

FOR CONSIDERATION

November 19, 2009

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Brooklyn (Kings County) – Cumberland Packing 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: Cumberland Packing Corp. (“Cumberland” or the “Company”)

ESD* Investment: A grant of up to \$1,600,000 to be used for a portion of the cost of the purchase of machinery and equipment.

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

Project Location: 2 Cumberland Street cluster and the Brooklyn Navy Yard, Brooklyn, Kings County

NYS Empire Zone
(or equivalent): North Brooklyn Empire Zone

Proposed Project: Renovation of existing facilities, purchase of machinery and equipment, and leasing and fit-out of additional warehouse space associated with retention.

ESD Incentive Offer Accepted: June 2, 2006

Project Completion: December 2011

Number of Employees at Project Location:
 Initial employment at time of ESD Incentive Offer: 400
 Current employment level: 360
 Minimum employment through January 1, 2012: 320

Grantee Contact: Peter Marshall, CFO
 2 Cumberland Street
 Brooklyn, NY 11205
 Phone: (718) 858-4200 x7748
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Anticipated
 Appropriation
 Source: Empire State Economic Development Fund

ESD Project No.: U155

Project Team: Origination Joseph Tazewell
 Project Management Susan Shaffer
 Affirmative Action Helen Daniels
 Finance Ross Freeman
 Environmental Soo Kang

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Renovations	\$6,400,000
Machinery and Equipment Purchase	<u>1,600,000</u>
Total Project Costs	<u>\$8,000,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$1,600,000	20.0%
Brooklyn Navy Yard Development Corporation-Grant	4,000,000	50.0%
New York City Council-Grant	500,000	6.2%
Company Equity	<u>1,900,000</u>	<u>23.8%</u>
Total Project Financing	<u>\$8,000,000</u>	<u>100.0%</u>

III. Project Description

A. Background

Cumberland Packing, a family-owned business, evolved from a cafeteria on the corner of Cumberland Street and Flushing Avenue during the 1940s. The cafeteria was owned by Ben Eisenstadt and serviced some of the 70,000 workers from the Brooklyn Navy Yard, located across the street. After World War II ended and the workers relocated, the business needed a new focus. Ben and his wife had noticed that sugar served in bowls at their cafeteria was unsanitary due to double dipping and sneezing, so Ben tinkered with a tea packing machine and ended up developing the first sugar packet.

Ben started contract packing sugar packets, and after his son, Marvin, joined the Company, they developed a sugar substitute for diabetics. They branded the product Sweet’N Low after a favorite Tennyson poem. Today, Sweet’N Low is the #1 branded saccharin sweetener and recently celebrated the production of the 500 billionth packet. The Company is now lead by Jeff Eisenstadt and Steven Eisenstadt, grandsons of Ben.

Cumberland has also added several other consumer product brands to its portfolio, including Sugar In The Raw (#1 turbinado sugar), Stevia Extract In The Raw (#2 all-natural zero calorie stevia sweetener), NatraTaste (#2 aspartame sweetener), and Butter Buds (#2 all-natural butter flavor without the fat or cholesterol), Nu-Salt (#3 potassium chloride salt alternative). Products are sold in retail grocery, food service, club store, convenience store, and mass market outlets. The largest retail customers are Wal*Mart, Kroger, Publix, C&S Wholesale Grocery, Safeway, and Supervalu. The largest club and foodservice customers include US Foodservice, Sysco, Costco, Sam’s, BJ’s, and Starbucks.

The current business environment is very competitive, as major competitors are multinational conglomerates such as Johnson & Johnson and Cargill. Splenda, a sucralose sweetener launched by Johnson & Johnson and manufactured in Singapore, has been very successful in winning market share due to a heavily funded advertising campaign. Cargill recently entered the market with Truvia, a stevia sweetener, which has been successful as an all-natural zero calorie tabletop packaged sweetener.

Cumberland currently manufactures in leased space within the Brooklyn Navy Yard and in company-owned buildings on Cumberland Street, located across the street. The Company is one of the largest local employers, and many employees live locally and walk to work. Twenty-seven employees have 30+ years of service, and fifty-four more have 20+ years of service. The Company has intentionally chosen not to automate using high speed equipment in order to preserve local jobs.

When the leases in the Brooklyn Navy Yard were approaching expiration, the Brooklyn Navy Yard Development Corporation (“BNYDC”) indicated that rents would increase significantly. Therefore, the Company evaluated alternate manufacturing options. Relocating to a modernized plant location and investing in high speed manufacturing equipment would save approximately \$6 million in operating expenses per year by eliminating jobs and reducing energy, transportation, tax, and rent expenses. Cumberland received several offers from other locations, the most notably Business Employment Incentives, training, tax credits/exemptions, and a job creation grant from New Jersey. However, the Company preferred to remain in Brooklyn, remaining loyal to the long-term employees and contributing to the Fort Greene community. At the suggestion of the BNYDC, the Company

approached ESD for assistance in making it feasible to remain in Brooklyn. ESD offered a \$1,600,000 incentive in June 2006, which the Company accepted, pledging to retain 320 jobs at the project location through January 1, 2012. The BNYDC and the New York City Council are also providing grant funds, which, together with ESD's grant, are helping fund the necessary renovations and machinery and equipment purchases necessary to keep the Company in its current location.

B. The Project

The project includes the refurbishment of existing leased and owned buildings, purchase of new machinery and equipment, and leasing of incremental warehouse space, which will enable operational consolidation to improve efficiency. Work on Brooklyn Navy Yard Building 127, which is leased, and several buildings at and adjacent to 2 Cumberland Street, owned by the Company, includes new roofing, exterior brick repointing, structural repair, HVAC replacement, and production reconfiguration. Work is underway, with anticipated completion for 2 Cumberland Street facilities in 2010 and Building 127 in 2011. Incremental space has been leased in Brooklyn Navy Yard Building 12B for warehousing of raw materials, packaging materials, and finished goods. Improvements to 12B include clearing debris, leveling the floor, installing warehouse racks, relocating the power supply, and installing a bathroom, lighting, and a heating system and will be completed by the end of 2009. Project machinery and equipment purchases include production, quality, environmental, technology, safety, and maintenance items. The Company has retained 320 jobs and current has 40 additional positions, for a total of 360.

C. Financial Terms and Conditions

1. The Company shall pay a commitment fee of 1% of the \$1,600,000 capital grant (\$16,000) 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 demonstrate no material adverse change in its financial condition prior to disbursement.
3. 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.
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 \$1,600,000 will be disbursed to the Grantee in two installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$800,000) will be disbursed upon documentation of machinery and equipment project costs totaling \$1,600,000 and documentation of the employment of at least 320 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 50% of the grant (\$800,000) will be disbursed upon documentation of addition machinery and equipment project costs totaling \$1,600,000 (total \$3,200,000), upon completion of the project substantially as described in these materials including occupancy of Brooklyn Navy Yard Buildings 127 and 12B and 2 Cumberland Street, and upon documentation of the employment of at least 320 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 June 2, 2006, to be considered eligible project costs. All disbursements must be requested by January 1, 2012.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$1,600,000, 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
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.

Baseline Employment	320
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A	B
Reporting Date	Employment Goals
February 1, 2011	320
February 1, 2012	320

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 320, including retention of 320 jobs which were at risk of extinction or relocation to another state.

2. The proposed project would be unlikely to take place in New York State without the requested assistance.
 The Company considered relocating its operations to New Jersey. ESD’s assistance helped to reduce costs and make the project feasible in New York.

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 \$18,431,237;
- Fiscal cost to NYS government is estimated at \$1,600,000;
- Project cost to NYS government per direct job is \$5,910;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$2,752;
- Ratio of project fiscal benefits to costs to NYS government is 11.52:1;
- Fiscal benefits to all governments (state and local) are estimated at \$34,137,858;
- Fiscal cost to all governments is \$6,100,000;
- All government cost per direct job is \$22,533;
- All government cost per total job is \$10,493;
- The fiscal benefit to cost ratio for all governments is 5.60:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$190,842,428, or \$328,293 per job (direct and indirect);
- The economic benefit to cost ratio is 31.29:1;

- Project construction cost is \$4,800,000 which is expected to generate 27 direct job years and 15 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 1.15 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. Cumberland Packing Corp. shall use its best efforts to achieve Minority and Women-owned Business Enterprise participation of not less than 15% and a Women Business Enterprise participation goal of 5% of the total dollar value of work performed under this Agreement and to include minorities and women in any job opportunities created by 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

November 19, 2009

Brooklyn (Kings County) – Cumberland Packing 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 Cumberland Packing 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, Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Cumberland Packing Corp. a grant for a total amount not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000) 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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