

ON THE RAIL PROCESSING INC.

and

COUNTY OF CHENANGO INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

County of Chenango Industrial Development Agency
2017 Real Estate Lease
(Cascun Farm Facility)

Chenango County, Village of Bainbridge
Bainbridge-Guilford Central School District

Tax Account Nos.: 265.11-1-1

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of February 1, 2017, is by and between **ON THE RAIL PROCESSING INC.**, a New York corporation with an address of 62 Genesee Street, Greene, New York 13778 (the "Company") and **COUNTY OF CHENANGO INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 15 South Broad Street, Norwich, New York 13815 (the "Agency").

W I T N E S S E T H:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 580 of the Laws of 1973 of the State of New York, as amended, constituting Section 901 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, manufacturing, warehousing, commercial or industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Company has requested the Agency's assistance in connection with the acquisition and renovation of an existing 7,900± square foot processing facility (the "Improvements") situated on a .79± acre parcel of land located on 5 - 7 Scott Street, Village of Bainbridge, Chenango County, New York (the "Land") and the acquisition and installation of equipment in the Improvements (the "Equipment"), all to be used for the purpose of a processing and slaughtering facility (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the renovation and equipping of the Facility is referred to as the "Project"); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to acquire a fee simple interest in the Land, Improvements and Equipment constituting the Facility and lease said Land, Improvements and Equipment to the Company pursuant to the terms and conditions contained in a Lease Agreement dated as of February 1, 2017 (the "Lease Agreement"); and

WHEREAS, the Agency has agreed to acquire an interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Facility will be exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company commencing February 17, 2017 (the "Exempt Taxes"), because the Agency will own a fee simple interest in the Facility and the Facility will be used for a purpose within the meaning of the applicable

Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of the Lease Agreement from the first date of the Exemption Term (as that date is determined by the parties and described herein) through the term of the Lease Agreement (the "Exemption Term"); and

WHEREAS, each year of the Exemption Term is more particularly set forth on Schedule C attached hereto (each year being referred to as an "Exemption Year"); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the Town of Bainbridge, the Village of Bainbridge, or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Chenango County (the "County"), Bainbridge-Guilford Central School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities" more particularly set forth on Schedule A attached hereto and made a part hereof) in which any part of the Facility is or is to be located; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Lease Agreement.

NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority:
 - (a) all taxes or PILOT Payments that are due with respect to the Facility prior to the Exemption Term, no later than the last day during which such payments may be made without penalty; and
 - (b) all special assessments and ad valorem taxes coming due and payable during the term of the Lease Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty.
2. (a) The Company shall pay an amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:
 - i. Annual PILOT Payments as a percentage of Exempt Taxes as referenced on Schedule B hereto during Exemption Years 1 through and including 10; and
 - ii. One hundred percent (100%) of Exempt Taxes after Exemption Year 10.

Such PILOT Payments shall be allocated among the Taxing Authorities in the same proportion as taxes would have been allocated but for the Agency's involvement, unless the Taxing Authorities have consented in writing to a specific allocation (For the

purposes of preparing a PILOT bill, each Taxing Authority shall use the tax rate for the prior Exemption Year).

Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Lease Agreement shall terminate and the Agency shall terminate its interest in the Facility pursuant to the Lease Agreement. The benefits under this Agreement are subject to the terms and conditions of a certain Job Creation and Recapture Agreement among the Agency and the Company dated as of February 1, 2017.

(b) Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, the Company shall henceforth pay as PILOT Payments one hundred (100%) percent of the Exempt Taxes together with interest at the rate of nine (9%) percent per annum on any delinquent PILOT Payments together with expenses of collection, including but not limited to, payment of attorneys' fees; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. The Chenango County Real Property Tax Department, shall calculate the amount of payment in lieu of taxes the Company is obligated to make to the Town, County, School District and appropriate special districts for each Exemption Year. The Company shall remit the required payment to the Chenango County Treasurer's Office, and the Chenango County Treasurer's Office shall remit the proportionate share to the Town, County, School District and appropriate special districts. The Village of Bainbridge, shall calculate the amount of payment in lieu of taxes the Company is obligated to make to the Village for each Exemption Year. The Company shall remit the required payment to the Village of Bainbridge. In all cases, each PILOT Payment will be made no later than the last day during which such Exempt Taxes could otherwise be made without penalty as if the Agency did not own a fee simple interest in the Facility, provided, however, that the Company shall have at least thirty (30) days from the receipt of any tax bill/notice to make said PILOT Payments without penalty.

4. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Facility leased to the Company by the Lease Agreement if the Agency did not own a fee simple interest in the Facility.

5. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility.

6. This Agreement shall be binding upon the successors and assigns of the parties.

7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not own an interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not own a fee simple interest in the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's ownership of the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company. Notwithstanding anything herein to the contrary, for so long as this Agreement is in effect, the Company hereby unconditionally and irrevocably waives its right, if any, to apply for and/or receive the benefit of any other real property tax exemption with respect to the Facility, including, without limitation, any real property tax exemption that may be available under Section 485-b and Section 485-e of the Real Property Tax Law.

8. All amounts payable by the Company hereunder will be paid to the respective Taxing Authority as provided in Section 3 hereto, and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.

9. Notwithstanding any provision contained in any sublease agreement for any future sublessee to make payments to the Taxing Authorities, the Company shall remain primarily liable to the Agency under this Agreement.

10. RESERVED.

11. (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.

(b) This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

(c) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, to the Agency and the Company, as the case may be, addressed as follows:

To the Agency: County of Chenango Industrial Development Agency

15 South Broad Street
Norwich, New York 13815
Attn.: President/CEO

With a Copy To: Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, New York 13202
Attn.: Kevin M. Pole, Esq.

To the Company: On The Rail Processing Inc.
62 Genesee Street
Greene, New York 13778
Attn.: Donald P. Cascun, President

With a Copy To: Levene, Gouldin & Thompson, LLP
450 Plaza Drive
Vestal, New York 13850
Attn.: Jeffrey A. Loew, Esq.

provided, that the Agency and the Company may, by notice given hereunder to the others, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this **PILOT AGREEMENT**
as of the date first above written.

COUNTY OF CHENANGO INDUSTRIAL
DEVELOPMENT AGENCY

By: 

Steven Craig
President & CEO

ON THE RAIL PROCESSING INC.


By: _____
Donald P. Cascun
President

IN WITNESS WHEREOF, the parties have executed this **PILOT AGREEMENT**
as of the date first above written.

COUNTY OF CHENANGO INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Steven Craig
President & CEO

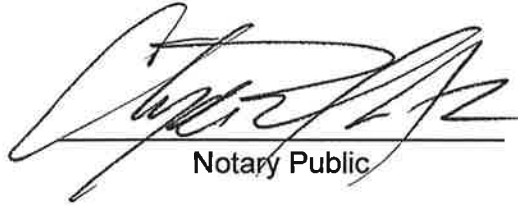
ON THE RAIL PROCESSING INC.

By:  _____
Donald P. Cascun
President

STATE OF NEW YORK)
 : ss.:
COUNTY OF CHENANGO)

On the 17th day of February 2017 before me, the undersigned a notary public in and for said state, personally appeared **Steven Craig**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

CLYDE BIRCH, JR.
Notary Public, State of New York
Qual. in Chenango Co. No. 01BI6183866
My Commission Expires March 31, 2020



Notary Public

STATE OF NEW YORK)
 : ss.:
COUNTY OF)

On the ____ day of February 2017 before me, the undersigned a notary public in and for said state, personally appeared **Donald P. Cascun**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
 : ss.:
COUNTY OF CHENANGO)

On the ____ day of February 2017 before me, the undersigned a notary public in and for said state, personally appeared **Steven Craig**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
 : ss.:
COUNTY OF BROOME)

On the 17th day of February 2017 before me, the undersigned a notary public in and for said state, personally appeared **Donald P. Cascun**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

PAUL R. HOFFMANN
Notary Public, State of New York
Residing in Broome County
No. 4733055
My Commission Expires December 31, 2018

SCHEDULE A

COUNTY OF CHENANGO

Receiver of Taxes
5 Court Street
Norwich, New York 13815

TOWN OF BAINBRIDGE

15 N. Main Street
Bainbridge, New York 13733

VILLAGE OF BAINBRIDGE

33 W. Main Street
Bainbridge, New York 13733

BAINBRIDGE-GUILFORD CENTRAL SCHOOL DISTRICT

18 Juliand Street
Bainbridge, New York 13733
Attn: District Treasurer

SCHEDULE B

Full Price	/ 10 years	/ 12 months
\$48,298.95	\$4,829.90	\$402.49

PILOT Estimate					
Current Assessed Value of Property	\$ Value of New Construction & Renovation Costs	Estimated New Assessed Value of Property	County Tax Rate/1000	Local Tax Rate/1000	School Tax Rate/1000
\$74,700	\$65,000	\$139,700	9.446	9.820	18.431

PILOT Year	% Payment	County PILOT Amt	Local PILOT Amt	School PILOT Amt	Total PILOT Amt	Full Tax Payment w/o PILOT	Net Exemption	PILOT Monthly Pmt	Total of Purch + PILOT
1	10.00%	\$131.96	\$137.19	\$257.48	\$526.63	\$5,266.31	\$4,739.68	\$43.89	\$446.38
2	20.00%	\$263.92	\$274.37	\$514.97	\$1,053.26	\$5,266.31	\$4,213.04	\$87.77	\$490.26
3	30.00%	\$395.88	\$411.56	\$772.45	\$1,579.89	\$5,266.31	\$3,686.41	\$131.66	\$534.15
4	40.00%	\$527.84	\$548.74	\$1,029.94	\$2,106.52	\$5,266.31	\$3,159.78	\$175.54	\$578.03
5	50.00%	\$659.80	\$685.93	\$1,287.42	\$2,633.15	\$5,266.31	\$2,633.15	\$219.43	\$621.92
6	60.00%	\$791.76	\$823.11	\$1,544.91	\$3,159.78	\$5,266.31	\$2,106.52	\$263.32	\$665.81
7	70.00%	\$923.72	\$960.30	\$1,802.39	\$3,686.41	\$5,266.31	\$1,579.89	\$307.20	\$709.69
8	80.00%	\$1,055.68	\$1,097.48	\$2,059.88	\$4,213.04	\$5,266.31	\$1,053.26	\$351.09	\$753.58
9	90.00%	\$1,187.65	\$1,234.67	\$2,317.36	\$4,739.68	\$5,266.31	\$526.63	\$394.97	\$797.46
10	100.00%	\$1,319.61	\$1,371.85	\$2,574.85	\$5,266.31	\$5,266.31	\$0.00	\$438.86	\$841.35
					<u>\$28,964.68</u>				

PILOT Benefit	\$23,698.38
Sales Tax Exemption	\$8,000.00
Value of Building	\$48,298.95
Total Benefit	\$79,997.33

SCHEDULE C

EXEMPTION YEARS

Exemption Year	County/City Taxes	School Taxes
Year One	01/01/2018 – 12/31/2018	07/01/2017 – 06/30/2018
Year Two	01/01/2019 – 12/31/2019	07/01/2018 – 06/30/2019
Year Three	01/01/2020 – 12/31/2020	07/01/2019 – 06/30/2020
Year Four	01/01/2021 – 12/31/2021	07/01/2020 – 06/30/2021
Year Five	01/01/2022 – 12/31/2022	07/01/2021 – 06/30/2022
Year Six	01/01/2023 – 12/31/2023	07/01/2022 – 06/30/2023
Year Seven	01/01/2024 – 12/31/2024	07/01/2023 – 06/30/2024
Year Eight	01/01/2025 – 12/31/2025	07/01/2024 – 06/30/2025
Year Nine	01/01/2026 – 12/31/2026	07/01/2025 – 06/30/2026
Year Ten	01/01/2027 – 12/31/2027	07/01/2026 – 06/30/2027