

AUTHORIZING RESOLUTION
(CVO Central, LLC Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, March 28, 2019.

The following resolution was duly offered and seconded, to wit:

Resolution No. 03/2019 - 03

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION WITH RESPECT TO A CERTAIN PROJECT (DESCRIBED BELOW); (ii) APPOINTING CVO CENTRAL, LLC AS AGENT OF THE AGENCY TO UNDERTAKE THE PROJECT; (iii) MAKING A DETERMINATION UNDER ARTICLE 8 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW IN CONNECTION WITH THE PROJECT; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY WITH RESPECT TO THE PROJECT IN THE FORM OF (a) A SALES AND USE TAX EXEMPTION, (b) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT, AND (c) A MORTGAGE RECORDING TAX EXEMPTION; (v) AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT AND TAX AGREEMENT WITH RESPECT TO THE PROJECT, AND (vi) AUTHORIZING THE EXECUTION AND DELIVERY OF A MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (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, **CVO CENTRAL, LLC**, for itself or on behalf of an entity to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the purchase by the Company of certain property located at 3 Treadeasy Avenue, City of Batavia, Genesee County, New York (the "Land") and the existing improvements located thereon, consisting principally of an approximately 80,000 square foot commercial building (the "Existing Improvements"), (ii) the

acquisition by the Agency of a leasehold interest in the Land and Existing Improvements, (iii) the interior renovation of the Existing Improvements by the Company, as agent of the Agency, for use as a distribution facility and installation shop for motor vehicle parts and accessories (the "Improvements"), and (iv) the acquisition and installation by the Company in and around the Improvements and Existing Improvements of certain items of machinery, equipment 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 18-A of the Act the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) negotiate and enter into an agent, financial assistance and project agreement, pursuant to which the Agency will appoint the Company as its agent for the purpose of undertaking the Project (the "Project Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), related leaseback agreement (the "Leaseback Agreement"), and tax agreement (the "Tax Agreement"), (iii) take a leasehold interest in the Land, the Improvements, the Existing Improvements, the Equipment and the 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, reconstruction, renovation and equipping of the Facility, (b) a partial real property tax abatement structure under the Tax Agreement, and (c) a mortgage recording tax exemption as permitted by New York State law (collectively, the "Financial Assistance"); and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Financial Assistance provided by the Agency to the Company shall not exceed \$100,000 and, therefore, a public hearing with respect to the Project is not required to be held by the Agency; and

WHEREAS, the Project Agreement, Lease Agreement, Leaseback Agreement, Tax Agreement, Mortgage and related documents with respect to the Project are being negotiated and will be presented to the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency for execution upon approval of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER 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) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of undertaking 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 Genesee County, New York, 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) Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that the Project constitutes a "Type II Action" (as such term is defined in SEQRA) as the Project constitutes the replacement, rehabilitation and reconstruction of a structure or facility, in kind, on the same site; therefore, no further action is required under SEQRA.

Section 2. 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 State and local sales and use tax in an amount up to **\$300,000.00**, which result in State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$24,000.00**. 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.

Section 3. Pursuant to Section 875(3) of the Act, 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. 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 undertaking of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to undertake 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, 2019** (unless extended for good cause by the President/CEO of the Agency) if the Lease Agreement, Leaseback Agreement, Tax Agreement contemplated have not been executed and delivered.

Section 5. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to execute (i) the Agent Agreement, pursuant to which the Agency appoints the Company as its agent to undertake the Project, (ii) a Lease Agreement, pursuant to which the Company leases the Project to the Agency, and (iii) a related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, (iv) the Tax Agreement, and (v) related documents; *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 therefrom have been complied with.

Section 6. The President/CEO, Chair, Vice Chair and/or Senior Vice President of

Operations of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver and record a mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by the Bank in such forms as approved by counsel to the Agency 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 Agent Agreement, Lease Agreement, Leaseback Agreement and Tax Agreement, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency shall approve, the execution thereof by the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations 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 7. The Agency is hereby authorized to provide the Company with an exemption from mortgage recording taxes as permitted by New York State law in an amount not to exceed Thirteen Thousand Five Hundred and 00/100 Dollars (\$13,500.00).

Section 8. The Financial Assistance provided by the Agency to the Company shall not exceed \$100,000 and, therefore, a public hearing is not required to be held by the Agency.

Section 9. 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 10. These Resolutions shall take effect immediately.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Paul Battaglia	[]	[]	[X]	[]
Peter Zeliff	[]	[]	[X]	[]
Craig Yunker	[]	[]	[X]	[]
Matthew Gray	[X]	[]	[]	[]
Todd Bender	[X]	[]	[]	[]
Andrew Young	[X]	[]	[]	[]
Amy Vanderhoof	[X]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION
(CVO Central, LLC Project)

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

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

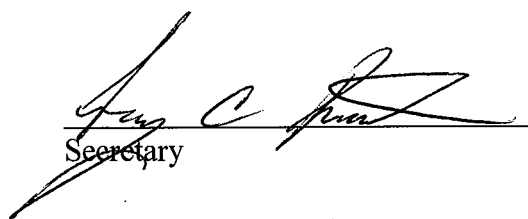
That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on March 28, 2019, with the original thereof on file in my office, and 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 related 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 such 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 affixed the seal of said Agency this _____ day of March, 2019.


Secretary