

Date: March 26, 2020

At a meeting of the Town of Hempstead Industrial Development Agency (the “Agency”), held electronically via conference call on the 26th day of March, 2020, the following members of the Agency were:

Present: Florestano Girardi, Chairman
James G. Marsh, Esq., Vice-Chairman
Eric C. Mallette, Secretary
Jack Majkut, Member
Cherice P. Vanderhall, Member
Stacey Lucas (nee Hargraves), Member
Daniel Oppenheimer, Member
Karla Guerra, Esq., Member

Excused:

Also Present: Frederick E. Parola, Chief Executive Officer
Edie Longo, Chief Financial Officer
Michael Lodato, Deputy Executive Director
Arlyn Eames, Deputy Financial Officer
Laura Tomeo, Deputy Agency Administrator
John Ryan, Esq., Agency Counsel
William F. Weir, Esq., Transaction Counsel
Daniel J. Baker, Esq., Certilman Balin Adler & Hyman, LLP

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the assignment and assumption of the Agency’s Garden City Auto Holdings LLC 2019 Facility, the execution and delivery of documents with respect thereto and the leasing of the Facility to City Autoplex, LLC.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

<u>Voting Aye</u>	<u>Voting Nay</u>	<u>Abstain</u>
6	2	0

RESOLUTION OF THE TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY TAKING
OFFICIAL ACTION TOWARD APPOINTING CITY
AUTOPLEX, LLC, A LIMITED LIABILITY COMPANY, ON
BEHALF OF ITSELF AND/OR THE PRINCIPALS OF CITY
AUTOPLEX, LLC AND/OR AN ENTITY FORMED OR TO
BE FORMED ON BEHALF OF ANY OF THE FOREGOING
AS AGENT OF THE AGENCY FOR THE PURPOSE OF
ACQUIRING, DEMOLISHING, CONSTRUCTING AND
EQUIPPING AN INDUSTRIAL DEVELOPMENT
FACILITY, MAKING CERTAIN FINDINGS AND
DETERMINATIONS WITH RESPECT TO THE FACILITY
AND APPROVING THE FORM, SUBSTANCE AND
EXECUTION OF RELATED DOCUMENTS

WHEREAS, the Agency previously provided its assistance to Garden City Auto Holdings LLC, a limited liability company, organized and existing under the laws of the State of New York (“**Original Company**”), in the acquisition of an approximately 1.4 acre parcel of land located at 225-233 North Franklin Street, Village of Hempstead, New York 11550 (the “**Land**”), the demolition of an existing approximately 15,000 square foot building located thereon and the construction of an approximately 33,500 square foot building thereon (the “**Improvements**”), and the acquisition and installation therein of certain equipment and personal property (the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), which Facility is subleased and leased by the Agency to the Original Company and is to be used by the Original Company for its primary use as an automobile dealership and service center (the “**Project**”); and

WHEREAS, the Land and the Improvements were leased by the Original Company to the Agency pursuant to the terms of the Company Lease Agreement, dated as of July 1, 2019 (the “**Original Company Lease Agreement**”), by and between the Original Company, as lessor, and the Agency, as lessee, and a memorandum of such Original Company Lease Agreement was to be recorded in the Nassau County Clerk’s office; and

WHEREAS, the Agency currently subleases the Facility to the Original Company pursuant to a certain Lease and Project Agreement, dated as of July 1, 2019 (the “**Original Lease Agreement**”), by and between the Agency, as sublessor, and the Original Company, as sublessee, and a memorandum of such Original Lease Agreement was to be recorded in the Nassau County Clerk’s office; and

WHEREAS, City Autoplex, LLC, a New York limited liability company, on behalf of itself and/or the principals of City Autoplex, LLC and/or an entity formed or to be formed on behalf of the foregoing (collectively, the “**Company**”), has submitted its application for financial assistance (the “**Application**”), to the Agency and requested the Agency’s consent to the assignment by the Original Company of all of its rights, title, interest and obligations under the Original Company Lease Agreement, the Original Lease Agreement and certain other agreements in connection with the Facility to, and the assumption by, the Company of all of such rights, title, interest and obligations of the Original Company, and the release of

the Original Company from any further liability with respect to the Facility subject to certain requirements of the Agency (the “**Assignment and Assumption**”), all pursuant to a certain Assignment, Assumption and Amendment Agreement, dated as of April 1, 2020 or such other date as may be determined by the Chairman, Chief Executive Officer, Deputy Executive Director and counsel to the Agency (the “**Assignment and Assumption Agreement**”), by and among the Agency, the Original Company and the Company; and

WHEREAS, the Original Company Lease will be assigned by the Original Company and assumed by the Company, pursuant to a certain Assignment and Assumption of Company Lease Agreement, to be dated as of April 1, 2020, or such other date as may be determined by the Chairman, Chief Executive Officer, Deputy Executive Director and counsel to the Agency (the “**Assignment of Original Company Lease Agreement**”), by and between the Original Company and the Company and consented to by the Agency; and

WHEREAS, the Original Lease Agreement, as amended, will be assigned by the Original Company and assumed by the Company, pursuant to a certain Assignment and Assumption of Lease Agreement, to be dated as of April 1, 2020, or such other date as may be determined by the Chairman, Chief Executive Officer, Deputy Executive Director and counsel to the Agency (the “**Assignment of Original Lease Agreement**”), by and between the Original Company and the Company and consented to by the Agency; and

WHEREAS, in connection with the Assignment and Assumption, the Original Lease Agreement, as assigned, shall be amended and restated pursuant to a certain Amended and Restated Lease and Project Agreement, dated as of April 1, 2020 or such other date as may be determined by the Chairman, Chief Executive Officer, Deputy Executive Director and counsel to the Agency (the “**Amended and Restated Lease and Project Agreement**”; and together with the Original Lease Agreement and the Assignment of Original Lease Agreement, the “**Lease Agreement**”), by and between the Agency, as lessor, and the Company, as lessee; and

WHEREAS, the Company has further requested the Agency consent to a financing of the Facility with a lender as may be determined (the “**Lender**”) pursuant to one or more mortgages (the “**Mortgage**”), in connection with the transactions contemplated by this resolution and such other loan documents satisfactory to the Agency, as may be reasonably required by the Lender, to be dated a date to be determined (collectively, the “**Loan Documents**”); and

WHEREAS, the Agency previously authorized financial assistance to the Original Company in the form of: (i) exemptions from mortgage recording taxes for one or more mortgages in an amount of benefits not to exceed \$100,000.00 in connection with the financing of the acquisition, demolition, construction and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, demolishing, constructing and equipping the Facility, (ii) exemptions from sales and use taxes in an approximate amount not to exceed \$350,000, in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility, and (iii) continued abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof) (collectively, the “**Benefits**”), consistent with the policies of the Agency; and

WHEREAS, the Agency and the Company will enter into such other documents upon advice of counsel, in both form and substance, as may be reasonably required to effectuate the Assignment and Assumption (collectively, with the Assignment and Assumption Agreement, the Assignment of Original Company Lease Agreement, the Assignment of Original Lease Agreement and the Amended and Restated Lease and Project Agreement, the “**Assignment Documents**”); and

WHEREAS, pursuant to this resolution and the Assignment Documents, the Agency authorizes and consents to the assignment by the Original Company to the Company of the Benefits that have not been used by the Original Company as of the effective date of the Assignment Documents; and

WHEREAS, pursuant to Section 9.3 of the Lease Agreement, the Facility may be assigned, in whole or in part, with the prior written consent of the Agency; and

WHEREAS, the Agency will consent to the assignment by the Original Company and the assumption by the Company of the Original Company’s interests in the Facility and the amendment of the Original Company Lease Agreement and the Original Lease Agreement, and the Agency will thereafter lease the Facility to the Company; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed financial assistance is either an inducement to the Company to maintain the Facility in the Town of Hempstead or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “**SEQR Act**” or “**SEQR**”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form and related documents (the “**Questionnaire**”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Original Company and the Company have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the leasing of the Facility by the Agency to the Company.

NOW, THEREFORE, BE IT RESOLVED by the Town of Hempstead Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. Based upon the Environmental Assessment Form completed by the Company and reviewed by the Agency and other representations and information furnished by the Company regarding the Facility, the Agency determines that the action relating to the acquisition, demolition, construction, equipping and operation of the Facility is an “Unlisted” Action, as that term is defined in the SEQR Act. The Agency also determines that the action will not have a “significant effect” on the environment, and, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR. Notice of this determination shall be filed to the extent required by the applicable regulations under SEQR or as may be deemed advisable by the Chairman or Chief Executive Officer of the Agency or counsel to the Agency.

Section 2. The Agency hereby finds and determines:

- (a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and
- (b) The Facility constitutes a “project”, as such term is defined in the Act; and
- (c) The leasing and mortgaging of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Hempstead, Nassau County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and
- (d) The leasing of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and
- (e) Based upon representations of the Company and counsel to the Company, the Facility conforms with the local zoning laws and planning regulations of the Town of Hempstead, Nassau County and all regional and local land use plans for the area in which the Facility is located; and
- (f) It is desirable and in the public interest for the Agency to lease the Facility to the Company; and
- (g) It is desirable and in the public interest for the Agency to consent to the assignment and assumption of the interest in the Facility from the Original Company to the Company; and
- (h) The Assignment Documents to which the Agency is a party will be effective instruments whereby the Agency, the Company and the Original Company will effectuate the assignment and assumption of the Facility; and
- (i) The Assignment and Assumption Agreement will be an effective instrument whereby the Agency will amend the Original Company Lease Agreement to reflect the assignment of the Original Company Lease Agreement by the Original Company to the Company; and

- (j) The Assignment of Original Company Lease Agreement will be an effective instrument whereby the Original Company Lease will be assigned by the Original Company to the Company;
- (k) The Assignment of Original Lease Agreement will be an effective instrument whereby the Original Lease Agreement will be assigned by the Original Company to the Company; and
- (l) The Amended and Restated Lease and Project Agreement will be an effective instrument whereby the Agency will amend and restate the Original Lease Agreement, sublease and lease the Facility to the Company, the Agency and the Company set forth the terms and conditions of their agreement regarding payments-in-lieu of taxes, the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility, and will describe the circumstances in which the Agency may recapture some or all of the benefits granted to the Company; and
- (m) The Loan Documents, to which the Agency is a party, will be effective instruments whereby the Agency and the Company agree to secure the loan made to the Company by the Lender.

Section 3. The Agency has assessed all material information included in connection with the Company's application for financial assistance and such information has provided the Agency a reasonable basis for its decision to provide the financial assistance described herein to the Company.

Section 4. In consequence of the foregoing, the Agency hereby determines to: (i) consent to the assignment and assumption of the Facility from the Original Company to and by the Company pursuant to the Assignment and Assumption Agreement, (ii) execute, deliver and perform the Assignment and Assumption Agreement, (iii) consent to the assignment of the Original Company Lease pursuant to the Assignment of Original Company Lease Agreement; (iv) execute, deliver and perform the Assignment of Original Company Lease Agreement; (v) consent to the assignment of the Original Lease Agreement pursuant to the Assignment of Original Lease Agreement; (vi) execute, deliver and perform the Assignment of Original Lease Agreement (vii) lease the Facility to the Company and amend and restate the Original Lease Agreement pursuant to the Amended and Restated Lease and Project Agreement, (viii) execute, deliver and perform the Amended and Restated Lease and Project Agreement, (ix) execute and deliver the other Assignment Documents, (x) grant a mortgage lien on and security interest in and to the Facility pursuant to the Mortgage, (xi) execute, deliver and perform the Mortgage, (xii) execute, deliver and perform the Loan Documents to which the Agency is a party, and such other related documents or certificates as may be necessary or appropriate to effect the loan, and (xiii) authorize and consent to the assignment of the Benefits that have not been used by the Original Company as of the effective date of the Assignment Documents from the Original Company to the Company.

Section 5. The Agency is hereby authorized to consent to the assignment and assumption of the Facility by the Company and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such assignment and assumption are hereby approved, ratified and confirmed.

Section 6. The Agency is hereby authorized to consent and approve the assumption by the Company of the Benefits that have not been used by the Original Company as of the Effective Date of the Assignment Documents, all consistent with the policies of the Agency.

Section 7. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement, and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 8. The Company is hereby notified that it will be required to comply with Section 875 of the Act. The Company shall be required to agree to the terms of Section 875 pursuant to the Lease Agreement. The Company is further notified that the tax exemptions and abatements provided pursuant to the Act and the appointment of the Company as agent of the Agency pursuant to this Authorizing Resolution are subject to termination and recapture of benefits pursuant to Sections 859-a and 875 of the Act and the recapture provisions of the Lease Agreement.

Section 9. The form and substance of the Assignment and Assumption Agreement, the other Assignment Documents, the Amended and Restated Lease and Project Agreement, and the Loan Documents to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 10. The Agency is hereby authorized to do all things necessary or appropriate for the execution, delivery and performance of the Assignment and Assumption Agreement, the other Assignment Documents, the Amended and Restated Lease and Project Agreement, and the Loan Documents to which the Agency is a party and such other related documents or certificates as may be necessary or appropriate to effect the loan, and all acts heretofore taken by the Agency with respect to such financing are hereby approved, ratified and confirmed; provided that the form and substance of the Assignment and Assumption Agreement, the other Assignment Documents, the Amended and Restated Lease and Project Agreement, and the Loan Documents to which the Agency is a party and such other related documents shall be satisfactory in all material respects to Agency Counsel and Transaction Counsel and to the officer of the Agency executing the Assignment and Assumption Agreement, the other Assignment Documents, the Amended and Restated Lease and Project Agreement, and the Loan Documents to which the Agency is a party, and such other related documents.

Section 11. The Chairman, Chief Executive Officer, Deputy Executive Director, Chief Financial Officer or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Assignment and Assumption Agreement, the other Assignment Documents, the Amended and Restated Lease and Project Agreement, and the Loan Documents to which the Agency is a party, in the form the Chairman, Chief Executive Officer, Deputy Executive Director, Chief Financial Officer or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman,

Chief Executive Officer, Deputy Executive Director, Chief Financial Officer or any member and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “**Agency Documents**”). The execution thereof by the Chairman, Chief Executive Officer, Deputy Executive Director, Chief Financial Officer or any member of the Agency shall constitute conclusive evidence of such approval.

Section 12. The Chairman, Chief Executive Officer, Deputy Executive Director, Chief Financial Officer or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 13. 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 or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 14. Subject to the provisions of this resolution, the Company is herewith and hereby appointed the agent of the Agency to acquire, demolish, construct and equip the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to acquire, demolish, construct and equip the Facility. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agent of the Agency solely for purposes of making sales or leases of goods, services and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency, shall be deemed to be on behalf of the Agency and for the benefit of the Facility. This agency appointment expressly excludes the purchase by the Company of any motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency. The aforesaid appointment of the Company as agents of the Agency to acquire, demolish, construct and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, (b) a date which the Agency designates, or (c) the date on which the Company has received exemptions from sales and use taxes in an amount not to exceed \$350,000.00 in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility; provided however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time. The aforesaid appointment of the Company is subject to the execution of the documents contemplated by this resolution.

Section 15. Any expenses incurred by the Agency and Transaction Counsel with respect to the Facility shall be paid by the Company. The Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Facility.

Section 16. This resolution shall take effect immediately.

ADOPTED: March 26, 2020

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

We, the undersigned Chief Executive Officer and Chairman of the Town of Hempstead Industrial Development Agency, DO HEREBY CERTIFY THAT:


We have compared the foregoing copy of a resolution of the Town of Hempstead Industrial Development Agency (the "Agency") with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on March 26, 2020, held electronically via conference call in compliance with Governor Cuomo's Executive Order 220.1 issued on March 12, 2020.

The Application is in substantially the form presented to and approved at such meeting.

WE FURTHER CERTIFY that, because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 220.1 issued on March 12, 2020, suspending the Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, the Agency's Board Meeting on March 26, 2020 (the "Board Meeting"), was held electronically via conference call instead of a public meeting open for the public to attend in person. Members of the public were advised, via the Agency's website, to listen to the Board Meeting by calling 1-877-870-5858, entering Passcode 824501#, and were further advised that the Minutes of the Board Meeting would be transcribed and posted on the Agency's website, and that all members of said Agency had due notice of said meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, we have hereunto set our hands as of March 26, 2020.

By: 
Frederick E. Parola
Chief Executive Officer


By: 
Florestano Girardi
Chairman

EXHIBIT A

Schedule of In-Lieu-of-Taxes Payment **less any amounts payable by the Company in connection with any special ad valorem levies, special assessments or Special District Taxes and service charges levied against the Facility** to the Town of Hempstead, Village of Hempstead, Hempstead Union Free School District and Appropriate Special Districts:

Section 34
Block 178
Lots 6,12,14, 11(18,23)
SD 1

225-233 North Franklin Street, Village of Hempstead

Total General Tax: \$22,659.34
Total School Tax: \$89,916.47
Total Village Tax: \$46,420.63
Total Tax: \$158,996.44

Year	Amount
1	158,996.00
2	158,996.00
3	158,996.00
4	166,946.00
5	175,293.00
6	177,922.00
7	180,591.00
8	183,751.00
9	186,967.00
10	190,706.00

***In accordance with Title 2 of Article 18-A of the GML, Section 905(3), beginning December, 2020, and every third year thereafter, the PILOT Payments shall be reviewed by the Agency and adjusted based on changes to the assessed value and tax rate of all other real properties located in the Village of Hempstead.**