

## **PILOT RESOLUTION**

A regular meeting of the County of Oswego Industrial Development Agency (the “*Agency*”) was convened in public session on October 20, 2011 at 9:00 a.m., at 44 West Bridge Street, Oswego, New York.

The meeting was called to order by the Chair and, upon the roll being duly called, the following members were:

**PRESENT:** Arthur W. Ospelt, Carolyn A. Rush, H. Leonard Schick,  
Morris Sorbello and Gary T. Toth

**ABSENT:** Jonathan Daniels and Donald H. Kunzwiler

**ALSO PRESENT:** Kevin C. Caraccioli, David S. Dano and L. Michael  
Treadwell

The following resolution was duly offered and seconded:

### **RESOLUTION APPROVING A PAYMENT IN LIEU OF TAX SCHEDULE AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A CERTAIN PROJECT UNDERTAKEN AT THE REQUEST OF THE COMPANY**

**WHEREAS**, the County of Oswego Industrial Development Agency (the “*Agency*”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, the “*Act*”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

**WHEREAS**, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, lease, and sell real property and grant financial assistance in connection with one or more “projects” (as defined in the Act); and

**WHEREAS**, Champlain Valley Specialty of New York, Inc., a New York business

corporation, or an entity formed on its behalf (the “**Company**”), submitted an application to the Agency on or about September 28, 2011 (“**Application**”), a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “**Project**”) consisting of: (A) (i) the acquisition of a leasehold interest in approximately 5.68 acres of improved real property located at 8033 State Route 104 in the Town of Oswego, New York, Oswego County (the “**Land**”); (ii) the reconstruction and renovation of an approximately 27,000 square foot building for use as a fresh fruit processing facility on the Land (collectively the “**Facility**”); and (iii) the acquisition of and installation in the Facility of various machinery, equipment and furnishings, including but not limited to manufacturing equipment for slicing, coring and treatment of fruit and packaging equipment for the packaging of processed fruit (collectively the “**Equipment**”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) granting certain financial assistance in the form of exemptions from real property tax, mortgage recording tax, sales and use taxation (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 and equipping of the Project Facility; and (D) the lease of the Project Facility by the Agency pursuant to a lease agreement and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

**WHEREAS**, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Agency has examined the Environmental Assessment Form (the “**EAF**”) prepared by the Company in order to classify the Project and has determined that the Project constitutes a Type II action as that term is defined under SEQRA, and therefore no further environmental review is required;

**WHEREAS**, on even date herewith the Agency adopted a resolution (the “**Inducement Resolution**”) undertaking the Project and appointing the Company as its agent for purposes of completing the Project Facility; and

**WHEREAS**, the Company shall convey its right, title and interest in the Equipment to the Agency pursuant to a bill of sale; and

**WHEREAS**, in the Application, the Company also requested that the Agency consider a payment in lieu of tax (“**PILOT**”) schedule, more fully described on Exhibit “A” attached hereto, and such schedule conforms with the Agency’s Uniform Tax Exemption Policy (“**UTEP**”) established pursuant to Section 874(4) of the Act for manufacturing facilities; and

**WHEREAS**, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the Town of Oswego, (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the

Act; and (iii) undertaking the Project will create and/or preserve permanent private sector jobs in the State;

**NOW, THEREFORE,** be it resolved by the members of the County of Oswego Industrial Development Agency, as follows:

**Section 1.** It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby 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.

**Section 2.** The Agency ratifies all prior resolutions passed in connection with this proposed Project.

**Section 3.** Based upon the representations made by the Company to the Agency, and the reasons presented by the Company in support of its request for the PILOT schedule and after consideration of correspondence and oral comments, if any, received, the PILOT schedule, attached hereto, and a PILOT Agreement containing substantially similar terms and conditions as other agreements previously approved by the Agency with respect to similar projects, are hereby approved.

**Section 4.** The execution of the PILOT Agreement is conditioned upon, among other things: (i) the execution by the Company of the Agency Agreement (as that term is defined in the Agency's Inducement Resolution dated even date herewith with respect to this Project); (ii) the passage by the Agency of a Final Resolution relative to this Project; and (iii) the Agency and the Company's execution of the necessary lease documents providing the Agency with an interest in the Project Facility.

**Section 5.** No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to above shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

**Section 6.** A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

**Section 7.** The Chief Executive Officer of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution as well as all previously approved Resolutions.

**Section 8.** Counsel to the Agency and special Agency counsel are hereby authorized to work with the Company, and others to prepare, for submission to the Agency, all documents necessary to effect the grant of Financial Assistance.

**Section 9.** The Chairperson or Chief Executive Officer are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any such additional certificates, instruments and documents, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this resolution.

**Section 10.** This Resolution shall take effect immediately.

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

	<b><u>Aye</u></b>	<b><u>Nay</u></b>	<b><u>Abstain</u></b>	<b><u>Absent</u></b>
Jonathan Daniels				X
Donald H. Kunzwiler				X
Arthur W. Ospelt	X			
Carolyn A. Rush	X			
H. Leonard Schick	X			
Morris Sorbello	X			
Gary T. Toth	X			

The resolution was thereupon declared duly adopted.

State of New York                    )  
  ) ss.:  
County of Oswego                    )

I, the undersigned Chief Executive Officer of the County of Oswego Industrial Development Agency, Do Hereby Certify that (i) I have compared the annexed extract of the minutes of the meeting of the County of Oswego Industrial Development Agency (the “Agency”) held on October 20, 2011, 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 the whole of such original insofar as the same relates to the subject matters referred to therein.

I Further Certify that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Agency on October 20, 2011.

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L. Michael Treadwell  
Chief Executive Officer

(SEAL)

**EXHIBIT “A”**

**PILOT SCHEDULE**