

FOR CONSIDERATION

July 23, 2009

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Friendship (Alleghany County) – Friendship Dairies Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions; Determination of No Significant Effect on the Environment

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General Project Plan

I. Project Summary

Grantee: Friendship Dairies, LLC (“Friendship” or the “Company”)

ESD\* Investment: A grant of up to \$200,000 to be used for a portion of the cost of building construction and renovation and the acquisition and installation of new machinery and equipment.

\* The New York State Urban Development Corporation doing business as the Empire State Development Corporation (“ESD” or the “Corporation”)

Project Location: 6701 County Road 20, Friendship, Alleghany County

NYS Empire Zone  
(or equivalent): Friendship Empire Zone

Proposed Project: The Company will expand and renovate its existing facilities and acquire and install new machinery and equipment.

ESD Incentive Offer Accepted: June 17, 2008

Project Completion: July 2009

Number of Employees at Project Location:

Initial employment (at time of ESD Incentive Offer):	218
Current employment level:	218
Minimum employment through January 1, 2012:	258

Grantee Contact: Mr. Greg Knapp, Plant Manager  
6701 County Road 20  
Friendship, NY 14739  
Phone: (585) 973-3031  
Fax: (585) 973-2401

Anticipated  
Appropriation

Source: Empire State Economic Development Fund

ESD Project No.: W235

Project Team:	Origination	Robert Iszard
	Project Management	Jim Seymour
	Affirmative Action	Helen Daniels
	Finance	Ross Freeman
	Environmental	Soo Kang

## II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Real Estate	\$ 13,768
Building Construction	8,456,705
Building Renovation	219,108
Employee Training	127,814
Machinery & Equipment	<u>1,077,252</u>

Total Project Costs \$9,894,647

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$200,000	5%
Company Equity	<u>9,694,647</u>	<u>95%</u>

Total Project Financing \$9,894,647 100%

## III. Project Description

### A. Background

Friendship, established in 1919, is leading producer of all natural cultured and pasteurized dairy products. Since 1958, Friendship has been operating at its current location in Friendship, NY. The Company, a wholly-owned subsidiary of Dean Foods Corp. (the "Parent"), processes more than a million pounds of Grade A milk per day using state-of-the-art dairy producing technology. Friendship has a significant market share in its branded cheese and sour cream throughout the greater New York metropolitan market and is a major foodservice and private label retailer supplier throughout the east coast, with selected distribution in the Midwest and Western United States. Friendship's major customers include Nestle, USA (Solon, OH), Giant Eagle, Inc. (Pittsburgh, PA) and Wegmans, Inc. (Rochester, NY). Primary competitors include Breakstone Dairy (Greendale, WI), Crowley Foods (Lynnfield, MA) and Axlerod (Paterson, NJ).

Following the Parent's acquisition of Friendship in March 2007, the Parent determined a need for increased capacity of its cultured dairy products and was seeking a wider distribution in areas currently served by its subsidiaries on the East Coast and Midwest. However, Friendship was at a disadvantage because of its high processing costs. To secure the increased cultured dairy product production, Friendship would require a significant expansion and renovation of its existing facility and upgrades to its machinery and equipment capacity. In May 2008 Friendship approached ESD for assistance to expand their current operations. ESD provided an incentive offer of a \$200,000 capital grant, which the Company accepted on June 17, 2008. The major investment and additional work volume will help retain existing employment rather than shifting volume to other facility locations. The project will retain 218 jobs and create 40 new jobs by January 1, 2012.

#### B. The Project

The \$9.89 million project includes a 27,000 square foot building expansion, the renovation of 7,000 square feet of existing manufacturing space, and the acquisition of new machinery and equipment including high speed filling and case-packing equipment and processing equipment necessary to expand operations. This expansion will put into operation two full shifts, five days per week, with capacity for six a day for continued growth and seasonal variations in volume. Prior to the project, the company operated one and half shifts five days a week with a half of a shift on Saturday & Sundays.

Friendship currently purchases its current raw material from approximately 150 dairies within a 60 mile radius, contributing to a \$36 million local economic impact value annually. The increase in volume resulting from the expansion will add an additional 200mm lbs. per year to over 330mm lbs. per year to the Company's milk intake from surrounding dairy farms. This increase in milk usage has an additional value of \$14.5 million for a total value of over \$50 million annually. The plant also purchases over half of its packaging and corrugated materials requirements from companies within New York. Orders to those businesses are likely to grow with the additional production of Friendship. The construction of the project is complete and machinery and equipment installation and anticipated to be completed in July 2009.

#### C. Financial Terms and Conditions

1. The Company shall pay a commitment fee of 1% of the \$200,000 capital grant (\$2,000) upon execution of the grant disbursement agreement. In addition, at the time of disbursement, the Company will reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will be obligated to advise ESD of a material adverse change in its financial condition prior to disbursement.
3. Dean Foods Corp. will guarantee the grant repayment obligation of its subsidiary, Friendship Dairies LLC, in the event of an Employment Shortfall or other default, as defined in these materials or the Grant Disbursement Agreement.
4. The Company or the Company's shareholders will contribute at least 10% in equity to the project. Equity is defined as any non-debt source of capital, and should be auditable through Company financial statements or Company accounts, if so requested by ESD
5. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
6. Up to \$200,000 will be disbursed to the Grantee in three installments as follows:
  - a) an Initial Disbursement of an amount equal to 50% of the grant (\$100,000) will be disbursed upon documentation of \$9.89 million in eligible project costs, and documentation of the employment of at least 218 Full-time Permanent Employees at the Project Location, assuming that all project approvals have been completed and funds are available;
  - b) a Second Disbursement of an amount equal to 25% of the grant (\$50,000) will be disbursed upon documentation of the employment of at least 238 Full-time Permanent Employees at the Project Location (Employment Increment of 20), provided Grantee is otherwise in compliance with program requirements;
  - c) a Third Disbursement of an amount equal to 25% of the grant (\$50,000) will be disbursed upon documentation of the employment of at least 258 Full-time Permanent Employees at the Project Location (Employment Increment of 20), provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESDC of an invoice and such other documentation as ESDC may reasonably require. Expenditures must be incurred

on or after June 17, 2008 to be considered eligible project costs. Disbursements must be requested by no later than April 1, 2012.

7. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$200,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount
  
8. In consideration for the making of the Grant, the Company will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than one hundred percent (100%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD the total amount of any disbursements received for the Grant.

The Company's number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

The Grantee's number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

Baseline Employment	218
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A	B
Reporting Date	Employment Goals
February 1, 2010	$218 + X + Y$
February 1, 2011	$218 + X + Y$
February 1, 2012	$218 + X + Y$
February 1, 2013	$218 + X + Y$
February 1, 2014	$218 + X + Y$

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section 6(b) above (i.e. X=20, and Employment Goals shall equal  $[218 + X = 238]$  if the Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Second Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section 6(c) above (i.e. Y=20, and Employment Goals shall equal  $[218 + X + Y = 258]$  if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Y=0.

#### IV. Statutory Basis

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms.

As a result of this project, the Company will retain its employment level of 218 and create 40 new jobs by January 1, 2012.

2. The proposed project would be unlikely to take place in New York State without the requested assistance.

Without ESD assistance, this project would likely have relocated production to an existing Dean Foods Corp. facilities owned outside of New York State.

3. The project is reasonably likely to accomplish its stated objectives and the likely benefits of the project exceed costs.

Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):

- Fiscal benefits to NYS government from the project are estimated at \$2,256,358;
- Fiscal cost to NYS government is estimated at \$9,399,957;
- Project cost to NYS government per direct job is \$244,209;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$105,976;
- Ratio of project fiscal benefits to costs to NYS government is 0.24:1;
- Fiscal benefits to all governments (state and local) are estimated at \$7,566,612;
- Fiscal cost to all governments is \$9,399,957;
- All government cost per direct job is \$244,209;
- All government cost per total job is \$105,976;
- The fiscal benefit to cost ratio for all governments is 0.80:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$22,845,162, or \$257,558 per job (direct and indirect);
- The economic benefit to cost ratio is 2.43:1;
- Project construction cost is \$8,675,813 which is expected to generate 73 direct job years and 42 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 1.28 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is over 7 years.

( See Project Summary Benefit-Cost Evaluation attached for detail and definitions.)

4. The requirements of Section 10(g) of the Act are satisfied.

No residential relocation is required because there are no families or individuals residing on the site.

V. Environmental Review

The Town of Friendship Town Board, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be an Unlisted Action, which would not have a significant effect on the environment. The lead agency issued a Negative Declaration on June 17, 2009. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

VI. Affirmative Action

ESD’s Non-Discrimination and Affirmative Action policy will apply. Friendship Dairies, LLC is encouraged to include minorities and women in any job opportunities created by the Project and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the Project.

VII. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

VIII. Additional Submissions to Directors

- Resolutions
- New York State Map
- Project Finance Memorandum
- Cost-Benefit Analysis

July 23, 2009

Friendship (Alleghany County) – Friendship Dairies Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) - Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

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RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the Friendship Dairies Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) Capital Project (the “Project”), the Corporation hereby determines pursuant to Sections 16-m and 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms;
2. The project would be unlikely to take place in New York State without the requested assistance;
3. The project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs;
4. There are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that upon written finding of the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Friendship Dairies, LLC a grant for a total amount not to exceed Two Hundred Thousand Dollars (\$200,000) from the Empire State Economic Development Fund for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) be, subsequent to the making of the grant, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grant; and be it further

RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other

necessary approvals; and be it further

RESOLVED, that the Chairman and Chief Executive Officer - Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

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July 23, 2009

Friendship (Alleghany County) – Friendship Dairies Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) – Determination of No Significant Effect on the Environment

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RESOLVED, that based on the material submitted to the Directors with respect to the Friendship Dairies Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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