

A. Red Jacket Orchards Capital (W607)

May 23, 2011

General Project Plan

Grantee: Red Jacket Orchards, Inc. (“Red Jacket” or the “Company”)

ESD Investment: A grant of up to \$75,000 to be used for a portion of the cost of construction and the purchase of machinery and equipment

Project Locations: 3655 Berry Fields Road, Geneva, Ontario County*
957 Routes 5 & 20 W, Geneva, Ontario County

* Project activity site; other is job-retention site

ESD Incentive Offer Accepted: June 29, 2009

Project Completion: June 2010

Number of Employees at Facility:

Initial employment at time of ESD Incentive Offer:	76*
Current employment level:	56
Minimum employment on January 1, 2013:	93

*46 Full-time employees and 60 Part-time employees for a total of 76 Full-time equivalent (“FTE”) employees

Grantee Contact: Mark Nicholson, Executive Vice President
957 Routes 5 & 20 W
Geneva, NY 14456
Phone: (315) 374-6275 Fax: (315) 781-2875

Project Team:

Origination	Greg Parker
Project Management	Edward Muszynski
Affirmative Action	Helen Daniels
Environmental	Soo Kang

Project Description:

Background

Since its founding in 1958, Red Jacket Orchards has been owned and operated by the Nicholson family. The Company has grown through investments in fruit production and vertical integration, establishing fruit packing, juice processing, wholesale distribution and retail divisions. Today, the Company’s has 600 acres of modern fruit production, including apples, berries and stone fruits (e.g., cherries, peaches, plums, etc.). The Company also

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operates fruit packing and juice processing facilities, a trucking firm, a distribution facility in Brooklyn, and a retail operation in Geneva.

For the past eight years Red Jacket has successfully test marketed all-natural, 100% fruit juice products. Such a product will allow the Company to diversify into food processing and branded product marketing. The U.S. fruit juice beverage category is estimated at approximately \$20 billion annually and rapidly growing.

In 2009, the Company approached ESD for assistance to lower costs and make the project feasible at a scale that would meet the Company's and its customers' production needs. ESD offered a \$75,000 capital grant, which the Company accepted in June 2009. Without ESD's assistance, the Company would not have been able to take full advantage of this opportunity. The new business line provides Red Jacket the opportunity to expand into one of the fastest growing market segments in the food industry. Red Jacket is committed to creating 17 new full-time jobs, and retaining its 76 existing full-time equivalent jobs, of which three were at risk.

In 2006, ESD approved a \$40,000 Industrial Effectiveness Grant to the Company for a productivity assessment to help Red Jacket implement energy and environmental cost reductions. The project was successfully completed and the funds were disbursed.

The Project

The Company has completed construction of a new 22,000-square-foot, juice processing facility. LEED certification of the facility is pending. Red Jacket installed specialized juice-processing equipment and operations began in mid-2010. The Company has already created four full-time jobs.

Financing Uses	Amount	Financing Sources	Amount	Percent
Building Construction	\$2,584,300	ESD Grant	\$75,000	2%
Machinery & Equipment	900,000	Lyons National Bank*	2,719,000	73%
Soft Costs	271,500	NYS Senate Grant	125,000	3%
		NYSEG Grant**	50,000	1%
		NYSERDA Grant***	38,000	1%
		Company Equity	748,800	20%
Total Project Costs	\$3,755,800	Total Project Financing	\$3,755,800	100%

* 3.7%/8 yrs./1st on all assets w/ loan guarantee by US Department of Agriculture (includes Bank's assumption of a \$420,000 loan that was previously from Ontario County Revolving Loan Fund).

** New York State Electric & Gas

***NYS Energy Research & Development Authority

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Financial Terms and Conditions:

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the \$75,000 capital grant (\$750) and 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. The Company will be required to contribute at least 10% of the total project cost in the form of equity contributed after the Company's written acceptance of ESD's offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. 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.
5. Up to \$75,000 will be disbursed to the Grantee in two installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$37,500) upon documentation of building construction/machinery and equipment project costs totaling \$3,484,300, including a certificate of occupancy, and documentation of the employment of at least 50 Full-time Permanent Employees (Employment Increment of 4) and 60 Part-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 50% of the grant (\$37,500) will be disbursed upon documentation of the employment of at least 63 Full-time Permanent Employees (Employment Increment of 13) and 60 Part-time Permanent Employees at the Project Location, provided Grantee is otherwise in compliance with program requirements;

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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 June 29, 2009 to be considered eligible project costs. All disbursements must be requested by April 1, 2013.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$75,000, 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.
7. 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.

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Baseline Employment	76*
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A	B
Reporting Date	Employment Goals
February 1, 2012	76*+X+Y
February 1, 2013	76*+X+Y
February 1, 2014	76*+X+Y
February 1, 2015	76*+X+Y

*46 Full-time employees and 60 Part-time employees for a total of 76 full-time equivalent employees

X = Grantee's Employment Increment that will be the basis of the First Disbursement of the Grant as described in section 5 above (i.e. X=4, and Employment Goals shall equal [76 + X = 80] if the First Disbursement is made, in the year such disbursement is made and for each year thereafter). If the First Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section 5 above (i.e. Y=13, and Employment Goals shall equal [76 + X + Y = 93] 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 Y=0.

Environmental Review:

The Town of Geneva Planning 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 a Type I Action, which would not have a significant effect on the environment. The lead agency issued a Negative Declaration on March 18, 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.

Statutory Basis – Empire State Economic Development Fund:

1. The 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 76 FTEs including retention of three full-time equivalent jobs involved in the pilot juice project, which were at risk of elimination. In addition, the Company will create 17 new jobs.
2. The project would be unlikely to take place in New York State without the requested assistance.

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Without ESD and other assistance to lower costs to make the project feasible in New York, the fruit juice project could not be carried out on the scale needed to meet production goals.

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, project fiscal benefits to New York State government are expected to be \$840,617, which exceed the cost to the State.

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

See cover memo.

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Town of Geneva (Ontario County) – Red Jacket Orchards Capital – Empire State
Economic Development Fund – General Development Financing (Capital Grant) –
Determination of No Significant Effect on the Environment

RESOLVED, that based on the material submitted to the Directors with respect to the Red Jacket Orchards Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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