency” for purposes of review of the Project pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, the “SEQRA Act”). The Planning Board adopted a Negative Declaration dated July 19, 2016, relating to the Project, in which the Planning Board stated that the Project will not have a significant effect on the environment. Based on this finding and additional information provided by the Company and the Operator, the Agency has determined that (i) the acquisition, construction and equipping of the Facility is an “Action” under the SEQRA Act; (ii) the Agency has thoroughly reviewed and analyzed all information presented to the Agency, including the Negative Declaration issued by the Planning Board, to determine if the Project might have any potential significant adverse impacts on the environment; (iii) after conducting this review, the Agency has determined that the acquisition, construction and equipping of the Project Facility are consistent with social, economic and other essential consideration and will not result in any adverse environmental impacts or the potential environmental impacts will not be significant; (iv) the Agency has ratified the Negative Declaration issued by the Planning Board; and (v) by making this determination, the Agency satisfies the requirements of Part 617 of Title 6 of the New York Code of Rules and Regulations.

1.07. On December 19, 2016, the Agency adopted a resolution (the “Resolution”) agreeing to undertake the Project in order to assist the Company and the Operator, as the case may be, and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to undertake the Project.

1.08. In the Resolution, the Agency appointed the Company and the Operator its agents for the purposes of acquiring, constructing and equipping the Project Facility, entering into contracts and doing all things requisite and proper for completing the Project Facility.

1.09. In the Resolution, the Agency determined that for this Project the private investment to the Counties of Warren and Washington and the creation of jobs shall be considered

Material Terms for the purposes of monitoring in accordance the policies and procedure of the Agency and of the applicable laws.

a. The Company has indicated that the Project will result in a Two Million Four Hundred Ninety Seven Thousand Dollar (\$2,497,000.00) private sector investment in the Counties of Warren and Washington. The Company agrees that it will verify, in writing, the private sector investment in accordance with the Agency's Recapture Policy.

b. The Company indicated that the Project will lead to the creation of at least six (6) full time and twenty five (25) part time job opportunities within the next two (2) years for the inhabitants of the Counties of Warren and Washington, New York and the State of New York. The Company agrees that it will verify, in writing, the job creation numbers in accordance with the Agency's Recapture Policy and as may otherwise be required by law.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company and/or the Operator, as the case may be, and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency will undertake the Project, pursuant to the terms of the Act, as then in force.

2.02. The Agency will adopt such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) the acquisition, by deed or by lease, construction and equipping of the Project Facility, and (ii) the leasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. The Agency will enter into an agreement to lease the Project Facility to the Company (the "Lease Agreement"). The Lease Agreement shall obligate the Company to undertake the Project on behalf of the Agency. The Lease Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company.

2.04. The Company and Operator are hereby appointed the true and lawful agent of the Agency (i) to acquire, construct and equip the Project Facility, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the agent of the Agency, (iii) to enter into agreements with third-parties to act as agents and to undertake the Project on the Company's and/or Operator's and the Agency's behalf for the purpose of constructing and completing the project, and in general to do all things which may be requisite or proper for completing the Project Facility, all with the same powers and the same validity as the Agency could do if acting in its own behalf. This provision is subject to the Company and/or Operator entering into an Agent Agreement with the Agency.

In addition, the Company is hereby authorized to proceed with the acquisition, construction and equipping of the Project Facility subject to receiving appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish such purposes and, to the extent permitted by law.

2.05. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

Article 3. Undertakings on the Part of the Company and/or the Operator. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Company and the Operator agrees as follows:

3.01. The Company and the Operator accept the appointment as agent of the Agency, with all of the rights, powers, duties and obligations inherent therein.

3.02. The Company and/or the Operator, as the case may be, will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the acquisition, construction and equipping of the Project Facility.

3.03. The Company will enter into the Lease Agreement with the Agency containing the terms and conditions described in Section 2.03 hereof. The Company, as Agent of the Agency, agrees to pay for all costs associated with undertaking the Project and shall not be entitled to any reimbursement for any costs from the Agency.

THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, THAT THE PROJECT FACILITY WILL BE SUITABLE FOR THE PURPOSES OR NEEDS OF THE COMPANY.

3.04. The Company will enter into a Payment in Lieu of Tax (PILOT) Agreement which is in compliance with the provisions of the Agency's Uniform Tax Abatement Policy, or as may otherwise be agreed to by the Agency and the Company, and shall be subject to the Recapture Policy.

3.05. (a) The Company and the Operator shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment ordered or used in connection with the acquisition, construction and equipping of the Project Facility, and including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing, whether such claims or liabilities arise as a result of the Company or the Operator acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company and/or the Operator, as the case may be, shall not permit to

stand, and will, at its own expense, take all steps necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, construction and equipping of the Project Facility.

(c) The Company and the Operator shall indemnify and hold the Agency harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

3.06. The Company and the Operator agree that, as agent for the Agency, it will comply with the requirements of Section 13 of the Lien Law, as amended.

3.07. The Company and the Operator will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.08. The Company and/or the Operator will pay all costs incurred by the Agency, including but not limited to attorney's fees, which arise out of Company's and Operator's application for Financial Assistance, whether or not such assistance is ultimately issued. Agency's attorney's fees will be calculated at a time rate of \$275.00 per hour for attorney's time and \$105.00 per hour for senior legal assistant's time, plus disbursements. Upon closing of the Project documents, the Company and/or the Operator will pay to the Agency an administrative fee of \$18,728.00 based upon an estimated Project cost of \$2,497,000.00 pursuant to the schedule set forth below and contained within the Company's and Operator's Application for Financial Assistance:

First \$10 Million of Project Costs:	¾ of 1%
Next \$10 Million of Project Costs:	½ of 1%
Next \$10 Million of Project Costs:	¼ of 1 %
Above \$30 Million of Project Costs:	1/8 of 1%.

Following the completion of the Project Facility, the Company and/or the Operator shall confirm, in writing, the actual Project cost. In the event that the total Project cost exceeds the estimate provided herein, the Agency may require the payment of the difference that would otherwise be due pursuant to the above-schedule.

3.09. To ensure that the Agency's costs are reimbursed if the project does not proceed, the Company and/or the Operator shall pay to the Agency the sum of \$12,485.00 as a security deposit.

Article 4. General Provisions.

4.01. This Agreement shall take effect as of the date of the later of the following to occur: (1) execution of this Agreement by the Company or (2) the date of receipt of the security deposit pursuant to Section 3.09 above. The terms of this Preliminary Agreement shall survive the closing date of this Project and shall remain in effect until the termination of the Lease Agreement as such termination date is defined therein.

4.02. It is understood and agreed by the Agency and the Company and the Operator that the provision of financial assistance to the Company and the Operator and the execution of the Lease Agreement and related documents are subject to (i) acquisition of the Land; (ii) obtaining all necessary governmental approvals, (iii) approval of the members of the Agency, and (iv) approval of the Chief Executive Officers of the Counties of Warren and Washington.

4.03. The Company and the Operator agrees that it will (i) reimburse the Agency for all necessary expenses, including but not limited to legal fees and administrative costs, and (ii) indemnify and hold the Agency harmless from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder.

4.04. The Company at its option may cause a subsidiary or other designee of the Company acceptable to the Agency to enter into the Lease Agreement and to perform its other duties hereunder.

4.05. (a) The obligations and agreements of the Agency contained in this Preliminary Agreement and in the other documents executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Company or Operator) or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company or Operator) and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based on or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State or of the Counties of Warren or Washington, New York, and neither the State nor the Counties of Warren or Washington, New York shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, relative to the Project Facility. The Agency does not have the power or authority to levy taxes.

(b) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or under any of the documents executed herewith or therewith shall be sought or enforced against the Agency unless (1) the party seeking such order

or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, and (2) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company or the Operator) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify and hold harmless the Agency and its members, officers, agents (other than the Company or the Operator) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than the Company or the Operator) and employees against all liability expected to be incurred as a result of compliance with such request.

4.06. (a) The Company and/or the Operator, as the case may be, will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the construction and installation of the Project Facility.

(b) The Company and/or the Operator, as the case may be, shall include the following or substantially similar exculpatory language in each contract entered into in connection with the Project Facility:

“THIS AGREEMENT IS EXECUTED BY _____,
THE DULY APPOINTED AGENT OF THE COUNTIES OF WARREN AND
WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY (THE
“AGENCY”), A PUBLIC BENEFIT CORPORATION OF THE STATE OF
NEW YORK HAVING ITS PRINCIPAL PLACE OF BUSINESS AT 5
WARREN STREET, GLENS FALLS, NEW YORK. IN THE EVENT OF A
DEFAULT BY THE COMPANY IN THE PAYMENT OF ANY MONIES DUE
FOR WORK, LABOR, GOODS, SERVICES, MATERIALS OR EQUIPMENT
FURNISHED IN ACCORDANCE WITH THIS AGREEMENT, SHOULD THE
CONTRACTOR (OR VENDOR) SEEK PAYMENT FROM THE AGENCY, IT
SHALL BE LIMITED TO A CLAIM AGAINST THOSE FUNDS REMAINING
IN PROJECT ACCOUNTS THAT HAVE BEEN ESTABLISHED BY OR ON
BEHALF OF THE AGENCY TO FINANCE THE PROJECT FACILITY. THE
CONTRACTOR (OR VENDOR) AGREES THAT IT SHALL HAVE NO
RIGHTS IN OR CLAIM TO ANY PROPERTY OR ANY FUNDS IN ANY
ACCOUNT OF THE AGENCY OTHER THAN THOSE FUNDS OR

ACCOUNTS SPECIFICALLY ESTABLISHED BY OR ON BEHALF OF THE AGENCY FOR THE PROJECT FACILITY. THE CONTRACTOR (OR VENDOR) FURTHER AGREES THAT IT MAY NOT MAKE A CLAIM OR OBTAIN A JUDGMENT AGAINST THE AGENCY, ITS MEMBERS, OFFICERS OR EMPLOYEES FOR ANY MONIES OTHER THAN THOSE MONIES REMAINING IN ACCOUNTS ESTABLISHED BY OR ON BEHALF OF THE AGENCY FOR THE PROJECT FACILITY.”

(c) Each contract the Company and/or the Operator shall assign to the Agency in connection with the Project Facility shall contain an exculpatory provision substantially similar to or identical to the model provision set forth in paragraph (b) of this Section 4.06.

(d) The Company and the Operator shall file with the Agency copies of all contracts (and all modifications and amendments thereto) entered into for the construction and installation of the Project Facility.

4.07. All notices, or other communications shall be in writing and shall be sufficiently given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, returned receipt requested, addressed as follows:

To the Agency:

Counties of Warren and Washington
Industrial Development Agency
5 Warren Street
Glens Falls, New York 12801
Attention: Chairman

With Copy to:

FitzGerald Morris Baker Firth P.C.
P.O. Box 2017
16 Pearl Street
Glens Falls, NY 12801-2017
Attention: Robert C. Morris, Esq.
Kara I. Lais, Esq.

To the Company/Operator:

RAN Entertainment, LLC dba Skyzone Queensbury
RAN Saunders Property Development, LLC
235 Corinth Road
Queensbury, New York 12804

Attention: Rusty R. Saunders

With Copy to:

Timothy J. Alden, Esq.
1677 Route 9
South Glens Falls, New York 12803

4.08. In the event the Agency is required to take title to the Land, the Agency will re-convey the Land by Bargain and Sale deed only. In no event will the Agency warrant title to the Land, either through deed, mortgage or otherwise.

[SIGNATURE PAGE FOLLOWS]

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

COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY

RAN ENTERTAINMENT, LLC

By: [Signature]
Harold G. Taylor, Chairman

By: [Signature]
Rusty R. Saunders, Member

RAN SAUNDERS PROPERTY DEVELOPMENT, LLC

By: [Signature]
Rusty R. Saunders, Member

STATE OF NEW YORK)
COUNTY OF ~~WARREN~~) ss.:

Rusty R. Saunders, being first duly sworn, deposes and says:

1. That I am the member (Corporate Office) of RAN Entertainment, LLC dba Skyzone Queensbury and that I am duly authorized on behalf of the Operator to bind the Operator and to execute this Agreement.
2. That the Operator confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

[Signature]
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury this 16th day of January, 2016.

[Signature]
(Notary Public)

Timothy J. Alden
Notary Public, State of New York
County of Saratoga No. 4735168
My Commission Expires 10/31/17

STATE OF NEW YORK)
COUNTY OF ~~WARREN~~) ss.:
Saratoga

Rusty R. Saunders, being first duly sworn, deposes and says:

1. That I am the ^a member (Corporate Office) of RAN Saunders Property Development, LLC and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

Rusty R. Saunders
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
this 16th day of January, 2016.

Timothy J. Alden
(Notary Public)

Timothy J. Alden
Notary Public, State of New York
County of Saratoga No. 4735168
My Commission Expires 10/31/17