

FOR CONSIDERATION

November 18, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Malone (Franklin County) – Asept Pak 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: Asept Pak, Inc. (“Asept Pak” or the “Company”)

ESD* Investment: A grant of up to \$850,000 to be used for the cost of the purchase, delivery, installation and validation of machinery.

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

Project Location: 64 West Street, Malone, Franklin County

Proposed Project: Purchase, delivery, installation and validation of machinery and operating expenses associated with expansion.

ESD Incentive Offer Accepted: September 27, 2010 (initial offer); October 26, 2010 (revised offer)

Project Completion: April 2011

Number of Employees at Project Location:
 Initial employment at time of ESD Incentive Offer: 18
 Current employment level: 18
 Minimum employment on January 1, 2014: 80

Grantee Contact: Dr. Gary Hanley, Executive Officer
 64 West Street
 Malone, NY 12953
 Phone: (518) 651-2026
 Fax: (518) 651-2046

Anticipated
 Appropriation
 Source: Empire State Economic Development Fund

ESD Project No.: X226

Project Team:	Origination	Roseanne Murphy
	Project Management	Brendan Healey
	Affirmative Action	Helen Daniels
	Finance	Amit Nihalani
	Environmental	Soo Kang

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Machinery	\$400,000
Delivery, installation and validation of machinery	450,000
Working capital	<u>175,000</u>
Total Project Costs	<u>\$1,025,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$850,000	83%
Company Equity	<u>175,000</u>	<u>17%</u>
Total Project Financing	<u>\$1,025,000</u>	<u>100.0%</u>

III. Project Description

A. Background

Asept Pak, Inc., a privately owned pharmaceutical packaging manufacturer, began operations in Malone in 2005. The Company currently occupies an 18,500-square-foot building on 12 acres of land. Asept Pak compounds, fills and packages sterile and non-sterile pharmaceuticals and medical devices. The Company has developed a niche market for blow seal packaging, unique multi- and single-use medication containers. The Company designs its production to help develop products for companies on an initial research and development basis. Asept Pak embraces small production runs in hopes of securing the ultimate mass production once it is ready to occur. Major customers include Pfizer, Sanofi-Aventis, Barr, Armand Hammer, SoluMed, MedImmune, Lilly, and Cepheid. Its significant competitors include Catalent, Ritedose and Horizon Pharma.

There is rising demand for blow fill seal packaging, which minimizes incorrect dosing of patients. The blow fill seal method is particularly suited for this use as a single unit can be formed, filled and sterile-sealed for one-dose only usage. The inhalation market has embraced the blow fill seal technique, and the ophthalmic market is expanding its use of this technique. The blow seal market is expected to double or triple in the next ten years as the patient population ages.

Asept Pak recently entered into a contract with Pharma Caribe to supply various nasal saline rinses and an inhalation product. In order to accommodate the necessary production to satisfy this contract, it is necessary for the Company to acquire and install machinery. The recent recession has made it difficult for the Company to secure financing for this expansion. Asept Pak approached ESD in July 2010 to request financial assistance. Based on a compelling business case and anticipated growth resulting from the project and in order to ensure that the project would proceed, ESD offered an \$850,000 grant, which Asept Pak accepted in October 2010. Without ESD's assistance, it is not likely that the project would occur. As a result of the project, Asept Pak will retain 18 jobs and create 62 new jobs by January 1, 2014.

B. The Project

The project involves the acquisition, installation and validation of a used Rommelag 305 blow fill seal machine. The Rommelag 305 will allow the production of approximately 60 million vials per year. This will satisfy the required production under the Pharma Caribe contract and allow for additional growth. Asept Pak's facility already has clean rooms, a mix/compound room, an extensive water system and laboratory space to accommodate the Rommelag 305.

The Rommelag 305 is currently scheduled to be delivered in January 2011. It is anticipated that installation and validation will be completed in April 2011. Production will begin directly after validation

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the \$850,000 capital grant (\$8,500) and 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 will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company's 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 \$850,000 will be disbursed to the Grantee in two installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$425,000) upon documentation of machinery and equipment project costs totaling \$425,000, upon delivery of one (1) Rommelag 305 BFS machine at the Project Location, and documentation of the employment of at least 18 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 (\$425,000) will be disbursed upon documentation of additional machinery and equipment project costs totaling \$425,000 (\$850,000 cumulatively), documentation of working capital costs of \$175,000, documentation of the installation and validation of the Rommelag 305 BFS machine, and documentation of the employment of at least 38 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. Expenses must be incurred on or after September 27, 2010, to be considered eligible project costs. All disbursements must be requested by April 1, 2014.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$850,000, 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.

Baseline Employment	18
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A	B
Reporting Date	Employment Goals
February 1, 2012	18+X
February 1, 2013	18+X
February 1, 2014	18+X+Y
February 1, 2015	18+X+Y
February 1, 2016	18+X+Y

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. X=20, and Employment Goals shall equal $[18 + X = 38]$ 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 is required to occur by January 1, 2014 (i.e. Y=42, and Employment Goals shall equal $[18 + X + Y = 80]$).

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 18 and create 62 new jobs.

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 project feasible in New York. Without ESD's assistance, the project is not likely to occur as the Company has been unable to obtain assistance from any other sources.

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 \$3,232,485;
- Fiscal cost to NYS government is estimated at \$850,000 in 2011;
- Project cost to NYS government per direct job is \$14,675;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$6,296;
- Ratio of project fiscal benefits to costs to NYS government is 3.29:1;
- Fiscal benefits to all governments (state and local) are estimated at \$5,257,790;
- Fiscal cost to all governments is \$850,000 in 2011;
- All government cost per direct job is \$14,675;
- All government cost per total job is \$6,296;
- The fiscal benefit to cost ratio for all governments is 6.37:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$29,499,061, or \$225,074 per job (direct and indirect);
- The economic benefit to cost ratio is 35.75:1;
- There is no construction activity related to this project;
- For every permanent direct job generated by this project, an additional 1.36 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is 3 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

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. Asept Pak, 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.

VIII. Additional Submissions to Directors

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

November 18, 2010

Malone (Franklin County) – Asept Pak 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 Asept Pak 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 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 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 of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Asept Pak, Inc. a grant for a total amount not to exceed Eight Hundred Fifty Thousand Dollars (\$850,000) 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 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 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 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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