FOR CONSIDERATION
May 22, 2008

TO: The Directors

FROM: Daniel Gundersen, Avi Schick


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; Adoption of Findings Pursuant to the State Environmental Quality Review Act

General Project Plan

I. Project Summary

Borrower/Grantee: Hero Group Inc./Beech-Nut Nutrition Corporation (the “Company” or “Beech-Nut’)

Contact: Alain Souligny, Chief Financial Officer
13 British American Boulevard
Latham, New York 12110
Phone: (518) 595-6600
Fax: (518) 595-6601

Project Location: Florida Industrial Park, Florida*
13 British American Boulevard, Latham
102 Church Street, Canajoharie
101 Willett Street, Fort Plain

*Project activity site; others are job-retention sites.

NYS Empire Zone: Amsterdam Empire Zone
Proposed Project: Construction of a new 580,000-square-foot manufacturing and headquarters facility, relocation of existing operations, purchase and installation of machinery and equipment, and start of production.

Project Completion: June 2010

Number of Employees at Project Location:
- Initial employment (at time of ESD Incentive Offer): 356*
- Current employment level: 413
- Minimum employment on January 1, 2013: 491

*The Company will retain 356 jobs currently located at the Canajoharie and Fort Plain locations.

ESD** Investment: Grants totaling up to $35,067,000 to be used for a portion of the cost of construction, purchase, relocation, and installation of new and existing machinery and equipment, utilities, and New York State-produced ingredients.

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

Anticipated Appropriation Source:
- Empire State Economic Development Fund (Projects V330 and W136)
- JOBS Now Program (Projects V060 and V392)

ESD Project No.: V060, V330, V392, W136

Project Team:
- Origination: Jim Jacobs
- Project Management: Susan Shaffer
- Legal: Fred Eisenstein
- Affirmative Action: Helen Daniels
- Finance: Yang Song
- Environmental: Soo Kang
II. Project Cost and Financing Sources

<table>
<thead>
<tr>
<th>Financing Uses</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Land Acquisition</td>
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<tr>
<td>Site Prep and Building Construction</td>
<td>$76,700,000</td>
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<td>Engineering and Planning</td>
<td>$8,698,000</td>
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<tr>
<td>New M&amp;E Purchase &amp; Installation</td>
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<td>Relocation and Installation of Existing Operations and M&amp;E</td>
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<td>Corporate HQ Relocation Expenses</td>
<td>$5,200,000</td>
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<td>Misc. Professional Fees and Soft Costs</td>
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<td>Utilities and Raw Materials (Start of Production)</td>
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<td><strong>Total Project Costs</strong></td>
<td><strong>$134,871,000</strong></td>
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<table>
<thead>
<tr>
<th>Financing Sources</th>
<th>Amount</th>
<th>Percent</th>
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<tr>
<td>ESD-EDF Capital Grant (W136)</td>
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<tr>
<td>ESD-EDF Working Capital Grant (V330)</td>
<td>$10,000,000</td>
<td>7%</td>
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<tr>
<td>ESD-JOBS Now Capital Grant (V060)</td>
<td>$12,567,000</td>
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<td>ESD-JOBS Now Working Capital Grant (V392)</td>
<td>$7,500,000</td>
<td>6%</td>
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<td>Company Equity</td>
<td>$99,804,000</td>
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<td><strong>Total Project Financing</strong></td>
<td><strong>$134,871,000</strong></td>
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III. Project Description

A. Background

Founded in 1891, Beech-Nut started producing thirteen variations of strained baby food in 1931 and now offers more than 150 variations of baby food. The company has had several owners throughout its history and was acquired in October 2005 by Hero AG ("Hero"), a Switzerland-based food manufacturer founded in the late 1800s. Other U.S.-based Hero entities include Milnot Holding Corporation, Hero North America, and Signature Brands; a new subsidiary, Hero Group Inc., was formed in 2007 when Beech-Nut headquarters were relocated to New York. Beech-Nut currently has a 15% market share, while its competitor, Gerber, holds 75% of the market. With Hero’s purchase of Beech-Nut, the Company expects to grow U.S. market share to 25% and to become the #1 baby food supplier in Canada. Current offerings include jarred baby food, cereal, milk, juice, and water, as well as kosher baby food. In 2002, the Company launched Beech-Nut First Advantage®, the first product line to include two specific nutrients found in breast milk, AHA and DHA.

Headquartered in St. Louis, Missouri, until 2007, Beech-Nut has manufactured products in Canajoharie since 1891, including its current line of high-end, high-quality baby food, and at its cereal factory in Fort Plain since 1979. Both facilities have become dated, and the landlocked Canajoharie plant is limited in terms of expansion. The June 2006 floods affected the plant, and though ESD provided a grant of $500,000 to help with cleanup and repair, the flood highlighted the need to look at alternative sites. The Company explored locations around the country, including near its corporate headquarters in St. Louis. Working closely with New York State and ESD representatives, the Company found a favorable site at the Florida Industrial Park in Montgomery County. The site has approximately 106 acres, which will allow for construction of the Beech-Nut manufacturing plant, warehouse, and office space.
In April 2007, ESD offered an incentive package that would make it possible for Beech-Nut to retain 356 New York State jobs, which will be relocated from the Canajoharie and Fort Plain locations, to relocate 37 headquarters positions from St. Louis, and to create an additional 98 full-time permanent jobs by January 1, 2013, for a total of 491 jobs. The Company accepted the offer totaling $35,067,000 in capital and working capital grant funds. A separate grant of $2,500,000 for costs associated with relocation and establishment of a New York headquarters and 30 headquarters positions was approved in September 2007. The Company currently employs 413 employees in New York State, including 35 positions at the new headquarters, temporarily located in rented space in Latham. Without ESD’s assistance, Beech-Nut would have relocated operations outside of New York, resulting in a loss of local employment opportunities.

B. The Project

The project includes the purchase of approximately 90 acres of land and construction of a 580,000-square-foot baby food manufacturing, packaging and corporate headquarters facility. In order to attain the land needed for the Beech-Nut plant, the Montgomery County Industrial Development Agency (the “IDA”) will acquire property from D. Karl and Target Corporation, which own land adjacent to the prospective Beech-Nut plant, and then convey to Beech-Nut approximately 90 acres of land for the nominal price of $1,000. Construction of the new manufacturing, packaging, and corporate headquarters facility will begin in May 2008, with expected completion in June 2010. The project includes purchase and installation of new machinery and equipment, relocation and installation of existing machinery and equipment, relocation of operations at existing facilities, purchase of furniture and fixtures, relocation of headquarters, utility costs, and purchase of New York State-produced ingredients. As a result of the project, the Company will streamline and upgrade its operations, with the expectation of growing its North American market share and expanding operations.

C. Financial Terms and Conditions

1. The Company shall pay a commitment fee of 1% of the EDF capital grant ($50,000) 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 projects.

2. The Company will demonstrate no material adverse change in its financial condition prior to disbursement.

3. Hero, Inc., Milnot Holding Corporation, Hero North America, Inc., and Signature Brands LLC will guarantee the grant repayment obligation of their subsidiaries or affiliates Hero Group Inc./Beech-Nut Nutrition Corporation in the event of an Employment Shortfall or other default, as defined in these materials or the Grant Disbursement Agreements.

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; (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; or (c) a Contract Employee.

A Contract Employee shall mean (i) a full-time private sector employee (or self-employed person) who is not on the Grantee’s payroll but who works exclusively for the Grantee at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks, providing services that would otherwise be provided by a Full-time Permanent Employee. The position held by a Full-time Contract Employee must be a year-round position; or (ii) two part-time, private-sector employees (or self employed individuals) that are not on the Grantee’s payroll but who have worked for the Grantee at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks providing services that are similar to services that would otherwise be performed by a Full-time Permanent Employee. The maximum number of Contract Employees shall not exceed 10% of Full-time Permanent Employees.

6. Funds will be disbursed according to the following:

**EDF Capital Grant (Project #W136)**
Up to $5,000,000 will be disbursed to the Grantee in two installments as follows:

a) an Initial Disbursement of $2,500,000 upon documentation of the purchase of boilers, relocation of existing boilers, and associated installation costs at new facility (not to include National Grid Gas and Electric Connections) totaling at least $2,500,000 and documentation of the required level of employment, assuming that all project approvals have been completed and funds are available;

b) a Second Disbursement of $2,500,000 upon completion of the project substantially as described in these materials, documentation of project costs of approximately $124,000,000, and documentation of the required level of employment, provided Grantee is otherwise in compliance with program requirements, assuming that all project approvals have been completed and funds are available.

**EDF Working Capital Grant (Project #V330)**
Up to $10,000,000 will be disbursed to the Grantee in as follows:

a) $4,000,000 will be disbursed upon completion of the project substantially as described in these materials, start of production, documentation of the purchase of NYS-produced ingredients, products, and produce used at the Project Location totaling $4,000,000, and documentation of the required level of employment, assuming that all project approvals have been completed and funds are available;
(b) $6,000,000 will be disbursed in quarterly payments of up to $500,000 each, upon
documentation of paid utility bills for the preceding quarter (commencing with the
quarter immediately after the start of commercial production), and documentation of
the required level of employment, provided Grantee is otherwise in compliance with
program requirements, assuming that all project approvals have been completed and
funds are available.

**JOBS Now Capital Grant (Project #V060)**

Up to $12,567,000 will be disbursed to the Grantee in three installments as follows:

a) an Initial Disbursement of $9,283,500 upon completion of the project substantially
as described in these materials, documentation of project costs of approximately
$124,000,000, receipt of the certificate of occupancy, and documentation of the
employment of at least 356 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 $1,641,750 upon employment of at least 424 Full-time
Permanent Employees (Employment Increment of 68) at the Project Location,
provided Grantee is otherwise in compliance with program requirements, assuming
that all project approvals have been completed and funds are available;

c) a Third Disbursement of $1,641,750 upon the employment of 491 Full-time
Permanent Employees (Employment Increment of 67) at the Project Location,
provided Grantee is otherwise in compliance with program requirements, assuming
that all project approvals have been completed and funds are available.

**JOBS Now Working Capital Grant (Project #V392)**

Up to $7,500,000 will be disbursed to the Grantee in two installments as follows:

a) an Initial Disbursement of $5,000,000 upon documentation of start of construction
by Beech-Nut of the new manufacturing facility at the Florida Industrial Park and
documentation of the required level of employment, assuming that all project
approvals have been completed and funds are available;

b) a Second Disbursement of $2,500,000 in Year 10 (Year 1 = start of construction)
upon documentation of the required level of employment, provided Grantee is
otherwise in compliance with program requirements, assuming that all project
approvals have been completed and funds are available.

c) Repayment of Project #V392 by the IDA to ESD will be made in disbursements of
$2,500,000 in each of Years 11, 12, and 13 (Year 1 = Start of Construction),
pursuant to a separate agreement.

Payment will be made upon presentation to ESDC of an invoice and such other
documentation as ESDC may reasonably require, including documentation of 386
employees for disbursement requests made prior to January 1, 2013, and 491 employees
for disbursement requests made thereafter. All disbursements require compliance with
program requirements. Expenses must be incurred on or after April 18, 2007. All
disbursements must be requested by no later than April 1, 2013, with the exception of
Project #V392, which will have a Second Disbursement in Year 10 following the start
of construction.
7. ESD may reallocate the project funds to another form of assistance, at an amount no greater than $35,067,000, 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:

**Recapture Amount**

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) 90% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;

(iii) 80% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;

(iv) 70% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;

(v) 60% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

(vi) 50% of the disbursed amount if the Employment Shortfall occurred in the sixth full calendar year after the disbursement was made.

(vii) 40% of the disbursed amount if the Employment Shortfall occurred in the seventh full calendar year after the disbursement was made.

(viii) 30% of the disbursed amount if the Employment Shortfall occurred in the eighth full calendar year after the disbursement was made.

(ix) 20% of the disbursed amount if the Employment Shortfall occurred in the ninth full calendar year after the disbursement was made.

(x) 10% of the disbursed amount if the Employment Shortfall occurred in the tenth 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.

**Force Majeure**

In the event that the Grantee fails to achieve or maintain Full Employment as set forth herein as a result of force majeure, the parties agree to meet and discuss new timing for achieving the employment goals for such additional time as they determine to be reasonable, or ESDC may, at its sole discretion, waive recapture of the Grant. If agreement can not be reached then the existing recapture provisions and amounts set forth herein shall apply. Force majeure shall include the following events (and similar events) that directly
impact the Project, are beyond the control of the Grantee and preclude the Grantee from maintaining all or a portion of its workforce for a period of time:
(i) flood,
(ii) earthquake,
(iii) fire,
(iv) riot,
(v) court order,
(vi) act of God,
(vii) act of terrorism,
(viii) war.

For Project V060:

<table>
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<th>Baseline Employment</th>
<th>356</th>
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<td><strong>A</strong></td>
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<tr>
<td>Reporting Date</td>
<td>Employment Goals</td>
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<td>February 1, 2019</td>
<td>356+X+Y</td>
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X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in Section 6 (i.e. X = 68, and Employment Goals shall equal [356 + X = 424] 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 (i.e. Y = 67, and Employment Goals shall equal [356 + X + Y = 491] 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.

For Projects V330, V392, and W136:

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<th>Baseline Employment</th>
<th>386*</th>
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<td>491</td>
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<tr>
<td>February 1, 2019</td>
<td>491</td>
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*356 employees at the Project Location and 30 additional Headquarters employees to be located at the Latham or Florida sites.
IV. Statutory Basis: Empire State Economic Development Fund:

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 356 jobs which were at risk of relocation to another state. In addition, the Company will create 135 new jobs.

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 Missouri. 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 $21,161,758;
   - Fiscal cost to NYS government is estimated at $48,450,781;
   - Project cost to NYS government per direct job is $130,404;
   - Project cost to NYS government per job (direct plus indirect) is estimated at $77,340;
   - Ratio of project fiscal benefits to costs to NYS government is 0.44:1;
   - Fiscal benefits to all governments (state and local) are estimated at $35,339,824;
   - Fiscal cost to all governments is $68,028,862;
   - All government cost per direct job is $183,098;
   - All government cost per total job is $108,592;
   - The fiscal benefit to cost ratio for all governments is 0.52:1;
   - Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at $200,828,551, or $320,575 per job (direct and indirect);
   - The economic benefit to cost ratio is 2.94:1;
   - Project construction cost is $88,207,000 which is expected to generate 923 direct job years and 408 indirect job years of employment;
   - For every permanent direct job generated by this project, an additional 0.69 indirect jobs are anticipated in the state’s economy;
   - The payback period for NYS costs is over three years.

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. Statutory Basis: JOBS Now Program:

The project meets the statutory requirement of a JOBS Now 100 Project because the Company will create at least 100 new full-time permanent private sector jobs. No residential relocation is required as there are no families or individuals residing on the site.

VI. Environmental Review

ESD (the “Corporation”), pursuant to the State Environmental Quality Review Act (“SEQRA”), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617), ratifies and makes the following findings based on the Supplemental Final Environmental Impact Statement (“SFEIS”) dated April 1, 2008 prepared by the Town of Florida Planning Board in connection with the proposed Hero/Beech-Nut Facility project (the “proposed action”) in the Town of Florida Business Park.

SEQRA requires the adoption of written findings, supported by a statement of relevant facts and conclusions considered, prior to agency decisions on actions that have been the subject of an SFEIS. The Findings Statement, attached as Exhibit A, contains the facts and conclusions in the Supplemental Draft Environmental Impact Statement (“SDEIS”) and SFEIS relied upon to support the Corporation’s decision on the action that is the subject of the requested authorization.

The findings that the Corporation hereby ratify and make are that:

- The Corporation has given consideration to the SDEIS and SFEIS;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed action is one that avoids or minimizes significant adverse environmental effects to the maximum extent practicable, including the effects disclosed in the relevant environmental impact statement;
- Consistent with social, economic and other essential considerations to the maximum extent practicable, any significant adverse environmental effects revealed in the environmental impact statement process as a result of the proposed action will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable;
- The proposed action is in compliance with Section 14.09 of the State Historic Preservation Act.

Therefore it is recommended that the Corporation ratify and adopt the SEQRA Findings Statement attached as Exhibit A.
VII. Affirmative Action

ESD's Non-Discrimination and Affirmative Action policy will apply. Beech-Nut Corporation shall use its best efforts to achieve Minority and Women-owned Business Enterprise participation of not less than 5% of the total dollar value of work performed pursuant to contracts or purchase orders entered into in connection with the construction work related to the Project and meaningful Minority and Female Workforce participation.

VIII. 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.

IX. Additional Submissions to Directors

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