
City of Syracuse
Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

July 16, 2019

Alan Byer Auto Sales, Inc.
1230 West Genesee Street
Syracuse, New York 13204
Attn: Stephen Byer

West Genesee Realty Associates, LLC
1230 West Genesee Street
Syracuse, New York 13204
Attn: Stephen Byer

Alan I. Byer Family Trust
1230 West Genesee Street
Syracuse, New York 13204
Attn: Stephen Byer

Stephen Gary Byer
1230 West Genesee Street
Syracuse, New York 13204

Re: City of Syracuse Industrial Development Agency
Alan Byer Auto Sales, Inc. – Volvo Project
Temporary Sales Tax Appointment Letter

Dear Sirs:

Pursuant to a resolution duly adopted on December 18, 2018 (the “**Resolution**”), the City of Syracuse Industrial Development Agency (the “**Agency**”) appointed Alan Byer Auto Sales, Inc. and Alan I. Byer Family Trust (collectively, the “**Original Company**”) the true and lawful agent of the Agency to undertake a project (the “**Original Project**”) consisting of: (A)(i) the acquisition of an interest in approximately 1.89 acres of improved real property located at 1232-36 West Genesee Street (also known as 1230 West Genesee Street), in the City of Syracuse, New York (the “**Original Land**”); (ii) the renovation of an existing approximately 25,820 square foot building for use as an auto dealership, including but not limited to, renovation of interior showroom, sales offices and reception areas, external replacement of entry, new exterior wall finishes, updated signage and roof replacement, all located on the Land (the “**Original Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Original Equipment**” and together with the Land and the Facility, the “**Original Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “**Original Financial Assistance**”); (C) the appointment of the Original Company or its designee as an agent of the

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Agency in connection with the acquisition, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Original Company to the Agency; and the sublease of the Project Facility back to the Original Company pursuant to a sublease agreement. The total aggregate amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved by the Agency for the benefit of the Project shall not exceed **\$140,000**.

On December 31, 2018, the Agency issued a Temporary Sales Tax Appointment Letter (the "**Original Temporary Appointment**"), appointing the Original Company its agent for the purposes set forth therein and reflecting the approval of State and local sales and use tax exemption benefits in an amount not to exceed \$140,000 (the "**Sales Tax Exemption**"). The Original Temporary Appointment was set to expire by its terms on March 1, 2019.

On or about March 12, 2019, the Original Company requested, and on March 19, 2019 the Agency approved, the extension of the Original Company's Original Temporary Appointment from March 1, 2019 through and including May 31, 2019. The Original Company did not request any increase in the sales tax exemption (the "**Extended Temporary Appointment**").

By supplemental application dated March, 2019 ("**Supplemental Application**") submitted by the Original Company along with Stephen Gary Byer and the Alan I. Byer Family Trust, as co-partners d/b/a Byer Real Estate Enterprises ("**Byer Real Estate**") and West Genesee Realty Associates, LLC ("**Realty**" and together with Byer Real Estate, the "**Newco**") (Alan Sales, together with the Trust, collectively the "**Original Company**" and the Original Company together with the Newco, collectively, the "**Company**"), advised the Agency of certain modifications to the Original Project as well as the Original Company, and requested the Agency undertake the Original Project as modified, (the "**Project**") consisting of: (A)(i) the acquisition of an interest in: (1) approximately 1.89 acres of improved real property bearing tax map number 108.1-02-19 and commonly referred to as 1232-36 West Genesee Street (also known as 1230 West Genesee Street) ("**Parcel 1**"); (2) approximately 3 acres of improved real property bearing tax map number 108.1-02-35.1 and commonly referred to as 1232 West Genesee Street (rear) ("**Parcel 2**"); and (3) approximately 2 acres of improved real property bearing tax map number 108.1-02-20 and commonly referred to as 1288 West Genesee Street ("**Parcel 3**"), each in the City of Syracuse, New York (collectively, the "**Land**"); (ii) there is an existing approximately 25,820 square foot building located on Parcel 1; an existing approximately 17,000-square foot building located on Parcel 2; and an approximately 34,802 square foot building located on Parcel 3, all of which are served by common driveways, parking, and pedestrian walkways, and all of which comprise the Alan Byer Volvo facility (collectively, the "**Improvements**"); (iii) the renovation to the Improvements include, but are not limited to, the interior showroom, sales offices and reception areas, external replacement of entry, new exterior wall finishes, updated signage, the existing basement, replacement of an area of deteriorating floor slab, refreshed

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directional pavement graphics and roof replacement (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

In conjunction with the Supplemental Application, the Original Company requested another extension of their Extended Temporary Appointment as well as requesting a temporary appointment of the Newco as the Agency's agent as well for purposes of completing the Project. By Resolution dated July 16, 2019, the Agency adopted a resolution authorizing the third extension of the Original Company to September 13, 2019 and the appointment of Newco, effective July 16, 2019, through September 13, 2019 (collectively, the "**Third Temporary Appointment**").

By resolution duly adopted July 16, 2019 (the "**Amended Inducement Resolution**" and together with the Original Resolution, collectively, the "**Resolution**"), the Agency approved the Project, the Company and the Third Temporary Appointment.

This Third Temporary Appointment is being issued in accordance with the interim project agreement dated December 31, 2018, as amended on each March 19, 2019 and July 16, 2019, executed prior or contemporaneously herewith, (collectively, the "**Agreement**") entered into between the Agency and the Company, and includes, and this letter evidences, authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Project Facility, as defined in the first paragraph hereof, and the following activities as they relate to any construction, improvement and equipping of any of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (1) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with construction, improvement and equipping; (2) all purchases, rentals, uses or consumption of supplies, materials, utilities and services of every kind and description used in connection with construction, improvement and equipping; and (3) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs), installed or placed in, upon or under such building or facility, including all repairs and replacements of such property, and with respect to such specific purchases or rentals, are exempt from any sales or use tax imposed by the State of New York or any governmental instrumentality located within the State of New York.

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This Third Temporary Appointment includes the power to delegate such agency, in whole or in part, to a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "**Additional Agents**"). Additional Agents must be specifically appointed by the Original Company in accordance and compliance with the terms of the Agreement. The Original Company hereby agrees to complete "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for itself and each Additional Agent who provide materials, equipment, supplies or services to the Project Facility and deliver said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment. The Agency's obligation to execute any Form ST-60 relative to an Additional Agent is subject to the satisfaction of the conditions in the Agreement relative to such appointments.

The Company agrees, whenever requested by the Agency, to provide, or cause its Additional Agents to provide and certify, or cause to be certified, such information regarding use of local labor, job creation, exemptions from State and local sales and use tax, real property taxes and mortgage recording taxes and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation, including but not limited to those required by §875 of the Act.

The Company acknowledges and agrees that pursuant to Section 875(3) of the Act, and in conjunction with the Agency's Recapture of Benefits Policy, (the "**Recapture Policy**"), the Agency shall, and in some circumstances may, recover, recapture, receive or otherwise obtain from the Company some or all of the Financial Assistance (the "**Recapture Amount**") in accordance with the Agency's Recapture Policy dated as of June 21, 2016 and the Agreement between the Agency and the Original Company.

Each supplier or vendor should identify the Project Facility on each bill or invoice and indicate thereon which of the Company or its Additional Agents acted as agent for the Agency in making the purchase.

In order to be entitled to use this exemption, you and each Additional Agent should present to the supplier or other vendor of materials for the Project Facility, a completed "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123).

In addition, General Municipal Law §874(8) requires you to file an Annual Statement with the New York State Department of Taxation and Finance ("**NYS DTF**") on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions you, and every Additional Agent have claimed pursuant to the agency we have

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conferred on you with respect to this project. The penalty for failure to file such statement is the removal of your authority to act as our agent. In addition, you must provide a copy of the completed Form ST-340 to the Agency within ten (10) days of the date it is due to be filed with the NYSDTF.

The agency created by this Third Temporary Appointment is limited to the Project Facility, and will expire on **September 13, 2019** or upon the execution and delivery of the final sales tax appointment Letter, whichever is earlier. You may apply to extend this agency authority by showing good cause.

This Third Temporary Appointment is provided for the sole purpose of securing exemption from State and local sales and use taxes **for this Project only and may not be used for any other purpose or for any other land, facilities or improvements**. No other principal/agent relationship is intended or may be implied or inferred by this letter.

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 (including payment or performance obligations), and the Company shall be the sole party liable thereunder. By execution of the Agreement, and acceptance and use of this letter, the vendor hereby acknowledges the limitations on liability described herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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Very truly yours,

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Judith DeLaney, Executive Director