

St. Lawrence County Industrial Development Agency

Ernest J. LaBaff Industrial Building ~ 19 Commerce Lane, Suite 1 ~ Canton, New York 13617

Phone: (315) 379-9806 ~ Fax: (315) 386-2573

Patrick J. Kelly
Chief Executive Officer

PROJECT ACTIVITY REPORT

Project: Pepsi-Cola Ogdensburg Bottlers, Inc. [Project Number, 4001-19-05]
Project Address: 205 Cedar Street and 1001 Mansion Avenue
Ogdensburg, New York 13669
Application Date: August 13, 2019
Board Approval Date: December 11, 2019
Assistance Date: January 2, 2020

Project Overview:

Pepsi-Cola Ogdensburg Bottlers, Inc. (Pepsi Ogdensburg) is acquiring two new pieces of equipment, a baler and a perforator. The baler will help assist the company’s bottle and can recycling operation, while the perforator machine will perforate the bottles and enable the baler to maximize its bale weight.

The company has conducted a workflow analysis of its recycling and vending operations located at 205 Cedar Street, Ogdensburg, and determined that the building will require renovations to the work area for the baler and perforator. The renovations will include the construction of wall separators to divide the bottle and can repositories before the baling process and incorporate upgrades to the building’s restroom facilities.

In addition to the machinery and equipment upgrade for the Cedar Street recycling facility, Pepsi Ogdensburg plans to offer chilled product delivery in 2020. To enable the delivery of chilled products the company intends to construct a cold storage room within its Mansion Avenue facility.

Actions Taken:

Proposed Financial Assistance:

St. Lawrence County Industrial Development Agency (Sales and Use Tax Exemption Benefit)
..... \$13,200

Other Financing and Assistance Leveraged:

St. Lawrence County Industrial Development Agency Local Development Corporation Loan
.....\$200,000
Equipment Lease Financing.....\$50,000
Company Equity..... \$27,250

Economic Indicators:

Jobs Maintained and Generated: The project will retain 44 jobs and create at least 1 new job over three years.

Capital Investment: Expenses for the project will surpass \$275,000 which include building improvement costs of approximately \$100,000. In addition to the site renovations there will be investment of machinery and equipment of approximately \$175,000.

Improved Corporate Performance: The project will enable greater efficiencies within the Company's recycling division, provide a safer work environment, maintain and expand employment, and ultimately produce a better profit margin while enabling the Company to move into a new product arena (chilled beverage delivery).

Tax Base /Revitalized Properties: Pepsi-Ogdensburg has a long history in the City, and this project will include improvements to the Company's headquarters/main warehouse facility as well as the separate facility which houses the Company's recycling operations.

Community and Regional Benefit: This project involves purchasing a new Baler to assist with plastic bottle and can recycling in order to modernize the Company's recycling operations. Along with the baler, a Perforator will be added to enable maximum compaction of plastic bottles at the 205 Cedar St. location.

ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
(ST. LAWRENCE COUNTY, NEW YORK)

and

COMPANY, INC.

AGENCY COMPLIANCE AGREEMENT
for conveyance of sales and use tax exemption benefit.

TERM OF CONVEYENCE OF AGENT STATUS:
12/11/2019 – 8/31/2020

(ST. LAWRENCE COUNTY, NEW YORK)
(Pepsi-Cola Ogdensburg Bottlers, Inc.)
(Modernization of Recycling Operations and Expand into Product Delivery)
(PROJECT #4001-19-05)

BENEFIT LIMITED TO
\$ 13,200

AGENCY COMPLIANCE AGREEMENT

THIS AGENCY COMPLIANCE AGREEMENT (the "Agreement") is by and between the **ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, public benefit corporation of the State of New York, having its principal office at 19 Commerce Lane, Suite 1, Canton, St. Lawrence County, New York 13617 (the "SLCIDA"), and **Pepsi-Cola Ogdensburg Bottlers, Inc.** a business corporation duly organized and validly existing under the laws of the State of New York, having offices at PO Box 708, 1001 Mansion Ave, Ogdensburg, New York 13669 (the "Company").

WITNESSETH:

WHEREAS, the SLCIDA was created by Chapter 132 of the Laws of 1973 of the State of New York, as amended, pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended (collectively, the "Act");

WHEREAS, the COMPANY has submitted an application (the "APPLICATION") to the SLCIDA requesting the SLCIDA's assistance with a certain project in the form of Sales and Use Tax Exemptions:

SLCIDA Project Number:	4001-19-05
Project Address:	205 Cedar Street & 1001 Madison Ave. Ogdensburg, New York 13669 Town of Oswegatchie, St. Lawrence County
Estimated value of goods and services to be exempt from New York State and local sales and use tax:	<u>\$165,000</u>
Estimated value of New York State and local sales and use tax exemption provided (8%):	LIMITED TO <u>\$ 13,200</u>

WHEREAS, pursuant to SLCIDA by Resolution #IDA-19-12-30, duly adopted by the SLCIDA on December 11, 2019, the SLCIDA authorized the COMPANY to act as its agent for the purposes of undertaking a certain project, more fully described herein, subject to the COMPANY entering into this Agency Compliance Agreement:

- Project -
1. Acquisition by the SLCIDA of a leasehold interest to approximately 7 acres of real property located at 205 Cedar Street and 1001 Madison Ave., Ogdensburg, New York, located within the City of Ogdensburg (the "Land");
 2. Construction and renovations on the land and within the existing building at 205 Cedar Street to accommodate modern recycling operation and construction of a cold storage room at 1001 Madison Ave.
 3. Space within the existing buildings will be renovated to accommodate manufacturing, warehousing and office needs. (the "Improvements");
 4. Acquisition in and around the Land and Improvements and of certain items of equipment and other tangible personal property and equipment (the "Equipment", and collectively, with the Land and the Improvements, the "Facility"); and
 5. Lease of the Facility to the Company pursuant to a straight-lease transaction as defined within the Act.

WHEREAS, said appointment includes the following as it relates to any proposed acquisition, construction, renovation, equipping and completion of any buildings, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquisition, construction, renovation and equipping of the Facility, and (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with acquisition, construction, renovation and equipping of the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under such Facility, entering into contracts and doing all things requisite and proper for completing the Facility;

WHEREAS, the Company has agreed with the SLCIDA, on behalf of the SLCIDA and as the SLCIDA's agent, to limit its activities as agent for the SLCIDA under the authority of the appointing resolution to acts reasonably related to the construction and equipping of the Facility in accordance with the Plans and Specifications set forth in the APPLICATION;

NOW, THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I: REPRESENTATIONS AND COVENANTS OF THE COMPANY and SLCIDA

Section 1.1 Representations and Covenants of Company. Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a business corporation duly authorized to do business in the State of New York, is in good standing under the laws of the State of New York, and has full legal right, power and authority to execute, deliver and perform this Agreement. This Agreement has been duly authorized, executed and delivered by Company.

(b) To the best of Company's knowledge, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions hereof will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any law or ordinance of the State or any political subdivision thereof, Company's organizational documents, as amended, or any restriction or any agreement or instrument to which Company is a party or by which it is bound.

(c) Any and all leasehold improvements undertaken by Company with respect to the Facility and the design, construction, equipping and operation of the Facility will conform with all applicable zoning, planning, building and environmental laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Facility. The Company shall defend, indemnify and hold the SLCIDA harmless from any liability or expenses, including reasonable attorneys' fees, resulting from any failure by Company to comply with the provisions of this subsection.

(d) This Agreement constitutes a legal, valid and binding obligation of Company enforceable against Company in accordance with its terms.

(e) The SLCIDA hereby appoints and the Company hereby agrees to act on behalf of the SLCIDA, as its Agent, under the terms of this Agreement, to construct and equip the Facility in accordance with the Plans and Specifications.

ARTICLE II: SPECIAL COVENANTS

Section 2.1 No Warranty of Condition or Suitability by SLCIDA. The SLCIDA makes no warranty, either express or implied, as to the condition, design, operation, merchantability or fitness of, or title to, the Facility or that it is or will be suitable for Company's purposes or needs.

Section 2.2 Hold Harmless Provisions.

(a) Company agrees that the SLCIDA, its directors, members, officers, agents (except agents of the Company) and employees shall not be liable for, and agrees to defend, indemnify, release and hold the SLCIDA, its directors, members, officers, agents (except agents of the Company) and employees harmless from and against, any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility or the Land, and (ii) liability arising from or expense incurred in connection with the SLCIDA's acquisition, construction, renovation, equipping and owning and leasing of the Facility, including, without limiting the generality of the foregoing, all claims arising from the breach by Company of any of its covenants contained herein, the exercise by Company of the authority conferred upon them pursuant to this Agreement and all causes of action and attorneys' fees (whether by reason of third party claims or by reason of the enforcement of any provision of this Agreement (including without limitation this Section) or any of the other documents delivered by the SLCIDA), and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the SLCIDA are not incurred and do not result from the gross negligence or intentional or willful wrongdoing of the SLCIDA or any of its directors, members, agents (except the Company and Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the SLCIDA, or any of its members, directors, officers, agents or employees, and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law, and upon the application of any such prohibition by the final judgment or decision of a competent court of law, the remaining provisions of these indemnities shall remain in full force and effect.

(b) Notwithstanding any other provisions of this Agreement, the obligations of Company pursuant to this Section shall remain in full force and effect after the termination of this Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought, and the payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all expenses and charges incurred by the SLCIDA, or its members, directors, officers, agents and employees, relating to the enforcement of the provisions herein specified.

(c) In the event of any claim against the SLCIDA or its members, directors, officers, agents or employees by any employee or contractor of Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

Section 2.3 Right to Inspect Facility. The SLCIDA and its duly authorized agents shall have the right at all reasonable times to inspect the Facility.

Section 2.4 Qualification in State. Company, throughout the term of this Agreement, shall continue to be duly authorized to do business in the State.

Section 2.5 Appointment of Project Operator and Agents.

(a) Company, effective of the date hereof and until the SLCIDA consents in writing to a termination of this Agreement, shall accept authority to purchase on behalf of SLCIDA all materials to be incorporated into and made an integral part of the Facility, and the following activities as they relate to any construction, erection and completion of any building(s), whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (1) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with construction and equipping, (2) all purchases, rentals, uses of consumption of supplies, materials, utilities and services of every kind and description used in connection with construction and equipping, and (3) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs), installed or placed in upon or under such building or facility, including all repairs and replacements of such property.

(b) The authority accepted by the Company on behalf of the SLCIDA as outlined in Section 2.5(a) is deemed also to be accepted by any other project operator or agent that the Company may duly appoint.

Section 2.6 Agreement to File Appointment of Project Operator Information (the ST-60). The effectiveness of an agency appointment by the SLCIDA is expressly conditioned upon the timely execution by the SLCIDA of New York State Department of Taxation and Finance "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (Form ST-60) for the SLCIDA's Agent (the Company) and for each Agent as the Company chooses who provides materials, equipment, supplies or services (the "Authorized Agent(s)"). The ST-60 shall serve to evidence that the SLCIDA has appointed an Agent (the form of which to be completed by Company) and deliver said form to the SLCIDA. Company agrees that it will ensure that the Form ST-60 will be presented to the SLCIDA within twenty-one (21) days, to enable the SLCIDA to fully execute and deliver Form ST-60 to the State Department of Taxation and Finance within thirty (30) days of appointment. The ST-60 is not and cannot be used as an exemption document.

The Company acknowledges that the executed Form ST-60 is not and cannot serve as a sales or use tax exemption certificate or document. No copy of the executed Form ST-60 shall be tendered to any person required to collect sales tax as a basis to make such purchases exempt from tax. No such person required to collect sales or use taxes may accept the executed Form St-60 in lieu of collecting any tax required to be collected.

The Company acknowledges that the Civil and Criminal penalties for misuse by the Company of a copy of Form ST-60 as an exemption certificate or document or for failure to pay or collect tax shall be as provided in the Tax Law. In addition, the use by an Authorized Agent of such Form ST-60 as an exemption certificate or document shall be deemed to be, under Articles 28 and 37 of the Tax Law, the issuance of a false or fraudulent exemption certificate or document with the intent to evade tax.

Section 2.7. IDA Agent or Operator Exempt Purchase Certificate (the ST-123). The Company and its Authorized Agents (i.e. only those for whom forms ST-60 have been filed) shall utilize Form ST-123 "IDA Agent or Project Operator Exempt Purchase Certificate" to make purchases for the project exempt from state and local sales taxes as an agent of the SLCIDA. The Company and its Authorized Agents, by accepting this authority, understand and agree that misuse of the Form ST-123 may subject them to serious civil and criminal sanctions in addition to the payment of any tax and interest due. Contractors or subcontractors that are not agents of the SLCIDA shall utilize form ST-120.1,

Contractors Exempt Purchase Certificate, when making project-related purchases that are exempt from sales tax under sections 111(a)(15) and 1115(a)(16) of the Tax Law.

Section 2.8 Agreement to File Annual Statements and Provide Information (including ST-340). On an annual basis beginning in the first year in which the financial assistance is conferred by the SLCIDA to the Company, through and until the end of the calendar year following the date of the termination of the project, the Company shall file with the New York State Department of Taxation and Finance an annual statement of the value of all sales and use tax exemptions claimed in connection with the Facility in compliance with Sections 874(8) and (9) of the New York State General Municipal Law (Form ST-340). Company shall deliver a copy of such annual statement to the SLCIDA at the time of filing with the Department of Taxation and Finance. Company further agrees to deliver and certify or cause to be delivered and certified whenever requested by the SLCIDA such information concerning Company, its finances, its operations, its employment and its affairs necessary to enable the SLCIDA to make any report required by law, governmental regulation or any of the SLCIDA documents. Such information shall be delivered within thirty (30) days following written request from the SLCIDA.

Section 2.9 Agreement to Convey Project Status. Should the project require modification, either by extending the project beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the Company must provide the circumstances to the SLCIDA in writing within twenty-one (21) days of the change.

Section 2.10 Books of Record and Account; Financial Statements and Documents Retention.

(a) The Company, at all times, agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and affairs of Company and any and all records relating to the sales and use tax exemptions claimed in connection with the Facility in compliance with this Agreement.

(b) The Company must retain for at least six (6) years from the date of expiration of its Contract copies of (i) this Agreement and (ii) all contracts, agreements, invoices, bill or purchases entered into or made by such Agent using Form ST-123 and to make all such records available to the SLCIDA upon reasonable notice. This provision shall survive the expiration or termination of this Agreement.

Section 2.11 Recovery Provisions. In compliance with General Municipal Law §875(3), the policies of the SLCIDA and the Resolution, the Company covenants and agrees that the SLCIDA shall recover, recapture, receive or otherwise obtain from the Company and to any other parties as the Company may designate, or other person or entity State Sales and Use Exemption benefits taken or purported to be taken by any such person to which the person is not entitled or which are in excess of the amounts authorized or which are for property or services not authorized or taken in cases where such agent or project operator, or other person or entity failed to comply with a material term or condition to use property or services in the manner required by the Company through this Agreement. The Company shall cooperate with the SLCIDA in its efforts to recover, recapture, receive or otherwise obtain such State Sales and Use Exemption benefits, and the Company shall promptly pay over any such amounts to the SLCIDA that SLCIDA demands in connection herewith. Failure to pay over such amounts to the SLCIDA shall be grounds for the New York State Commissioner of Taxation and Finance to assess and determine State Sales and Use taxes due as a result of this violation, together with any relevant penalties and interest due on such amounts. This provision shall survive the expiration or termination of this Agreement.

Section 2.12 Identification of Equipment. If any equipment is to or may become the Property of the SLCIDA pursuant to the provisions of this Agreement then such equipment shall be properly identified by Company by such appropriate records, including computerized records, as may be approved by the SLCIDA. All Equipment and other Property of whatever nature affixed or attached to the Land or used or to be used by Company in connection with the Facility shall be deemed presumptively to be owned by the SLCIDA, rather than Company, unless the same were utilized for purposes of construction of the Facility or were installed by Company and title thereto was retained by Company in a manner provided subsequent to any Lease Agreement and such Equipment and other Property were properly identified by such appropriate records as were approved by the SLCIDA.

Section 2.13 Depreciation Deductions and Investment Tax Credit. The parties agree that, as between them, Company shall be entitled to all depreciation deductions with respect to any depreciable property comprising a part of the Facility and to any investment credit with respect to any part of the Facility.

Section 2.14 Aggregate Sales and Use Tax Exemption. Company agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$165,000, and therefore, the value of New York State and local sales and use tax exemption authorized and approved by the SLCIDA, subject to the terms thereof, cannot under any circumstances exceed \$13,200. Benefits taken or purported to be taken by the Company or its Authorized Agents which are in excess of this amount shall be subject to the recovery provisions outlined in Section 2.11 herein.

Section 2.15 Expiration. The Agent Status created by this Agreement is limited to the Facility and will expire on August 31, 2020. Company may apply in writing to extend this agency authority by showing good cause. Benefits taken or purported to be taken by the Company or its Authorized Agents after this date shall be subject to the recovery provisions outlined in Section 2.11 herein.

Section 2.16 Disclosure. Pursuant to GML §875(7) this Agreement and related project documents shall be made available on the Internet and copies of same shall also be provided, without charge to any person who asks for it in writing or in person. Any information exempted from disclosure under Article 6 of the Public Officers Law, will be deleted.

Section 2.17 Execution of Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 2.18 Notices. All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows or to such other address as any party may specify in writing to the other:

To the SLCIDA:

St. Lawrence County
Industrial Development Agency
19 Commerce Lane, Suite 1
Canton, New York 13617
Attn: Patrick J. Kelly, Chief Executive Officer

With a copy to:

Silver and Collins, Attorneys at Law
44 Court Street
Canton, New York 13617
Attn: Andrew Silver, Esq.

To the Company:

Pepsi-Cola Ogdensburg Bottlers, Inc.
PO Box 708, 1001 Mansion Ave,
Ogdensburg, New York 13669
Attn. **Derek Van House**

IN WITNESS WHEREOF, the SLCIDA and Company have each caused this Agency Compliance Agreement to be executed in their respective names by affixing his signature thereto, or by duly authorized officers, all as of the date first above written.

For SLCIDA:

[Redacted Signature]

By:

Name: Patrick J. Kelly
Title: Chief Executive Officer

For COMPANY:

Pepsi-Cola Ogdensburg Bottlers, Inc.

[Redacted Signature]

By:

Name: Richard Wright
Title: President

STATE OF NEW YORK)
) ss.:
COUNTY OF ST. LAWRENCE)

On the 14th day of January, 2020 before me, personally appeared Patrick Kelly, Chief Executive Officer of the St. Lawrence County Industrial Development Agency, personally known to me or proved to me on the basis of satisfactory evidence to be the Company whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the Company, or the person upon behalf of which the Company acted, executed the instrument.

[Redacted Signature]

Notary Public, State of New York

Lori A. Sibley
Notary Public, State of New York
Qualified in St. Lawrence County
Commission Expires September 30, 2021

STATE OF NEW YORK)
) ss.:
COUNTY OF ST. LAWRENCE)

On the 8 day of January, 2020, before me, personally appeared Richard Wright, President of Pepsi-Cola Ogdensburg Bottlers, Inc. personally known to me or proved to me on the basis of satisfactory evidence to be the Company whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the Company, or the person upon behalf of which the Company acted, executed the instrument.

[Redacted Signature]

Notary Public, State of New York

SUSAN M. PUTMAN
Notary Public, State of New York
Qualified in St. Lawrence County
My Commission Expires June 17, 2021

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (hereinafter, the “Agreement”), made as of January 8, 2020, by and between the **ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a New York public benefit corporation, with offices at 19 Commerce Lane, Suite 1, Canton, New York 13617 (the “Agency”), and **Pepsi-Cola Ogdensburg Bottlers, Inc.**, a New York Corporation, with offices at PO Box 708, 1001 Mansion Ave, Ogdensburg, New York 13669 (the “Company”).

WITNESSETH:

WHEREAS, the Agency was created by Chapter 132 of the Laws of 1971 of the State of New York (the “State”), as amended, codified as Section 914 of the General Municipal Law of the State (“GML”), pursuant to Title 1 of Article 18-A of the GML, as amended (collectively, the “Act”); and

WHEREAS, the Company has submitted an application (the “Application”) to the Agency requesting the Agency’s assistance with respect to a certain project (the “Project”), and

WHEREAS, by Resolution No. IDA-19-12-30, adopted on December 11, 2019 (the “Resolution”), the Agency has conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance (collectively, as applicable, based upon the Resolution, which may include a sales and use tax exemption benefit, mortgage recording tax benefit, and partial abatement from real property taxes benefit, are hereinafter collectively referred to as the “Financial Assistance”); and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolution and as more particularly described in the project documents (collectively, as applicable, the Company Lease Agreement, the Leaseback Agreement and PILOT Agreement, the Agency Compliance Agreement and related documents (collectively, the “Project Documents”)) that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed by the parties hereof as follows:

ARTICLE I – REPRESENTATIONS AND WARRANTIES

Section 1.1 Agency. The Agency does hereby restate and incorporate herein by reference its representations, warranties and covenants contained in the Project Documents as if the same were fully set forth herein.

Section 1.2 Company. The Company does hereby restate and incorporate herein by reference its representations, warranties and covenants contained in the Project Documents as if the same were fully set forth herein.

ARTICLE II – FINANCIAL ASSISTANCE COVENANTS

Section 2.1 Financial Assistance. The Resolutions approved by the SLCIDA authorized the Financial Assistance to the Company and determined employment retention and/or creation minimum levels based, in part, on the Company-certified information regarding employment and general operations of the Company that the Company provided in the Application. In reliance on the certifications provided by the Company in the Application, the SLCIDA agrees to provide the Company with the following Financial Assistance related to the Project:

(1) Sales and Use Tax Exemptions:	\$ 13,200
(2) Mortgage Recording Tax Exemption:	0
(3) Real Property Tax Exemption:	0

Section 2.2 Purpose of Project. It is understood and agreed by the parties hereto that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Project Documents in order to, promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project facility to advance job opportunities, health, general prosperity and economic welfare of the people of St. Lawrence County and to otherwise accomplish the public purpose of the Act.

Section 2.3 Application. The Company represents and warrants that the information contained in the Application regarding (a) the number of Full Time Equivalent jobs ("FTEs"), by category, to be retained and created as a result of the Financial Assistance authorized in the **PROJECT AUTHORIZING RESOLUTION** and (b) the salary and fringe benefit averages and/or ranges for the categories of FTEs to be retained and created is accurate.

Section 2.4 Certification and Documentation. The Company shall provide to the Agency the following certified statements and documentations:

- (a) on an annual basis (i) enumerating the FTEs retained and created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and created that was provided in the Application or Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Exhibit A contains the form of annual certification as so required as discussed above as well as additional Project assessment information that the Agency requires, on an annual basis no later than January 31 of each year, to be submitted to the Agency by the Company; and
- (b) on a quarterly basis, a form NYS-45 as of the last payroll for each fiscal quarter, and, for all contract employees, a report containing the number of contract employees delivered at the same time as the form NYS-45.

Section 2.5 Recapture Agreement. The parties hereto understand and agree that Exhibit B to this Agreement contains a copy of the Recapture Agreement entered into, by and between the Company and the Agency, which provides for the suspension or discontinuance of Financial Assistance, or for the modification of the PILOT Agreement, if any, to require increased payments, in accordance with policies developed by the Agency. Additionally, the Recapture Agreement provides for the return of all or part of the Financial Assistance provided for the Project, including all or part of the amount of any tax exemptions, which shall

be redistributed to the appropriate affected tax jurisdiction, as provided for in policies developed by the Agency, unless agreed to otherwise by any local taxing jurisdiction or jurisdictions.

Section 2.6 PILOT Agreement. If applicable, the parties hereto understand and agree that Exhibit C to this Agreement contains a copy of the PILOT Agreement entered into by and between the Company and the Agency.

Section 2.7 Employment Listing. To list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "OET Entities"): (1) the New York State Department of Labor Community Services Division and (2) the St. Lawrence County One Stop Career Center, the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective June 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)).

Section 2.8 Employment Consideration. Except as otherwise provided by collective bargaining agreement, the Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the OET Entities.

Section 2.9 Contingent Nature. Notwithstanding the provisions of Section of this Agreement, the Agency and the Company agree that the amount of Financial Assistance to be received by the Company with respect to the Project shall be contingent upon, and shall bear a direct relationship to, the success or lack of success of the Project in delivering the promised public benefits, as outlined in the Application.

Section 2.10 Compliance. Under penalty of perjury, the Company certifies that it is in substantial compliance with all local, state, and federal tax, worker protection and environmental laws, rules and regulations.

ARTICLE III – MISCELLANEOUS

Section 3.1 Term. This Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the execution and delivery of this Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Agreement shall continue to remain in effect until the termination or expiration of all Financial Assistance, as provided for in the Project Documents.

Section 3.2 Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Agreement to the Agency regardless of any investigation made by the Agency.

Section 3.3 Notices. All notices, certificates and other communications under this Agreement shall be in writing and shall be deemed given when delivered pursuant to the terms of the Project Documents.

Section 3.4 Amendments. No amendment, change, modification, alteration or termination of this Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 3.4 Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Agreement or any part thereof.

Section 3.5 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State, without regard or reference to its conflict of laws principles.

Section 3.6 Section Headings. The headings of the several Sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

[Signature Page to Project Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

1-14-2020

Dated

By:


Name: Patrick J. Kelly
Title: Chief Executive Officer

Pepsi-Cola Ogdensburg Bottlers, Inc.

1-8-2020

Dated

By:


Name: Richard Wright
Title: President

EXHIBIT A

FORM OF: ANNUAL EMPLOYMENT AND SALARY AND FRINGE BENEFITS AND RELATED
PROJECT INFORMATION CERTIFICATION LETTER

January __, 2020

Re: New Project Verification

Dear:

The St. Lawrence County Industrial Development Agency (the "Agency") is currently providing assistance in connection with your project in St. Lawrence County.

The Agency is required to file an annual report with the New York State Comptroller providing information on its activities, and the activities of projects that are assisted by the Agency. In order for the Agency to compile that report, it is necessary that we obtain information relating to assistance provided and benefits derived from all entities that receive such assistance. Failure by the Agency to file the report information required by New York State could result in the Agency losing its ability to provide future assistance or the entity suffering claw-back provisions and forfeiting benefits previously received. Therefore, it is important that this information be provided in an accurate and timely manner.

Attached please find a questionnaire to be completed and returned to the Agency by January 15, 2020. If you have any questions regarding the required information, please do not hesitate to call our office.

We appreciate your assistance in this matter. Please scan and email to [REDACTED] or Fax to [REDACTED]
[REDACTED]

Very truly yours,

Patrick Kelly
Chief Executive Officer
St. Lawrence County
Industrial Development Agency

ANNUAL CERTIFIED STATEMENT AND REPORT

Insert Company Name
Pepsi-Cola Ogdensburg Bottlers, Inc.
PROJECT NAME:
Name & Brief Description of project
Modernization of Recycling Operations
COMPANY CONTACT INFORMATION:
Name Derek Van House, VP Finance
Phone XXXXXXXXXX
Email XXXXXXXXXX
<i>Please correct any of the above-listed information.</i>

Financing Information

Has the St. Lawrence County Industrial Development Agency provided project financing assistance through issuance of a bond or note?

If financing assistance was provided, please provide the following:

	Yes	No	N/A
Original principal balance of bond or note issued:			
Outstanding principal balance of such bond or note, as of December 31, 20__			
Principal paid during 20__			
Outstanding principal balance of such bond or note, at December 31, 20__			
Interest Rate on bond or note as of December 31, 20__			
Final Maturity Date of the bond or note			
Is the Company a Not-For-Profit?			

Sales Tax Abatement Information

	Yes	No	N/A
Has the St. Lawrence County Industrial Development Agency provided project financing assistance through the conveyance of a Sales and Use Tax Exemption on your project during 20__?			
If yes, please provide the amount of sales tax savings received on your project during 20__.	\$		

(A copy of the ST-340 sales tax report submitted to New York State for the reporting period is required to be attached with this report)

Mortgage Recording Tax Abatement Information

Has the St. Lawrence County Industrial Development Agency provided project financing assistance through the conveyance of a Mortgage Recording Tax Abatement on your project during 20__?	Yes	No	N/A
If yes, please provide the amount of mortgage recording tax savings received on your project during 20__.	\$		

(Mortgage Recording Tax Abatement Information should only be reported in the year that the mortgage was placed upon the project.)

Jobs Information

Please complete the following chart for the permanent jobs created by the Project. Enter data as follows:

For purposes of this application, we are providing the following guidelines to help you calculate employment levels:

- Full Time: Any permanent employee who works 30 or more hours each week and does so on a regularly-scheduled basis.
- Part Time Temporary/Seasonal: Any employee who works fewer than 30 hours each week, and does so on an occasional, temporary or as-needed basis.

- A: Insert the number of full time jobs that currently exist within your company at the time of application.
- B: Insert the number of part time jobs that currently exist within your company at the time of application.

Jobs	(A)		(B)
	Current Jobs		Current Jobs
Full Time			Part Time
Management			Management
Professional			Professional
Administrative			Administrative
Production			Production
Independent Contractor			Independent Contractor
Other:			Other:
Total			Total

A copy of Form NYS-45 for the project location is required to be submitted with this report. If the Form NYS-45 is not available for the specific project location or the form does not accurately reflect the full-time equivalent jobs created, then an internal report verifying the total jobs by employment category as outlined above at the location is required with this submission.

Salary and Fringe Benefits

Are the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created described in the Application still complete, true, and accurate: Yes No

If not, please provide the revised amounts:		
---	--	--

Number of FTE construction jobs during reporting year: _____

20__ Capital Investment

Real Estate	
Construction	
Machinery and Equipment	
Other Taxable Expenses	
Other Non-Taxable Expenses	
Total Capital Investment	

Officer's Certification

I certify that to the best of my knowledge and belief all of the information with this form is correct. I also understand that failure to report completely and accurately may result in enforcement of provisions of the Project Agreement, including but not limited to voidance of the agreement and potential claw back of benefits.

Signed: _____

(Authorized Company Representative)

Date: _____

EXHIBIT B

Recapture Agreement

EXHIBIT C

PILOT Agreement

Not Applicable

RECAPTURE AGREEMENT

THIS RECAPTURE AGREEMENT, made and entered into as of January 8, 2020 (this "Recapture Agreement"), is from **Pepsi-Cola Ogdensburg Bottlers, Inc.**, a New York Corporation, with offices at PO Box 708, 1001 Mansion Ave. Ogdensburg, New York 13669 (the "Company"), to ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a New York public benefit corporation having its principal office at 19 Commerce Lane, Suite 1, Canton, New York 13617 (the "Agency").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 132 of the Laws of 1971 of the State of New York (the "State"), as amended, codified as Section 914 of the General Municipal Law of the State ("GML"), pursuant to Title 1 of Article 18-A of the GML, as amended (collectively, the "Act"); and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") as described in the Project Documents (as hereinafter defined); and

WHEREAS, by Resolution No. IDA-19-12-30, adopted on December 11, 2019 (the "Resolution"), the Agency has conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance, which may include a sales and use tax exemption benefit, mortgage recording tax benefit, and partial abatement from real property taxes benefit, (collectively, as applicable, hereinafter referred to as the "Financial Assistance"); and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolution and as more particularly described in the project documents (collectively, as applicable, the Company Lease Agreement, the Leaseback Agreement and PILOT Agreement, the Agency Compliance Agreement and related documents (collectively, the "Project Documents")), that the Company provide assurances with respect to the recapture of certain benefits granted under the Project Documents on the terms herein set forth.

ARTICLE I – RECAPTURE EVENTS

Section 1.1 Recapture Events. The term "Recapture Event" shall mean any of the following events:

(a) A default by the Company under the Project Documents (other than as described in Section 1.2 which remains uncured beyond any applicable notice and/or grace period, if any, provided thereunder; or

(b) The Facility shall cease to be a "project" within the meaning of the Act, as in effect on the Closing Date through the act or omission of the Company; or

(c) The sale of the Facility (excluding any sale provided for in Project Documents) or closure of the Facility and/or departure of the Company from St. Lawrence County, except as due to casualty, condemnation or force majeure as provided below; or

(d) Failure of the Company to create or cause to be maintained the number of full time equivalent (“FTE”) jobs at the Facility as provided for in the Resolution (other than as described in Section 1.2 below); or

(e) Any significant deviations from the information and data provided to the Agency in the Application which would constitute a significant diminution of the Company’s activities in, or commitment to, St. Lawrence County, New York; or

(f) The Company receives Sales Tax Savings in connection with the acquisition, construction and equipping of the Facility in excess of the Maximum Sales Tax Savings Amount; provided, however, that the foregoing shall constitute a Recapture Event with respect to the Sales Tax Savings in excess of the Maximum Sales Tax Savings Amount only. It is further provided that failure to repay the Sales Tax Savings within thirty (30) days shall constitute a Recapture Event with respect to all Recapture Benefits.

Section 1.2 Events Not Constituting Recapture Events. The following events shall not be deemed Recapture Events hereunder:

(a) a “force majeure” event (as more particularly defined in the Project Documents);

(b) a taking or condemnation by governmental authority of all or part of the Facility; or

(c) the inability or failure of the Company after the Facility shall have been destroyed or damaged in whole or in part (such occurrence a “Loss Event”) to rebuild, repair, restore or replace the Facility to substantially its condition prior to such Loss Event, which inability or failure shall have arisen in good faith on the part of the Company or any of its affiliates so long as the Company or any of its affiliates have diligently and in good faith using commercially reasonable efforts pursued the rebuilding, repair, restoration or replacement of the Facility or part thereof;

(d) at the sole discretion of the Agency, the failure of the Company to maintain the number of FTE jobs as provided for in the Resolution, which failure is the result of:

(i) loss of major sales, revenues, distribution or other adverse business developments resulting from local, national or international economic conditions, trade issues or industry wide conditions, or such similar events, excluding events relating to management of the Company or the subtenants of the Company; or

(ii) subleasing of the Facility, wherein the Company may not actually provide the FTEs at the Facility, but rather shall sublease the Facility to various tenants, and that the Company’s obligation with regard to creating or causing to be maintained FTEs includes (a) using all reasonable efforts to lease up the Facility, and (b) including provisions in all subleases requiring any tenants to comply with the provisions of the Project Documents applicable to them; or

(iii) expiration or termination of a sublease agreement and the Company is able to find a new tenant for the Facility (a “Replacement Tenant”) that provides the FTE jobs at the Facility before the expiration of the next full Tax Year after the termination of the Sublease Agreement; provided, however, any Replacement Tenant shall be required to comply with the terms of the Project Documents.

Section 1.3 Limited Recapture Event with Limited Recapture. If a Recapture Event has occurred due solely to the failure of the Company to create or cause to be maintained the number of FTEs at the Facility as provided in the Resolution in any Tax Year but the Company has created or caused to be maintained at least 90% of FTEs for such Tax Year. In such event, in lieu of recovering the Recaptured Benefits provided herein, the Agency may, in its sole discretion, adjust the payments due under the PILOT Agreement, if any, on a pro rata basis so that the amount payable under the PILOT Agreement, if any, will be adjusted upward retroactively for such Tax Year by the same percentage as the percentage of FTEs that are below the required FTE level for such Tax Year. Such adjustments to the payments due under the PILOT Agreement may be made each Tax Year until such time as the Company has complied with the required number of FTEs pursuant to the Resolution.

Section 1.4 Notice Periods. The Company covenants and agrees to furnish the Agency with written notification (i) within sixty (60) days of the end of each Tax Year of the number of FTEs located at the Facility for such Tax Year, and (ii) within thirty (30) days of actual notice of any facts or circumstances which would likely lead to a Recapture Event or constitute a Recapture Event hereunder. The Agency shall notify the Company of the occurrence of a Recapture Event hereunder, which notification shall set forth the terms of such Recapture Event.

ARTICLE II –RECAPTURE OF AGENCY BENEFITS

Section 2.1 Recaptured Benefits. The term “Recaptured Benefits” shall mean all direct monetary benefits, tax exemptions and abatements and other financial assistance, if any, derived solely from the Agency’s participation in the transaction contemplated by the Project Documents including, but not limited to, the amount equal to:

- (a) any exemption from any applicable mortgage recording tax with respect to the Facility on mortgages granted by the Agency on the Facility at the request of the Company (the “Mortgage Recording Tax Exemption”); and
- (b) Sales Tax Exemption savings realized by or for the benefit of the Company, including savings realized by any Agent pursuant to the Project Documents and each Sales Tax Agent Authorization Letter issued in connection with the Facility (the “Sales Tax Savings”); and
- (c) real property tax abatements granted under the Project Documents (the “Real Property Tax Abatements”).

Section 2.2 Receipt of Recaptured Benefits. Upon the occurrence of a Recapture Event hereunder and the declaration of a Recapture Event by notice from the Agency to the Company, then the Recaptured Benefits shall be payable directly to the Agency or the State of New York if so directed by the Agency; provided, however that, for purposes of clarity, the amount of the Recaptured Benefits payable upon a Recapture Event shall be as set forth in Section 2.3 below. Upon the receipt by the Agency of any amount of Recaptured Benefits due to a Recapture Event, the Agency shall redistribute such amount within thirty (30) days of such receipt to the Taxing Entity that would have received such amount but for the granting by the Agency of the Financial Assistance.

Section 2.3 Calculation of Recaptured Benefits. It is understood and agreed by the parties hereto that the Agency is entering into the Project Documents in order to provide Financial Assistance to the Company for the Facility and to accomplish the public purposes of the Act. In consideration therefor, the Company hereby agrees as follows:

<u>Occurrence of Recapture Event</u>	<u>Percentage of the Recaptured Benefits</u>
Year 1 to Year 2	100%
Year 3 to Year 5	75%
Year 6 to Year 7	50%
Year 8 to Year 10	25%
Year 11 and thereafter	0%

Section 2.4 Late Payments. In the event any payment owing by the Company under this Section shall not be paid on demand by the Agency, such payment shall bear interest from the date of such demand at a rate equal to one percent (1%) plus the Prime Rate, but in no event at a rate higher than the maximum lawful prevailing rate, until the Company shall have made such payment in full, together with such accrued interest to the date of payment, to the Agency (except as otherwise specified above).

Section 2.5 Expenses. The Agency shall be entitled to deduct all reasonable out of pocket expenses of the Agency, including without limitation, reasonable legal fees, incurred with the recovery of all amounts due under this Recapture Agreement, from amounts received by the Agency pursuant to this Recapture Agreement.

ARTICLE III – MISCELLANEOUS

Section 3.1 Obligations Unconditional. The obligations and liabilities of the Company under this Recapture Agreement shall be absolute and unconditional obligations and liabilities of the Company, and shall remain in full force and effect until the Project Documents have expired or been terminated, except the obligations under Article II hereof shall survive the conveyance of the Facility to the Company and the termination of the Project Documents. Additionally, such obligations shall not be affected, modified or impaired by any state of facts or the happening from time to time of any event, whether or not with notice to or the consent of the Company.

Section 3.2 Condition to Reconveyance of Facility. The parties hereto agree that the Agency shall have no obligation to surrender its leasehold interest in the Facility to the Company pursuant to the Project Documents until all payments to the Agency and St. Lawrence County under the Project Documents and hereunder have been paid in full. If such payments are not paid in full by the Company within sixty (60) days of the date when due and owing, then the Agency shall offer its interest in the Facility for sale pursuant to the Agency's Real Property Disposition Policy adopted pursuant to the Public Authorities Accountability Act, as amended.

Section 3.3 Recordation of Recapture Agreement. The parties hereto agree that this Recapture Agreement shall be recorded as a lien against the Facility and as a covenant and restriction running with the Land until this Recapture Agreement has been discharged by the Agency. [This Recapture Agreement and any and all modifications, amendments, renewals and extensions thereof is subject and subordinate to any Mortgage or Mortgages which may be granted by the Agency and the Company on the Facility or any portion

thereof and any and all modifications, amendments, consolidations, extensions, renewals, replacements and increases thereof.]

Section 3.4 Terms Defined. All of the capitalized terms used in this Recapture Agreement and not otherwise defined herein shall have the meanings assigned thereto in the Project Documents.

Section 3.5 Directly or Indirectly. Where any provision in this Recapture Agreement refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

Section 3.6 Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Recapture Agreement to the Agency regardless of any investigation made by the Agency.

Section 3.7 Binding Effect. This Recapture Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties.

Section 3.8 Notices. All notices, certificates and other communications under this Agreement shall be in writing and shall be deemed given when delivered pursuant to terms of the Project Documents.

Section 3.9 Entire Understanding; Counterparts. This Recapture Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 3.10 Amendments. No amendment, change, modification, alteration or termination of this Recapture Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 3.11 Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Recapture Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Recapture Agreement or any part thereof.

Section 3.12 Governing Law. This Recapture Agreement shall be governed by, and construed in accordance with, the laws of the State, without regard or reference to its conflict of laws principles.

Section 3.13 Section Headings. The headings of the several Sections in this Recapture Agreement have been prepared for convenience of reference only and shall not control, or affect the meaning of or be taken as an interpretation of any provision of this Recapture Agreement.

Section 3.14 Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of the Recapture Agreement or any matters whatsoever arising out of or in any way connected with the Recapture Agreement.

IN WITNESS WHEREOF, the Company has caused this Recapture Agreement to be duly executed and delivered as of the day and year first above written.

Pepsi-Cola Ogdensburg Bottlers, Inc.

By: 
Name: Richard Wright
Title: President

ACCEPTED:

**ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Name: Patrick J. Kelly
Title: Chief Executive Officer

Recapture Agreement

PILOT Agreement – Not Applicable



ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Ernest J. LaBaff Industrial Building ~ 19 Commerce Lane, Suite 1 ~ Canton, New York 13617
Phone: (315) 379-9806 / TDD: 711 ~ Fax: (315) 386-2573 ~ www.SLCIDA.com

MEMBERSHIP

CHAIRMAN
Brian W. Staples
Brian Staples, CFA

*

VICE CHAIRMAN
Ernest LaBaff
President Emeritus,
Aluminum Brick & Glass
Workers International Union

*

SECRETARY
Lynn Blevins
Blevins Brothers, Inc.

*

Mark C. Hall
Town of Fine, New York

*

Andrew McMahon
Massena Electric Department

*

James Reagan
St. Lawrence County
Board of Legislators

*

Steven Morrill
Gebarten Acres

*

**CHIEF EXECUTIVE
OFFICER**
Patrick J. Kelly
St. Lawrence County
Industrial Development Agency

*

**CHIEF FINANCIAL
OFFICER**
Kimberly Gilbert
St. Lawrence County
Industrial Development Agency

January 16, 2020

New York State Tax Department
IDA Unit
W.A. Harriman Campus
Albany, New York 12227

Re: IDA Appointment of Project Operator or Agent
Pepsi-Cola Ogdensburg Bottlers, Inc. (EIN 15-0611554)
IDA Project Number: 4001-19-05
Project: 4001-19-05, Modernization of Recycling Operations


Dear Sir or Madam:

Enclosed for filing, please find a Form ST-60 for Pepsi-Cola Ogdensburg Bottlers, Inc., as primary agent.

Please feel free to contact this office if you have any questions or concerns.

Sincerely,

ST. LAWRENCE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

By: 
Richard Williams

Enclosures: 1

CC: Pepsi-Cola Bottlers, Derek VanHouse
File



IDA Appointment of Project Operator or Agent For Sales Tax Purposes

The industrial development agency or authority (IDA) **must** submit this form within **30 days** of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

IDA information

Name of IDA St. Lawrence County Industrial Development Agency			IDA project number (use OSC numbering system for projects after 1998) 4001-19-05
Street address 19 Commerce Lane, Suite 1			Telephone number [REDACTED]
City Canton	State NY	ZIP code 13617	Email address (optional) [REDACTED]

Project operator or agent information

Name of IDA project operator or agent Pepsi-Cola Ogdensburg Bottlers, Inc.		Mark an X in the box if directly appointed by the IDA: <input checked="" type="checkbox"/>	Employer identification or Social Security number [REDACTED]
Street address PO Box 708, 1001 Mansion Ave		Telephone number [REDACTED]	Primary operator or agent? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
City Ogdensburg	State NY	ZIP code 13669	Email address (optional) [REDACTED]

Project information

Name of project Modernization of Recycling Operations and Expand into Chilled Product Delivery			
Street address of project site 205 Cedar Street			
City Ogdensburg	State NY	ZIP code 13669	Email address (optional) [REDACTED]
Purpose of project Purchases and rental related to the acquisition, construction and setup of a new perforator and baler for improved recycling. Performing modification to the existing building and grounds to accommodate the new equipment and operations. Acquisition of certain items of equipment and other tangible personal property.			

Description of goods and services intended to be exempted from New York State and local sales and use taxes Construction Materials			
Date project operator or agent appointed (mmddyy) 01/08/20	Date project operator or agent status ends (mmddyy) 08/31/20	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>	
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: 165,000.00		Estimated value of New York State and local sales and use tax exemption provided: 13,200.00	

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Patrick J Kelly		Print title Chief Executive Officer	
Signature [REDACTED]	Date 1/16/2020	Telephone number (315) 379-9806	



ST. LAWRENCE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

St. Lawrence County Industrial Development Agency

Application for Assistance (revised 12/2018)

This is an Equal Opportunity Program. Discrimination is prohibited by Federal Law. Complaints of discrimination may be filed with the USDA, Director, Office of Civil Rights, Washington, D.C. 20250.

INSTRUCTIONS

1. The Agency will not take action on any application unless, in the judgment of the Agency, said application contains sufficient information upon which to base a decision whether to approve or tentatively approve an action.
2. Please answer all questions using "None" or "Not Applicable" where the question is not appropriate to the project which is the subject of this application ("the Project"). If more space is needed to answer a question, please attach a separate sheet.
3. Please note that Article 6 of the Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the applicant feels that there are elements of the Project which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the applicant's competitive position, the applicant may identify such elements in writing and request that such elements be kept confidential in accordance with Article 6 of Public Officers Law.
4. The applicant will be required to pay the Agency all actual costs incurred in connection with this application and the Project contemplated herein (to the extent such expenses are not paid out of the proceeds of the Agency's bonds issued to finance the project). The applicant will also be expected to pay all costs incurred by general counsel and bond counsel to the Agency. If applicable, the costs incurred by the Agency, including the Agency's general counsel and bond counsel, may be considered a part of the project and included as a part of the resultant bond issue.
5. The Agency has established a project fee for each type of project in which the Agency participates. Unless the Agency agrees in writing to the contrary, this project fee is required to be paid by the applicant at or prior to the granting of any financing assistance by the Agency.

FEE SCHEDULE

The forms of assistance listed below have a fee of 1% of the total bond series or project cost benefited by the Agency assistance, as applicable. A non-refundable fee of \$2,000 is payable to the SLCIDA at the time the application is submitted which will be credited toward the total fee at closing. If you are applying for multiple types of assistance only one fee of \$2,000 is due.

- Tax Exempt Industrial Revenue Bonds – Complete Appendix A & B
- Payment in Lieu of Taxes (PILOT) – Complete Appendix B
- Mortgage Recording Tax Exemption – Complete Appendix B
- Sales and Use Tax Exemption – Complete Appendix B

Applicant/Company Information

Applicant Name:	<u>Pepsi-Cola Ogdensburg Bottlers, Inc.</u>	Federal ID#:	<u>[REDACTED]</u>
Address:	<u>PO Box 708</u> <u>1001 Mansion Ave.</u>	Contact Name:	<u>Derek Van House</u>
City/State/Zip:	<u>Ogdensburg, NY 13669</u>	Contact Title:	<u>VP Finance</u>
Telephone:	<u>[REDACTED]</u>	Contact Email:	<u>[REDACTED]</u>
Alternate Phone:	<u>[REDACTED]</u>	Cell:	<u>[REDACTED]</u>
		Fax:	<u>[REDACTED]</u>

Will the proposed project be located within the municipality of the applicant's current operations? Yes No N/A

FORM OF ENTITY:

- Privately Held Corporation S-Corp
- Public Corporation (Listed as _____ on _____ Exchange)
- Limited Liability Company
- Partnership: General Limited Number of Partners: _____ General _____ Limited
- Other: _____

For assistance please contact St. Lawrence County Industrial Development Agency at (315) 379-9806/TDD Number: 711

If the entity is a Corporation, Limited Liability Company or Partnership:

Date Established: 1/14/59 Place of Organization: New York SIC Code: _____

If the entity is currently located outside New York State, is it authorized to do business in New York State? Yes No N/A

Principal Officers: Ownership: Richard Wright 2010 Family Trust
C/O Bonita A. Wright

Name	Title
<u>Bonita Wright</u>	<u>President</u>
<u>Richard Wright</u>	<u>Vice President</u>
<u>Scott Wright</u>	<u>Secretary</u>
<u>Mike Looney</u>	<u>Treasurer</u>

Principal Owners with 10% or more in equity holdings with a percentage ownership:

Name	Percentage
_____	_____
_____	_____
_____	_____

Is the Company, or are the owners of the Company, involved in any lawsuits which could have a financial impact on the Company? Yes No

Has the Company, or any of its owners, ever been involved in bankruptcy? Yes No

Are the owners of the Company citizens of the United States? Yes No

Has the Applicant (or any related company) been involved in any prior financing, whether by this Agency, or by a financial institution, in the county in which this project is located? Yes No

If yes, please explain: **Bank Financing**

Bank References:

Major Trade References:

Community Bank, NA
NBT Bank

Haun Welding Supply [REDACTED]
Thompson & Johnson Equipment [REDACTED]
TMC Mfg. Co. Inc [REDACTED]

Legal Counsel: Silver & Collins
Contact: Andrew Silver
Address: 44 Court Street
City/State/Zip: Canton, NY 13617
Telephone: [REDACTED]
Contact Email: [REDACTED]

Are there any concerns that may be regarded as parent companies, subsidiaries, or affiliates of the Company, including concerns in which the Company or any of its principals holds an interest greater than 5%? Yes No

If yes, please provide a list of names and addresses of all concerns. Attach additional pages as needed.

Name: Clinton's Ditch Cooperative Co. Inc.
Address: 8478 Pardee Road
City/State/Zip: Cicero, NY 13039
Nature of Relationship: Pepsi-Cola Ogdensburg is a minority owner % Ownership 20

Business History

Provide a brief history of the Company including changes in ownership operations, overview of operating performance, location and size of current operations, products and/or services, major accounts, principal competitors, and major events affecting sales and/or expenses:

Attachment 1

Site Information

Project Address:	<u>205 Cedar Street</u>	Note utilities currently on site:	<input checked="" type="checkbox"/> Municipal Water	<input checked="" type="checkbox"/> Municipal Sewer
City/State/Zip:	<u>Ogdensburg, NY 13669</u>		<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Telecom
Town:	<u>Oswegatchie</u>		<input checked="" type="checkbox"/> Gas	
Village/City:	<u>Ogdensburg</u>		<input type="checkbox"/> Other:	
School District:	<u>Ogdensburg</u>		<input type="checkbox"/> Other:	
Tax Map Parcel:	<u>59-030-6-18</u>			

Who is the current legal owner of the proposed site?	Pepsi-Cola Ogdensburg Bottlers, Inc.
What is the size of the existing facility and site, if applicable?	
What is the size of the proposed facility and site?	N/A
What is the current zoning of the project site?	Business
Does the project require local planning or permitting approvals?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please explain:	Building Permit
Will the project meet zoning regulations after completion?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If no, explain what zoning changes will be needed:	
Identify any Federal, State or local regulatory agencies or boards that will need to approve your project, or will oversee your operations:	
Will a site plan application need to be filed? If yes, please include a copy, if prepared.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the company completed the required SEQR application?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
If yes, what is the date of the application?	Still being discussed if this will be the IDA or City

For assistance please contact St. Lawrence County Industrial Development Agency at (315) 379-9806/TDD Number: 711

Project Description

Description of the project: (check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> New construction | <input checked="" type="checkbox"/> Purchase of new machinery and equipment |
| <input type="checkbox"/> Addition to an existing facility | <input type="checkbox"/> Refinancing of an existing project |
| <input checked="" type="checkbox"/> Renovation and modernization of an existing facility | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Acquisition of an existing facility | <input type="checkbox"/> Other: |

Project Type for all end users at project site: (check all that apply)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Industrial | <input type="checkbox"/> Facility For Aging |
| <input type="checkbox"/> Back Office | <input type="checkbox"/> Multi-Tenant |
| <input type="checkbox"/> Retail | <input checked="" type="checkbox"/> Equipment Purchase |
| <input type="checkbox"/> Acquisition of an existing facility | <input type="checkbox"/> Civic Facility (not for profit) |
| <input type="checkbox"/> Mixed Use | <input type="checkbox"/> Commercial |
| <input type="checkbox"/> Housing | <input type="checkbox"/> Other: |

What is the proposed commencement date of construction or acquisition of the project? **Late Summer/Fall 2019**

What is the timetable for the project including when the project will be in full use? **Late Fall 2019**

Provide a brief description of the Project. Please identify specific uses and activities occurring within the project location. List proposed products to be manufactured and/or services to be rendered and the markets for those goods and services. Include impact on Company in terms of its operations, profitability, marketing, and other significant operating financial factors. Attach additional pages as needed.

Modernization of Recycling Operations

This project involves purchasing a new Baler to assist with plastic bottle and can recycling. Along with the baler, a Perforator will be added to enable maximum compaction of plastic bottles.

To accommodate this project storage of equipment and surplus inventory will be relocated. Modifications will need to be made to the existing building and a small addition and paving completed to accommodate the need for additional space.

Attachment 2

Does the Applicant intend to lease or sublease more than 10% (by area or fair market value) of the Project?

Yes No

Does the Project include facilities or property that is primarily used in making retail sales of goods or services to customers who personally visit such facilities? Yes (*complete shaded box below*) No

If the answer to the previous question is yes, what percentage of the cost of the Project will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project? _____

If more than 33.33%, indicate whether any of the following apply to the Project:

Will the Project be operated by a not-for-profit corporation? Yes No

Is the Project likely to attract a significant number of visitors from outside the economic development region in which the Project will be located? Yes No

If yes, please explain: _____

Would the Project occupant, but for the contemplated financial assistance from the Agency, locate the Project and related jobs outside of New York State? Yes No

Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the City, Town or Village within which the Project will be located because of a lack of reasonably accessible retail trade facilities offering such goods or services? Yes No

If yes, please explain: _____

Is the proposed project a Franchise? Yes No

If Yes, please provide a Franchise Agreement.

Will the Project be located in a census tract or block numbering area (or census tract or block number area contiguous thereto) which, according to the most recent census data, has 1) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of household receiving public assistance, and 2) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year in which the data relates? Yes No

If yes, please explain: _____

Does the applicant have other facilities or related companies located in New York State, outside of the jurisdiction in which the project will take place? Yes No

If yes, will this other facility or company be closed or have operations reduced as a result of this proposed project?

Yes No

If yes, please explain: _____

Are there any current occupants of this proposed site that will have their operations affected (including reduced or discontinued) as a result of this proposed project? Yes No

If yes, please explain: _____

If the answer to either of the previous two questions is yes, indicate whether any of the following apply to the Project:

Is the Project reasonably necessary to preserve the competitive position of the Company or such Project Occupant in its industry?

Yes No

If yes, please explain: _____

Is the Project reasonably necessary to discourage the Company or such Project Occupant from removing such other plant or facility to a location outside the State of New York? Yes No

For assistance please contact St. Lawrence County Industrial Development Agency at (315) 379-9806/TDD Number: 711

If yes, please explain: _____

Has the applicant actively sought sites and/or facilities in another state? Yes No

If yes, please explain: _____

Does the project involve pollution control or processing primarily for solid waste disposal? Yes No

If yes, please describe the type of pollution to be abated, existing methods of abatement, or the proposed method of abatement, construction and equipment to be financed: _____

Is there a likelihood that the Project would not be undertaken but for the financial assistance provided by the Agency?

Yes No

If the Project could be undertaken without financial assistance provided by the agency, then provide a statement below indicating why the Project should be undertaken by the Agency: The Agency was created to assist companies in St. Lawrence County to grow and continue to employ local residents.

ADDITIONAL REQUIREMENTS: Include the following items as attachments as necessary.

COMPANY INFORMATION: (Prior to Closing)

<input type="checkbox"/>	<input type="checkbox"/> N/A	Entity formation documents as appropriate (DBA Certificate, Articles of Incorporation, Bylaws, Certificate of Formation, Operating Agreement, Partnership Agreement)
<input type="checkbox"/>	<input type="checkbox"/> N/A	Copy of Environmental Assessment Forms (Agency will provide assistance as needed)

FINANCIAL INFORMATION:

<input type="checkbox"/>	<input type="checkbox"/> N/A	Company profit and loss statements, balance sheets, and capital statements for the last 2 years. If the business is a sole proprietorship, provide copies of the IRS 1040 and Schedule C. If accountant prepared financial statements are available, they should also be provided.
<input type="checkbox"/>	<input type="checkbox"/> N/A	Company Annual Reports (form 10-k) for the two most recent fiscal years
<input type="checkbox"/>	<input type="checkbox"/> N/A	Quarterly reports and current reports since most recent Annual Report, if any

Project Costs, Sources and Uses of Funding

Estimate the costs necessary for the construction, acquisition, rehabilitation, improvements and equipping of the project.

Project Costs:

Item/Use of Funds	Amount		
Land Acquisition			Acres
Building Purchase			Square Feet
Construction or Renovation (Materials)	40,000		
Construction or Renovation (Labor)	40,000		
Site Work	20,000		
Machinery & Equipment	125,000		
Furniture & Fixtures			
Working Capital/Inventory			
Other:			
Subtotal Project	\$ 225,000		
Legal Fees (Other than Company's Attorney)			
Agency's Fee (1% of Bond or Benefited Project Amount)	2,250		
Subtotal Project	\$ 227,250		

Sources of Funding:

Source	Amount	Rate	Term	Percentage
Company Equity	27,250	N/A	N/A	12
Bank Loan				
SLCIDA-LDC Loan	200,000		5 Years	88
Other:				
Other:				
Other:				
Other:				
Total	\$ 227,250	%		100%

Please provide a list of all New York State incentives that have been approved, or are pending approval, as part of this project (example: Grants, Tax Credits, etc...)

N/A

Please identify participating lenders:

Lender:	<u>N/A</u>	Lender:	_____
Contact Name:	_____	Contact Name:	_____
Contact Title:	_____	Contact Title:	_____
Contact Email:	_____	Contact Email:	_____
Telephone:	_____	Telephone:	_____

For assistance please contact St. Lawrence County Industrial Development Agency at (315) 379-9806/TDD Number: 711

Job Creation

Please complete the following chart for the permanent jobs created by the Project. Enter data as follows:

For purposes of this application, we are providing the following guidelines to help you calculate employment levels:

- Full Time: Any permanent employee who works 30 or more hours each week, and does so on a regularly-scheduled basis.
- Part Time Temporary/Seasonal: Any employee who works fewer than 30 hours each week, and does so on an occasional, temporary or as-needed basis.

- A:** Insert the number of full time and part time jobs that currently exist within your company at the time of application.
B: Indicate the average annual wage for each job type listed in A (full time, part time, or other).
C: Indicate the average annual Benefit for each job type listed in A (full time, part time, or other).
D: Insert the number of jobs to be created during year 1 of the project for each job type (full time, part time, or other).
E: Insert the number of jobs to be created during year 2 of the project for each job type (full time, part time, or other).
F: Insert the number of jobs to be created during year 3 of the project for each job type (full time, part time, or other).
G: The total number of jobs to be created for each job type (full time, part time, or other).

Jobs	(A)	(B)	(C)	(D)	(E)	(F)	(G)
	Current Jobs	Average Annual Wage	Average Annual Benefit Cost	Number of Jobs Created Year 1	Number of Jobs Created Year 2	Number of Jobs Created Year 3	Total New Jobs Created
Full Time							
Management	8	\$ [REDACTED]					
Professional		\$	\$				
Administrative	4	\$ [REDACTED]					
Production	32	\$ [REDACTED]		1	0	0	1
Independent Contractor		\$	\$				
Other:		\$	\$				
Total	44	\$ [REDACTED]	\$ [REDACTED]	1	0	0	1
Part Time							
Management		\$	\$				
Professional		\$	\$				
Administrative		\$	\$				
Production		\$	\$				
Independent Contractor		\$	\$				
Other:		\$	\$				
Total		\$	\$				

If you classified any of the above jobs as "Other", please clarify job type, benefits offered, etc.: _____

Of the new jobs to be created, how many of those vacancies do you expect to fill with St. Lawrence County residents? 1

Please list any benefits currently provided to your full/part time employees (e.g. medical, dental, vision or life insurance; retirement program; etc.)

Attachment 3

Indicate the number of construction jobs that will be created as a direct result of this project: 5 over a 2-month period

RECAPTURE POLICY

APPROVED JUNE 29, 2016

Policy:

It is the policy of the St. Lawrence County Industrial Development Agency (the "SLCIDA") to ensure responsible provision of public benefits to companies for job creation/retention projects. In furtherance of this, SLCIDA wishes to set forth criteria which will assist the SLCIDA in evaluating project performance and determine the appropriateness of recapturing, limiting or terminating a contract with a recipient of IDA benefits.

Applicability:

This policy shall apply to all projects which the SLCIDA has authorized.

Procedure:

All SLCIDA project applicants are required to submit, on a quarterly basis, a copy of the form NYS-45. The NYS-45 will act as a general indicator of the status of the project's employment performance.

All SLCIDA project applicants are required to submit, on an annual basis and no more than 45 days after the end of the calendar year, a "St. Lawrence County IDA Project Report" documenting the position of the project at the end of the calendar year. The report shall include such information as: jobs projected to be created/retained; estimated salary of jobs to be created/retained; current number of Full Time and Part Time and/or Seasonal jobs; number of construction jobs created through the year; exemptions from taxes and Payment in Lieu of Tax made; and status of bond financing related to the project.

SLCIDA will utilize both of the aforementioned reports, in addition to information compiled throughout the project (site visits; follow-ups; phone/email and general correspondence) to gauge the status of the project in relation to the original commitment of the company as stated in the project application. The project will undergo further review should significant deficiencies be found in any area. SLCIDA will request from project applicants justification for deficiencies/shortfalls, and will compare justifications against industry standards, current market conditions and current economic conditions. Said information will be used by SLCIDA to determine whether the project applicant/project operator did all that it could to meet the obligations outlined in the application and project agreements.

SLCIDA, in its sole discretion and on a case-by-case basis, may determine with respect to a particular project to require the project applicant to agree to the recapture by SLCIDA of the value of any or all exemptions from taxation granted with respect to the project by virtue of the SLCIDA's involvement. Events that SLCIDA may determine will trigger recapture may include, but shall not be limited to, the following:

1. sale or closure of a facility;
2. significant reduction in employment levels;
3. significant change in use of facility;
4. significant change in business activities or project applicant or operator, including a shift of production activity or relocation of operations to a facility outside of SLCIDA's jurisdiction;
5. material non-compliance with or breach of terms of the SLCIDA transaction documents, or of zoning or land use laws or regulations or federal, state, or local environmental laws or regulations;
6. failure to respond to SLCIDA inquiries and/or requests regarding non-compliance with provision of quarterly and/or annual follow-up reporting documents; or
7. failure to respond to SLCIDA inquiries and/or requests concerning any information regarding the project or the project applicant or any project operator.

Upon the occurrence of any of the event triggers listed above, the SLCIDA will send written notice to the project applicant, demanding provision of, or requesting an explanation for failure to provide, information requested by SLCIDA.

Should SLCIDA find that (a) significant deficiencies in the achievement of the economic benefits promised as described in the application and the project agreements have occurred and (2) there appears to be no justification satisfactory to the SLCIDA to explain the deficiencies, the SLCIDA may determine to undertake any enforcement action available to the SLCIDA under the SLCIDA's agreements to seek redress for the deficiencies.

Enforcement action taken by SLCIDA may include, but shall not be limited to:

1. Requesting cure of the deficiency by a final notice letter.
2. Forwarding an event of default notice as described in the project agreements.
3. Notifying the appropriate New York State agencies of the project operator's failure to comply.
4. Terminating any or all of the project agreements.
5. Reducing the value of financial assistance moving forward.
6. Terminating any future financial assistance.
7. Requiring that the value of the all of the financial assistance utilized to date to be repaid in full or in part, with interest.

All recaptured amounts of Financial Assistance shall be redistributed to the appropriate affected taxing jurisdictions, unless agreed to otherwise by such affected taxing jurisdictions.

APPENDIX A – Bond Financing

Please complete this section if you are applying for Bond Financing.

Bond Counsel:

Name of Firm: _____

Address: _____

Telephone: _____

Bond Counsel Contact: _____

Bond Counsel Contact Email: _____

If the Company is asking the Agency to issue its qualified small issue private activity bonds (colloquially known as “small issue IDBs”), what is the dollar value of “capital expenditures” (as determined in accordance with the provisions of the Internal Revenue Code) that the Company or any related company or person, has expended/will expend within this County?

Over the last three years..... _____

During the present year (20)..... _____

First year after project completion _____

Second year after project completion..... _____

Third year after project completion..... _____

Has the company made any arrangements for the marketing or purchasing of the bonds? Yes No

If yes, please provide information:

What is your total estimated interest expense (assuming taxable interest)? _____

What is your total estimated interest expense (assuming tax exempt interest rate)? _____

APPENDIX B

Please complete this section if you are applying for any of the following:
 Lease Transaction, Bond Financing ▪ Payment in Lieu of Taxes
 Mortgage Recording Tax Exemption ▪ or ▪ Sales and Use Tax Exemption.

MORTGAGE RECORDING TAX EXEMPTION BENEFIT: Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (Include sum total of construction/permanent/bridge financing): \$N/A

Estimated Mortgage Recording Tax Exemption benefit
 (product of mortgage amount as indicated above multiplied by .0075%): \$N/A

SALES AND USE TAX: Gross amount of costs for goods and services that are subject to the 8% State and Local Sales and Use Tax in St. Lawrence County – said amount to benefit from the Agency’s Sales and Use Tax exemption benefit.

ESTIMATED COSTS ELIGIBLE FOR SALES TAX EXEMPTION BENEFIT:

Construction/Renovation: Materials	40,000
Site Work	
Non-Manufacturing Equipment	125,000
Furniture & Fixtures	
Machinery & Equipment	
Construction/Renovation: Labor	
Other:	
Other:	
Total	\$ 165,000

Estimated State and Local Sales and Use Tax Benefit (product of .08 multiplied by the total figure above): \$13,200

INFORMATION FOR ESTIMATED REAL PROPERTY TAX EXEMPTION BENEFIT:

What is the pre-project assessment of the property? 481,000
 What is the estimated post-project assessment? 481,000
 What is the property tax ID# 59,030-6-18

ESTIMATED OTHER BENEFITS:

Sales Tax Revenue

If the project will result in the manufacturing or selling of a new product, estimate the amount of annual sales taxes that will be generated on retail sales of the new product. Otherwise, enter “N/A” N/A

If the project will result in increased production or sales of an existing product, estimate the amount of annual sales tax that will be generated on the retail sales of the increased production. Otherwise, enter “N/A”. N/A

Real Property Taxes

Estimate the amount of annual real property taxes that will be payable on the Project (at the end of the PILOT Agreement, if any). Otherwise, enter “N/A”. N/A

REAL PROPERTY TAX BENEFIT: Identify and describe if the Project will utilize a real property tax exemption benefit OTHER THAN the Agency’s PILOT benefit: N/A

IDA PILOT Benefit: Agency staff will indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT depicted on **Cost/Bene Analysis** attached.

What other benefits will the Project bring to the community and region?

- This project will result in the building of a new plant or the expansion of an existing facility.
- This project will result in the reoccupation of a formerly-vacant building.
- This project directly contributes to “green” or “environmentally friendly” technology.
- This project will result in bringing new inventions, licenses or products to market.

This project will result in expansion of infrastructure capacity.

Other: _____

REPRESENTATIONS BY THE APPLICANT:

The Applicant understands and agrees with the Agency as follows:

- A. Job Listings. In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the project receives any financial assistance from the Agency, except as otherwise provided by collective bargaining agreement, new employment opportunities created as a result of the project will be listed with the NYS Department of Labor, Department of Employment Services and with the administrative entity of the local workforce investment area created by the Federal Workforce Investment and Opportunity Act (WIOA) in which the project is located.
- B. First Consideration for Employment. In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the project receives any financial assistance from the Agency, except as otherwise provided by collective bargaining agreement, where practicable, the Applicant will first consider persons eligible to participate in WIOA programs who shall be referred by those WIA entities for new employment opportunities created as a result of said project.
- C. Annual Sales Tax Filings. In accordance with Section 874(8) of New York General Municipal Law, the Applicant understands and agrees that, if the project receives any financial assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant, and to provide a copy of such filing to the Agency.
- D. Quarterly Employment Reports. The Applicant understands and agrees that, if the project receives any financial assistance from the Agency, the Applicant agrees to file, or cause to be filed with the Agency on a quarterly basis, reports regarding the number of people employed at the project site.
- E. Absence of Conflicts of Interest. The Applicant has received from the Agency a list of all members, officers and employees of the Agency. No member, officer or employer of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this application, except as hereinafter described:
- F. Hold Harmless. The Applicant hereby releases the Agency and its members, directors, officers, servants, agents and employees thereof from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (a) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project, including without limitation the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing.
- G. Recapture. The Applicant understands and agrees that the Agency can impose on the Company penalties or sanctions for projects that do not meet performance standards or project goals as outlined on the Agency's Recapture Policy on Page 9 of this Application. Said penalties/sanctions may include the return by the Company of all or part of the benefits received.
- H. Affirmation. The Applicant understands and agrees that the provisions of Section 862(1) of the New York State General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed project:

862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax worker protection and environmental laws, rules and regulations.

The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement with the Project.

The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement with the Project.

The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge, are investigations which deponent has caused to be made concerning the subject matter of this application as well as the information acquired by deponent in the course of his duties as an officer of and from the books and papers of said corporation.

As an officer of said Corporation (hereinafter referred to as the "applicant") deponent acknowledges and agrees that the applicant shall be and is responsible for all costs incurred by the St. Lawrence County Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the attached whether or not the application, the project it describes, the attendant negotiations and ultimately the necessary issue of bonds are ever carried to a successful conclusion. If, for any reason whatsoever, the applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specified period of time to take reasonable, proper, or requested action or withdraws, abandons, cancels, or neglects the application or if the Agency or Applicant are unable to find buyers willing to purchase the total bond issue required, then upon presentation of invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs involved in conduct of the application, up to that date and time, including but not necessarily limited to fees of bond counsel for the Agency and fees of general counsel for the Agency. Upon successful conclusion and sale of the required bond issue, the Applicant shall pay to the Agency an administrative fee set by the Agency and not to exceed an amount equal to **1% of the total project cost benefited by the Agency's assistance**. The cost incurred by the Agency and paid by the applicant, including bond counsel and Agency general counsel fees, and the administrative fee, may be considered as a cost of the project and included as part of the resultant bond issue. The \$2,000.00 application fee shall be credited toward this amount.

CERTIFICATION:

STATE OF NEW YORK)

COUNTY OF) ss.:

[Redacted Name]

, being first duly sworn, deposes and says:

1. That I am the President (Corporate Officer Title) of Pepsi Cola Ogd. Bottlers (Officer of Company Submitting Application) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

[Redacted Signature]

(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury

This 13 day of August, 2019

[Redacted Notary Name]

(Notary Public)

SUSAN M. PUTMAN
Notary Public, State of New York
Qualified in St. Lawrence County
My Commission Expires [Redacted]

Pepsi Cola Ogdensburg Bottlers, Inc. History Information

Pepsi Cola Ogdensburg Bottlers (PCOB) was founded in 1943 by the late Richard E. Winter, on his arrival in Ogdensburg, NY and the purchase of the Pepsi-Cola bottling rights from Burns Beverage. He retained ownership until it was passed through a trust agreement to his daughter, Bonnie, upon his death. Bonnie Wright retains 100% ownership of the business to this day.

Pepsi Cola Ogdensburg Bottlers moved to its current operations site in the mid-60's when the business outgrew its prior location. Having undergone 5 additions to that footprint, as well as the purchase of the former Howland Pump site (where the recycling operation now resides) in the 1980's, the business continues to grow organically. Pepsi Cola Ogdensburg Bottlers was awarded the prestigious Donald M. Kendall Bottler of the Year in 2012, for operations performance excellence in 2011.

Pepsi Cola Ogdensburg Bottlers currently owns exclusive distribution agreements for Pepsi Cola, Dr Pepper Fountain, Schweppes, Bundaberg, Gatorade, Lipton, Fruit Shoots, Life WTR, Virginia Dare fountain, Rockstar, Starbucks, and others, in St. Lawrence County. With the might of PepsiCo, the local touch of being based in Ogdensburg, and a 76 Year history of great service, PCOB is uniquely positioned as a very strong St. Lawrence County business. PCOB maintains a full fleet of delivery vehicles, support vehicles, maintenance vehicles and the necessary 46 people to service 950+ accounts that serve the people of St. Lawrence County. In addition, through the recycling arm of Pepsi, 80% of the packaging sold by Pepsi is returned to the site and baled for sale to mills. Pepsi Cola Ogdensburg Bottlers also maintains a share of ownership in the Clinton's Ditch Cooperative Bottling Company, which supplies 60% of its products for distribution. PCOB discontinued on-site bottling operations, and became a distribution site, in the late 80's as cost-saving priorities saw large production facilities taking over smaller-scale operations to remain competitive in pricing.

Pepsi competes in St. Lawrence County with several large-scale distributors of drinks and food items: including, Coca-Cola Northern New England, Renzi Foodservice, Glazier Beverages, Cappione Distributors, A.J. Missert's, and many other smaller scale players. Pepsi's current challenges to growth are primarily affected by weather, loss of population in SLC and the lack of skilled labor. The expense side of the equation is usually affected by our location and size of the County, forcing long hauls between customers and higher fuel costs, higher tax burdens and a shrinking customer base.

Pepsi Cola Ogdensburg Bottlers, Inc.
Project Description

Pepsi Cola Ogdensburg Bottlers, Inc. will be purchasing a new baler to assist with their bottle and can recycling operation. Along with the baler the company will add another new piece of equipment that will perforate the bottles which will enable the baler to maximize its bale weights.

A work flow analysis has also been completed and it has been determined that alterations will need to be made to the existing work area and building. This will include the construction of wall separators to divide the bottle and can storage prior to baling. Architectural design and approval will need to be obtained as well as construction and electrical costs. In addition to this scope, renovation of the facilities' bathroom areas will also be undertaken. This work and space alterations will take place at the company's recycling and vending operations building, located at 205 Cedar St, Ogdensburg.

As a secondary project, Pepsi Cola Ogdensburg Bottlers will be expanding into chilled product delivery in 2020. In order to facilitate this move, a cold storage room will be constructed at the main warehouse located on 1001 Mansion Ave, Ogdensburg. In addition to the cold storage room, one refrigerated box truck will also be added to the fleet. This project enables Pepsi to expand into the expanding healthy beverage market in St. Lawrence County.

Completion of this project will enable the company to be more efficient within its recycling division, provide a safer work environment, maintain and expand employment, and ultimately produce a better profit margin.

AVAILABLE BENEFITS AT PEPSI COLA OGDENSBURG BOTTLERS

- Medical Insurance
 - Health Savings Account
- Dental Insurance
- Vision Insurance
- Basic Term Life Insurance
 - Accidental Death and Dismemberment
- Long Term Disability
- Accident and Disease Specific Coverage
- 401 K Retirement Savings
 - % Employer Match
 - Profit Sharing
- Gym Membership
- Uniforms
- Identity Theft Protection
- Vacation Time
- Holiday Time
- Cell Phone Reimbursement (job specific)
- Beverage Discount

* All benefits subject to change

