

FOR CONSIDERATION

July 23, 2009

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Town of Sennett (Cayuga County) – Owens-Brockway Glass Container 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

General Project Plan

I. Project Summary

Grantee: Owens-Brockway Glass Container Inc. (“Owens-Brockway” or the “Company”)

ESD* Investment: A grant of up to \$1,250,000 to be used for a portion of costs to rebuild an existing glass furnace.

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

Project Location: 7134 County House Road, Town of Sennett, Cayuga County

NYS Empire Zone
(or equivalent): N/A

Proposed Project: The Company will use the grant to rebuild its Cayuga County facility’s “B” glass furnace.

ESD Incentive Offer Accepted: December 13, 2006

Project Completion: January 2009

Number of Employees at Project Location:

Initial employment (at time of ESD Incentive Offer): 230

Current employment level: 233

Minimum employment through January 1, 2014: 230

Grantee Contact: James Seiwert, Director, North America, State & Local Taxes
One O-I Plaza
One Michaels Owens Way
Perrysburg, OH 43551-2999
Phone: (567) 3361443
Fax: (567) 3361308

Anticipated
Appropriation
Source:

Empire State Economic Development Fund

ESD Project No.: U370

Project Team: Origination James Fayle
Project Management Meg Paskins
Finance Yang Song
Environmental Soo Kang
Affirmative Action Helen Daniels

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>	
Furnace Rebuild Costs	<u>\$10,886,453</u>	
Total Project Costs	<u>\$10,886,453</u>	
<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$1,250,000	11%
Company Equity	<u>9,636,453</u>	<u>89%</u>
Total Project Financing	<u>\$10,886,453</u>	<u>100%</u>

III. Project Description

A. Background

Owens-Brockway is a wholly-owned subsidiary of Owens-Illinois, Inc. ("OI"), a publicly traded company listed on the New York Stock Exchange. OI is the leading glass container manufacturer in 17 of the 22 countries where it competes in the glass container segment of the rigid

packaging market, including the United States, and the sole manufacturer of glass containers in 8 of these countries. It operates 80 glass container manufacturing facilities around the world, with 21 of these facilities located in North America. Its Cayuga County plant, owned and operated by its subsidiary, Owens-Brockway, consists of approximately 544,000 square feet of covered space and includes two warehouses.

OI and its subsidiaries are worldwide producers of glass containers for beverages, food and pharmaceuticals. Customers of OI include many of the leading manufacturers and marketers of glass packaging products in the world. The largest U.S. customers include Anheuser-Busch InBev, Brown Forman, Diageo, Miller/Coors, and Pepsico. The largest glass container customers outside the U.S. include Anheuser-Busch InBev, Carlsberg, Diageo, Foster's, Heineken, Lion Nathan, and Molson/Coors. The Cayuga County facility's major customers include Anheuser-Busch InBev, Miller/Coors, Israel Andler and Sons, and Yuengling.

The Town of Sennett plant has two furnaces. Its "B" furnace has had no substantial repair since December 1989 and several weak areas were identified. The furnace control system of the "B" furnace was the last of its kind in OI's U.S. factories and finding replacement parts and knowledgeable technicians to work on the outdated furnace was becoming more difficult. The "B" furnace accounts for 44% of the Auburn plant's capacity and a shut down of the furnace would put the future of the Auburn plant and its 230 jobs in jeopardy.

In order to better support its effort to convince OI to choose the Cayuga County plant for a furnace rebuild, Owens-Brockway management approached ESD in 2006 for financial assistance to help defray the costs associated with rebuilding the "B" furnace. OI performs an annual analysis to determine which furnaces are to be rebuilt. It evaluates the value of each rebuild, whether the customers serviced by the facility are long-term customers, and if such customer base could be more economically serviced elsewhere in the OI system. In this instance, the base could be serviced by its plant in Clarion, PA. ESD responded with an offer of a \$1,250,000 capital grant in November 2006, which was accepted in December 2006. ESD's incentive was an important factor in OI's decision to chose the Town of Sennett facility for a furnace rebuild.

B. The Project

The cost to rebuild the "B" furnace, completed in January 2009, was approximately \$10.9 million. The project allows Owens-Brockway to continue producing glass bottles for Anheuser-Busch InBev, Miller/Coors, and various micro brews for the East Coast markets. Since project completion, the throughput of the "B" furnace line has increased by approximately 1.8% while energy usage has decreased by approximately 17%. Both of these metrics are significant improvements to the manufacturing process. The Company has retained all 230 employees.

C. Financial Terms and Conditions

1. The Company shall pay a commitment fee of 1% of the \$1,250,000 capital grant (\$12,500) 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 demonstrate no material adverse change in its financial condition prior to disbursement.
3. Owens-Illinois, Inc. will guarantee the grant repayment obligation of its subsidiary, Owens-Brockway Glass Container Inc., 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 \$1,250,000 will be disbursed to the Grantee in three installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$625,000) will be disbursed upon completion of the project substantially as described in these materials, documentation of \$10,886,453 in eligible machinery and equipment related project costs and documentation of the employment of at least 230 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 25% of an amount equal to the grant (\$312,500) will be disbursed no sooner than 12 months after the date the Initial Disbursement was made, upon documentation of the employment of at least 230 Full-time Permanent Employees at the Project Location, provided Grantee is otherwise in compliance with program requirements;
 - c) a Third Disbursement of an amount equal to 25% of the grant (\$312,500) will be disbursed no sooner than 24 months after the date the Initial Disbursement was made, upon documentation of the employment of at least 230 Full-time Permanent Employees at the Project Location, 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. Expenses must be incurred on or after December 13, 2006 to be considered eligible project costs. All disbursements must be requested by April 1, 2012.

7. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$1,250,000, 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 of assistance approved by the Directors.
8. In consideration for the making of the Grant, Grantee 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 eighty-five percent (85%) 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 a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- (i) 100% of the disbursed amount if the Employment Shortfall occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- (ii) 80% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;
- (iii) 60% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;
- (iv) 40% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;
- (v) 20% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

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	230
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A	B
Date	Employment Goals
February 1, 2010	230
February 1, 2011	230
February 1, 2012	230
February 1, 2013	230
February 1, 2014	230

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 maintain its employment level of 230, including retention of all 230 existing jobs which were at risk of future elimination if the furnace repair and rebuild project did not take place at the Town of Sennett facility.

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

ESD's assistance helped to reduce costs and make the furnace rebuild project attractive to Owens-Brockway's parent, OI. Without the furnace rebuild project, capacity at the Cayuga County facility would have been greatly reduced, resulting in the possible relocation of production to another OI facility outside of New York and the loss of 230 jobs.

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 \$11,566,690;
- Fiscal cost to NYS government is estimated at \$1,250,000;
- Project cost to NYS government per direct job is \$7,246;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$3,865;
- Ratio of project fiscal benefits to costs to NYS government is 9.25:1;
- Fiscal benefits to all governments (state and local) are estimated at \$19,718,971;
- Fiscal cost to all governments is \$1,250,000;
- All government cost per direct job is \$7,246;
- All government cost per total job is \$3,865;
- The fiscal benefit to cost ratio for all governments is 15.78:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$122,839,223, or \$379,770 per job (direct and indirect);
- The economic benefit to cost ratio is 98.27:1;
- There is no construction activity related to this project;
- For every permanent direct job generated by this project, an additional 0.88 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is 1 year.

(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

ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VI. Affirmative Action

ESD’s Non-Discrimination and Affirmative Action policy will apply. Owens-Brockway Glass Container Inc. 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.

X. Additional Submissions to Directors

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

July 23, 2009

Town of Sennett (Cayuga County) – Owens-Brockway Glass Container 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

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 Owens-Brockway Glass Container Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) 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 the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the Chairman and Chief Executive Officer – Designate of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; 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, the Chairman and Chief Executive Officer – Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Owens-Brockway Glass Container Inc. a grant for a total amount not to exceed One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) 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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