

RESOLUTION
(Imagination Industries, LLC Project)

A regular meeting of Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, June 6, 2013, at approximately 4:40 p.m.

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

Resolution No. 06/2013-01

RESOLUTION AUTHORIZING THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER TO (i) UNDERTAKE A CERTAIN PROJECT (AS MORE FULLY DESCRIBED BELOW) FOR THE BENEFIT OF IMAGINATION INDUSTRIES, LLC (THE "COMPANY"); (ii) NEGOTIATE, EXECUTE AND DELIVER A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS; (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 A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AND (C) IF NECESSARY, A MORTGAGE RECORDING TAX EXEMPTION FOR THE FINANCING RELATED TO THE PROJECT; AND (iv) EXECUTE RELATED DOCUMENTS.

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 1970 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 "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 industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **IMAGINATION INDUSTRIES, LLC**, for itself or on behalf of **THE FIRING PIN, LLC** (the "Company") has submitted an application to the Agency (the "Application") requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition or retention by the Agency of a leasehold interest in a portion of a parcel of land located at 8240 Buffalo Road, in the Town of Bergen, Genesee County, New York (tax map number 13.-1-40.1) (the "Land"), (ii) the construction and equipping of an approximately 7,015 square foot building on the Land, and related improvements thereto in order to accommodate a firearms and laser engraving business, as well as an indoor shooting range (collectively, the "Improvements"), (iii) the acquisition in and around the Land and the Improvements by the Company of certain items of equipment and other tangible personal

WHEREAS, pursuant to Article 18-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, the Company has represented that the predominant purpose of the Project is to make goods or services which would not, but for the Project, be reasonably accessible to the residents of the Town of Bergen and Genesee County, New York (which finding, or any others, has or will be confirmed by the Chief Executive Officer of Genesee County, New York); and

WHEREAS, it is contemplated that the Agency will (i) designate the Company and the Tenants as agent of the Agency for the purpose of undertaking the Project pursuant to an agent agreement (the "Agent Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement"), payment-in-lieu-of-tax agreement (the "PILOT Agreement") and related documents, with the Company, (iii) take or retain title to or a leasehold interest in the land, improvements, equipment and personal property constituting the Project (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance to the Company (and the Tenants) 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 real property tax abatement through the PILOT Agreement and (c) if necessary, an exemption from the New York State mortgage recording tax (collectively, the "Financial Assistance"); and

WHEREAS, the financial assistance provided to the Company by the Agency will not exceed \$100,000, therefore a public hearing need not be held; and

WHEREAS, the Town of Bergen Planning Board as lead agency, conducted a coordinated review of the Project pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and its implementing regulations at 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"), which resulted in the issuance of a negative declaration by the Town of Bergen Planning Board dated April 25, 2013 (the "Negative Declaration") attached hereto as Exhibit A, concluding the SEQRA process; and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance that the Agency is contemplating with respect to the Project.

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 and any 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/or renovating 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 and/or retaining 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;

(F) 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 (i) the predominant purpose of the Project is to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the Town of Bergen and Genesee County, New York because of a lack of reasonably accessible retail trade facilities offering such goods or services, and (ii) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State. Notwithstanding anything contained in this Resolution to the contrary, no financial assistance shall be provided to the Company by the Agency unless and until the Agency shall have obtained the confirming approval of the Chief Executive Officer of Genesee County, New York; and

(F) The Town of Bergen Planning Board has conducted a review of the Project pursuant to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"). In addition to classifying the Project as an Unlisted Action pursuant to SEQRA, the Town of Bergen Planning Board also issued a Negative Declaration on April 25, 2013 determining that the Project did not present a potential significant adverse environmental impact. The Agency, having reviewed the materials presented by the Company, further determines that the Project does not pose a potential significant adverse environmental impact and thus ratifies the Negative Declaration previously issued by the Town of Bergen Planning Board pursuant to 6 N.Y.C.R.R. § 617.7.

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 New York State and local sales and use tax in an amount up to \$249,625.00, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$19,970.00. 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. 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 3. Subject to the Company executing the Agent Agreement (a form thereof attached hereto as Exhibit A) 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, 2014** (*unless extended for good cause by the Chief Executive Officer of the Agency*) if the Lease Agreement, Leaseback Agreement and PILOT Agreement contemplated have not been executed and delivered.

Section 4. Subject to the terms of this Resolution, the Chairman, Vice Chairman, Executive Vice President and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver (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 PILOT 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 PILOT 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, Executive Vice President and/or President/Chief Executive Officer 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 PILOT 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 Chairman, Vice Chairman, Executive Vice President and/or President/Chief Executive Officer of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman, Executive Vice President and/or President/Chief Executive Officer of the Agency to constitute conclusive evidence of such approval; *provided*, that, 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 a vote on roll call, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Charlie Cook	[X]	[]	[]	[]
Wolcott T. Hinchey	[X]	[]	[]	[]
James L. Vincent	[X]	[]	[]	[]
John F. Andrews	[]	[]	[X]	[]
Mary Ann E. Wiater	[X]	[]	[]	[]
Rochelle Stein	[]	[]	[X]	[]
John L. Rizzo	[X]	[]	[]	[]

The Resolutions were thereupon duly adopted.