

**RESOLUTION**

A recessed meeting of County of Sullivan Industrial Development Agency ("Agency") was reconvened in public session at the Sullivan County Government Center, 100 North Street, Village of Monticello, Sullivan County, New York on November 28, 2016, at 11:00 a.m. local time.

The meeting was called to order by Chairman Ira Steingart, and, upon roll being called, the following members of the Agency were:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[ √ ]	[   ]
Suzanne Loughlin	[ √ ]	[   ]
Sean Rieber	[   ]	[ √ ]
Howard Siegel	[ √ ]	[   ]
Charles Barbuti, Jr.	[ √ ]	[   ]
Scott Smith	[ √ ]	[   ]
Paul Guenther	[ √ ]	[   ]
Joseph Perrello	[ √ ]	[   ]
Carol Roig	[ √ ]	[   ]

The following persons were also present:

- Edward T. Sykes, Executive Director
- Steve White, Chief Executive Officer
- Jennifer M. Flad, Vice-President of Government Affairs and Business Development
- Julio Garaicoechea, Project Manager
- Walter F. Garigliano, General Counsel

The following resolution was duly offered by Howard Siegel, and seconded by Paul Guenther, to wit:

Resolution No. 37 - 16

***RESOLUTION OF THE AGENCY (I) CONSENTING TO THE ASSIGNMENT OF THE SUTPHEN EAST CORPORATION ("SUTPHEN") PROJECT (AS HEREINAFTER DEFINED) AND ALL RIGHT, TITLE AND INTEREST IN AND TO THE SUTPHEN AGENCY DOCUMENTS (AS HEREINAFTER DEFINED); (II) APPOINTING HUDSUT LLC ("HUDSUT") AND HVFG LLC ("HVFG" AND TOGETHER WITH HUDSUT COLLECTIVELY, THE "COMPANY") AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, RECONSTRUCTING AND EQUIPPING THE PROJECT; (III) PROVIDING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF SALES TAX EXEMPTION FOR PURCHASES RELATED TO THE***

***RECONSTRUCTION AND EQUIPPING OF THE FACILITY; (IV) PROVIDING A MORTGAGE TAX EXEMPTION FOR FINANCING RELATED TO THE PROJECT; AND (V) PROVIDING A REAL ESTATE TAX EXEMPTION IN ACCORDANCE WITH THE AGENCY'S AGRICULTURAL INDUSTRY TAX ABATEMENT POLICY***

***WHEREAS***, the Agency was created by Chapter 560 of the Laws of 1970 of the State of New York, as amended, pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York ("State"); and

***WHEREAS***, on or about September 27, 1988, the Agency, as landlord and Sutphen, as tenant entered into a lease ("Lease") of 4.8 acres of vacant land located at the Sullivan County Airport Industrial Park which is depicted on the 2016 Town of Bethel tax map as Section 18, Block 1, Lot 16.4 ("Land"); and

***WHEREAS***, pursuant to the Lease, Sutphen, at its sole cost and expense, constructed a 70'x150' steel frame building on the Land; and

***WHEREAS***, by application made on or about December 6, 1999, Sutphen applied to the Agency for authorization and financial assistance for the construction of a second building, being 70x100 feet in size, on the Land ("Second Building"); and

***WHEREAS***, on or about January 1, 2000, Sutphen and the Agency entered into an Agent Agreement pursuant to which the Agency appointed Sutphen as its Agent to construct the Second Building ("Agent Agreement"); and

***WHEREAS***, the Second Building was completed by Sutphen, at its sole cost and expense, in 2001; and

***WHEREAS***, on or about April 1, 2000, Sutphen and the Agency terminated the Lease and contemporaneously entered into a new straight lease transaction ("Sutphen Project") and in furtherance thereof entered into various agreements including but not limited to a Lease Agreement and a Payment in Lieu of Tax Agreement ("Sutphen Transaction Documents" together with the Agent Agreement collectively, the "Sutphen Agency Documents"); and

***WHEREAS***, Sutphen desires to transfer, assign and convey to the Company the Sutphen Project and all of its right, title and interest in and to the Sutphen Agency Documents, and the Company, subject to the terms and conditions of the Sutphen Agency Documents, desires to accept and purchase all of Sutphen's right, title and interest in and to the Sutphen Project and the Sutphen Agency Documents; and

***WHEREAS***, the Company has presented an application ("Application") to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency (i) consent to the assignment of the Sutphen Project and all right, title and interest in and to the Sutphen Agency

Documents to the Company; (ii) consider undertaking the: (A) reconstruction and equipping of the two (2) existing buildings ("Buildings") to include (1) an installation of a 5,000 square foot freezer ("Freezer"); and (2) construction of processing rooms; (B) installation thereon and therein of certain furniture fixtures, machinery and equipment ("Equipment"); (C) the installation of the Freezer and the processing rooms and related improvements to the Buildings, the Equipment and other improvements therein; and (D) the Land (collectively referred to as the "Facility" or "Project") and (E) the lease of the Facility from the Agency to the Company; and

*WHEREAS*, the total financial assistance being contemplated by the Agency is less than \$100,000; and

*WHEREAS*, the Agency determined that the Application which involves the adaptive reuse of two (2) existing buildings is a Type II Action under SEQR and pursuant to the Agency's Resolution, dated September 14, 1998 no further action is required; 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 an inducement to the Company to acquire the Sutphen Project and undertake the Project; and

*WHEREAS*, the Agency has considered the following matters as more fully set forth in its Uniform Tax Exemption Policies:

- A. Permanent private sector job creation and retention;
- B. Estimated value of the tax exemption;
- C. Impact of Project on existing and proposed business or economic development projects;
- D. The amount of private sector investment generated or likely to be generated by the Project;
- E. Demonstrated public support for the Project;
- F. Likelihood of accomplishing the Project in a timely fashion;
- G. Extent to which the Project will require additional services including, but not limited to educational, police, transportation, EMS and fire;
- H. Extent to which the Project will provide additional revenues; and
- I. Extent to which the Project will serve the public purposes of the Act by preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in the State;

and

*WHEREAS*, the Project involves the value added processing of the product of a Sullivan County Farm and therefore qualifies for financial assistance under the Agency's Agricultural Industry Uniform Tax Abatement Policy; and

*WHEREAS*, the Agency desires to encourage the Company to advance the job opportunities, health, general prosperity and economic welfare of the people of Sullivan County,

New York by providing the contemplated financial assistance for undertaking the Project; and

*WHEREAS*, the Agency, Sutphen and the Company have negotiated an Assignment and Assumption and Consent pursuant to which the Sutphen Project will be bargained, sold and conveyed to the Company; and

*WHEREAS*, the Executive Director has negotiated an Agent Agreement, a Lease Agreement to the Company, a PILOT Agreement and related documents with the Company; and

*WHEREAS*, the Agent Agreement, the Lease Agreement, the PILOT Agreement and related documents have been prepared by Agency counsel; and

*WHEREAS*, it is contemplated that the Agency will (i) consent to the assignment of the Sutphen Project and Sutphen Agency Documents to the Company; (ii) designate the Company as its agent for the purpose of the Project and enter into an Agent Agreement related thereto; (iii) provide financial assistance to the Company in the form of sales tax exemption for purchases related to the reconstruction of the Project; (iv) a mortgage tax exemption for financing related to the Project; and (v) a real property tax abatement on the increased value resulting from improvements on the Land through the PILOT Agreement.

***NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:***

Section 1. The Company has presented to the Agency, among other things an Application in form acceptable to the Agency.

Section 2. Based upon (i) the representations made by the Company to the Agency, the Agency hereby determines that:

- (A) The Project consists of the adaptive reuse of an existing building;
- (B) The Facility is a Type II action under SEQR 6 NYCRR 617.5(c)(2) and accordingly, no further action is needed; and
- (C) The Project qualifies for financial assistance under the Agency's Agricultural Industry Uniform Tax Abatement Policy.

A copy of this resolution shall together with the attachments thereto be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 3. The Agency has determined that the proposed financial assistance does not exceed the sum of \$100,000.00 and therefore the proposed action is not subject to a public hearing.

Section 4. Based upon representations made by the Company to the Agency, the Agency hereby makes, finds and determines as follows:

- (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;
- (B) It is desirable and in the public interest for the Agency to (i) consent to the transfer of the Sutphen Project to the Company; (ii) appoint the Company as its agent for purposes of: (A) reconstructing and equipping the Buildings to include (1) a Freezer; and (2) processing rooms; and (iii) enter into the Assignment, Assumption and Consent, Agent Agreement, Lease Agreement to the Company and PILOT Agreement;
- (C) The Agency has the authority to take the actions contemplated therein under the Act;
- (D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in the County and otherwise furthering the purposes of the Agency as set forth in the Act.

Section 5. The Agency hereby consents to the assignment of the Sutphen Project and all right, title and interest in and to the Sutphen Agency Documents to the Company subject to:

- (A) Payment by Sutphen to the Agency of a consent fee in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars;
- (B) Payment to the Agency or its service providers of all costs associated with the contemplated transfer;
- (C) Execution by the Company and Sutphen of the Assignment, Assumption and Consent;
- (D) Execution by the Company of documents necessary to memorialize the transfer, including but not limited to the Lease Agreement to the Company and the PILOT Agreement

Section 6. Subject to the Company executing an Agent Agreement in form and substance approved by the Executive Director, the Agency hereby authorizes the Company to proceed with the (A) reconstruction and equipping the Buildings to include (1) a Freezer; and (2) processing rooms and hereby appoints the Company as the true and lawful agent of the Agency to reconstruct and equip the Project on behalf of the Agency; with the authority to delegate its status as agent of the Agency to the Company's agents, subagents, contractors, subcontractors, suppliers, vendors and other such parties as the Company may choose. The appointment described above includes the following activities as they relate to the reconstruction and equipping of the Project, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the Project; (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the reconstruction and equipping of the Project; (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description in connection with the reconstruction and equipping of the Project; and (iii) all

purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Project, including all repairs and replacements of such property. This agency appointment includes the power to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents for the Agency, and in general to do all things which may be requisite or proper for completing the Project, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. The aforesaid appointment of the Company as agent of the Agency to reconstruct and equip the Project shall expire on January 31, 2017 if the Assignment, Assumption and Consent, Lease Agreement to the Company and PILOT Agreement have not been executed and delivered.

Section 7. The Agent Agreement, Assignment, Assumption and Consent, Lease Agreement to the Company, PILOT Agreement and related documents which were negotiated by the Executive Director, are hereby approved as to form and substance on condition that: (i) Sutphen pays to the Agency a consent fee in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars; (ii) the payments under the Lease Agreement include payments of all costs incurred by the Agency arising out of or related to (a) the transfer of the Sutphen Project; and (b) the Project; and (iii) indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to transfer of the Sutphen Project and the Project.

Section 8. The Chairman, Executive Director or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Assignment, Assumption and Consent, the Agent Agreement, the Lease Agreement to the Company, PILOT Agreement and related documents in the form presented at this meeting all with such changes, variations, omissions and insertions as the Chairman, Executive Director or Chief Executive Officer of the Agency shall approve, the execution thereof by the Chairman, Executive Director or Chief Executive Officer of the Agency to constitute conclusive evidence of such approval.

Section 9. The Chairman, Executive Director or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rent, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or prepared on advice of counsel to the Agency ("Financing Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Financing Documents and to attest the same, provided that in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 10. The officers, employees and agents of the Agency are hereby authorized and directed 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 this resolution 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 11. It is hereby found and determined that all formal actions of the Agency concerning and relating to the adoption of this resolution were adopted in an open meeting of the Agency; and that all deliberations of the Agency and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 12. The Chairman, Executive Director, Chief Executive Officer or Counsel to the Agency is hereby authorized and directed (i) to distribute copies of this resolution to the Company; and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 13. This resolution shall take effect immediately.

THE MEMBERS VOTED ON THE FOREGOING RESOLUTION AS FOLLOWS:

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

Ira Steingart	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Suzanne Loughlin	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Sean Rieber	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Howard Siegel	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Charles Barbuti, Jr.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Scott Smith	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Paul Guenther	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Joseph Perrello	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Carol Roig	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

The resolutions were thereupon duly adopted.

STATE OF NEW YORK :  
 :SS.:  
 COUNTY OF SULLIVAN :

I, the undersigned (Assistant) Secretary of the County of Sullivan Industrial Development Agency DO HEREBY CERTIFY THAT:

- I have compared the foregoing copy of a resolution of the County of Sullivan Industrial Development Agency ("Agency") with the original thereof on file in the office of the Agency, and that 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 reconvened in public session on the 28<sup>th</sup> day of November, 2016 at 11:00 a.m. at the Sullivan County Government Center, 100 North Street, Village of Monticello, New York at which the following members were present:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[ <input checked="" type="checkbox"/> ]	[       ]
Suzanne Loughlin	[ <input checked="" type="checkbox"/> ]	[       ]
Sean Rieber	[       ]	[ <input checked="" type="checkbox"/> ]
Howard Siegel	[ <input checked="" type="checkbox"/> ]	[       ]
Charles Barbuti, Jr.	[ <input checked="" type="checkbox"/> ]	[       ]
Scott Smith	[ <input checked="" type="checkbox"/> ]	[       ]
Paul Guenther	[ <input checked="" type="checkbox"/> ]	[       ]
Joseph Perrello	[ <input checked="" type="checkbox"/> ]	[       ]
Carol Roig	[ <input checked="" type="checkbox"/> ]	[       ]

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

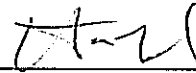
Ira Steingart	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Suzanne Loughlin	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Sean Rieber	[   ] Yes	[   ] No	[ <input checked="" type="checkbox"/> ] Absent	[   ] Abstain
Howard Siegel	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Charles Barbuti, Jr.	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Scott Smith	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Paul Guenther	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Joseph Perrello	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Carol Roig	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain

and therefore, the resolution was declared duly adopted.



I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

*IN WITNESS WHEREOF*, I have hereunto set my hand and seal on the 28<sup>th</sup> day of November, 2016.



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Howard Siegel, Assistant Secretary