

FOR CONSIDERATION

August 16, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Niagara Falls (Niagara County) – TAM Ceramics Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

General Project Plan

I. Project Summary

Grantee: TAM Ceramics Group of NY, LLC (“TAM” or the “Company”)

ESD* Investment: A grant of up to \$400,000 to be used for a portion of the cost of asset acquisition of real estate, machinery and equipment.

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

Project Location: 4511 Hyde Park Boulevard, Niagara Falls, Niagara County

NYS Empire Zone: N/A

Proposed Project: Management buy-out of TAM Ceramics, LLC. Acquisition includes a 373,593-square-foot building on 34+/- acres and the acquisition of machinery and equipment.

ESD Incentive Offer Accepted: April 5, 2010

Project Completion: March 2010

Number of Employees at Project Location:
 Initial employment at time of ESD Incentive Offer: 50
 Current employment level: 50
 Minimum employment on January 1, 2013: 75

Grantee Contact: Mr. George H. Bilkey, IV, President
 4511 Hyde Park Boulevard
 Niagara Falls, NY 14305
 Phone: 716-278-9595
 Fax: 716-285-3026

Anticipated
 Appropriation
 Source: Empire State Economic Development Fund

ESD Project No.: X047

Project Team: Origination Ray Witzleben
 Project Management Jim Seymour
 Affirmative Action Helen Daniels
 Finance Ross Freeman
 Environmental Soo Kang

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Real Estate	\$325,000
Machinery and Equipment	2,762,000
Furniture and Fixtures	200,000
Inventory	<u>1,749,000</u>
Total Project Costs	<u>\$5,036,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant	\$400,000	8%	
*Line of Credit (First Niagara Bank)	\$1,836,000	36%	prime less .5%/demand/M&E, A/R, Inv.
Term Loan (First Niagara Bank)	2,000,000	40%	prime/5 yrs/M&E, A/R, Inv.
NC Industrial Dev. Agency Loan	400,000	8%	floor of 5%/7yr/2 nd on fixed assets
Cash Equity	<u>400,000</u>	<u>8 %</u>	
Total Project Financing	<u>\$5,036,000</u>	<u>100.0%</u>	

*TAM received a \$2,300,000 Line of Credit (LOC) and will apply ESD Funds toward paying down LOC amount.

III. Project Description

A. Background

TAM, a limited liability company formed in 2010, has acquired TAM Ceramics LLC, one of the world's premier suppliers of ceramic materials. Technical ceramics (or engineering ceramics) refers to a broad range of advanced ceramic materials. These ceramic components are used by design engineers in a wide range of specialist applications from aerospace, semiconductor, electronics, medical, automotive, thermal processing, industrial equipment, defense, security and power generation. TAM's business operations include the production of titanate, zircon and zirconia materials. These products are used by customers in casting, refractory, welding and friction industries to make their products. TAM currently sells to top global refractory manufacturers such as Saint Gobain (Courbevoie, France), Bartley Crucible & Refractories (Trenton, NJ), and North American Refractories (Moon Township, PA). TAM's main competitors include Imerys (Paris, France), Continental Minerals, (Cleveland, OH), and Grupo Industrial Trebol (Mexico City, Mexico).

Prior to being acquired by TAM, TAM Ceramics, LLC, was suffering significant operating losses and as a result, the parent company, All American Holdings, LLC, was actively marketing the sale of the TAM Ceramics, LLC operations and facility. The new TAM management team approached ESD in March 2010 for assistance in acquiring TAM Ceramics, LLC. At that time, there were no competing purchase offers, and the TAM Ceramics, LLC, facility was in danger of immediate shut down or sale to a competitor at liquidation, resulting in the immediate loss of 50 jobs with salaries over \$45,000 per year. The new owners of TAM sought assistance to help with the acquisition in order to save these 50 jobs and create 25 new jobs over the next three years as TAM invests in new product development in the renewable energy field. To assist TAM in their asset acquisition, ESD offered the Company a \$400,000 grant, which was accepted in April 2010.

B. The Project

TAM acquired the entire equity interest and real estate of substantially all of the assets held by TAM Ceramics, LLC from All American Holdings LLC in the form of a management buy-out. This acquisition included a 373,593-square-foot building on approximately 34 acres along with existing machinery and equipment. TAM management oversaw the project, which was completed in March 2010. As a result, TAM has retained its 50 existing full-time permanent employees and committed to employing 25 new full-time permanent employees by January 1, 2013.

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the \$400,000 (\$4,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Company will demonstrate no material adverse change in its financial condition prior to disbursement.

3. The Company or the Company's owners will contribute at least 10% in equity to the Project. Equity is defined as any non-debt source of capital, and should be auditable through Company financial statements or Company accounts, if so requested by ESD.
4. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.
5. Up to \$400,000 will be disbursed to the Grantee in three installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$200,000) upon documentation of project expenditures totaling \$3.75 million, and documentation of the employment of at least 50 Full-time Permanent Employees at the Project Location, assuming that all project approvals have been completed and funds are available;
 - b) a Second Disbursement of an amount equal to 25% of the grant (\$100,000) will be disbursed upon documentation of the employment of at least 63 Full-time Permanent Employees at the Project Location (Employment Increment of 13), provided Grantee is otherwise in compliance with program requirements;
 - c) a Third Disbursement of an amount equal to 25% of the grant (\$100,000) will be disbursed upon documentation of the employment of at least 75 Full-time Permanent Employees at the Project Location (Employment Increment of 12), provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESDC of an invoice and such other documentation as ESDC may reasonably require. Expenses must be incurred on or after March 11, 2010, to be considered eligible project costs. All disbursements must be requested by no later than April 1, 2013.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$400,000, for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Company and the State of New York. In no event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.
7. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the Employment Shortfall occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- (i) 100% of the disbursed amount if the Employment Shortfall occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- (ii) 80% of the disbursed amount if the Employment Shortfall occurred in the second full calendar year after the disbursement was made;
- (iii) 60% of the disbursed amount if the Employment Shortfall occurred in the third full calendar year after the disbursement was made;
- (iv) 40% of the disbursed amount if the Employment Shortfall occurred in the fourth full calendar year after the disbursement was made;
- (v) 20% of the disbursed amount if the Employment Shortfall occurred in the fifth full calendar year after the disbursement was made.

The Grantee's number of Full-time Permanent Employees shall be deemed to be the greater of the number as of the last payroll date in the month of December for such year or the average employment for the 12 month period computed by quarter.

Reporting Date	Employment Goals
February 1, 2011	50+X+Y
February 1, 2012	50+X+Y
February 1, 2013	50+X+Y
February 1, 2014	50+X+Y
February 1, 2015	50+X+Y

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.6 above (i.e. X=13, and Employment Goals shall equal $[50 + X = 63]$ if the Second Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Second Disbursement has not yet been made then X=0.

Y = Grantee's Employment Increment that will be the basis of the Third Disbursement of the Grant as described in section C.6 above (i.e. Y=12, and Employment Goals shall equal $[50 + X + Y = 75]$ if the Third Disbursement is made, in the year such disbursement is made and for each year thereafter). If the Third Disbursement has not yet been made then Y=0.

IV. Statutory Basis

1. The proposed project would promote the economic health of New York State by facilitating the creation and retention of jobs within a region of the state.

As a result of this project, the Company will maintain its employment level of 50 full-time jobs, including retention of 50 full-time jobs which were at risk of elimination because of having to potentially close the facility. In addition, the Company will create 25 new jobs.

2. The proposed project would be unlikely to take place in New York State without the requested assistance.
Without ESD assistance, this project would likely not have progressed and the existing facility and Company would have closed.
3. The project is reasonably likely to accomplish its stated objectives and the likely benefits of the project exceed costs.
Evaluated over a seven-year period, the following are anticipated project impacts (dollar values are present value):
- Fiscal benefits to NYS government from the project are estimated at \$2,552,391;
 - Fiscal cost to NYS government is estimated at \$400,000;
 - Project cost to NYS government per direct job is \$7,452;
 - Project cost to NYS government per job (direct plus indirect) is estimated at \$3,323;
 - Ratio of project fiscal benefits to costs to NYS government is 6.38:1;
 - Fiscal benefits to all governments (state and local) are estimated at \$4,347,404;
 - Fiscal cost to all governments is \$400,000;
 - All government cost per direct job is \$7,452;
 - All government cost per total job is \$3,323;
 - The fiscal benefit to cost ratio for all governments is 10.87:1;
 - Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$21,293,172, or \$176,894 per job (direct and indirect);
 - The economic benefit to cost ratio is 53.23:1;
 - There is no construction activity related to this project;
 - For every permanent direct job generated by this project, an additional 1.25 indirect jobs are anticipated in the state's economy;
 - The payback period for NYS costs is 2 years.
4. The requirements of Section 10(g) of the Act are satisfied.
No residential relocation is required because there are no families or individuals residing on the site.

V. Environmental Review

ESD staff has determined that the project constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the project.

VI. Affirmative Action

ESD's Non-Discrimination and Affirmative Action policy will apply. TAM Ceramics Group of NY, LLC is encouraged to include minorities and women in any job opportunities created by the Project and to solicit and utilize Minority and Women-owned Business Enterprises for any contractual opportunities generated in connection with the Project.

VII. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

VIII. Additional Submissions to Directors

Resolutions

New York State Map

Project Finance Memorandum

Cost-Benefit Analysis

August 19, 2010

Niagara Falls (Niagara County) – TAM Ceramics Capital – Empire State Economic Development Fund – General Development Financing Capital Grant – Findings and Determinations Pursuant to Sections 16-m and 10 (g) of the Act; Authorization to Adopt the Proposed General Project Plan; Authorization to Make a Grant and to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation, relating to the TAM Ceramics Capital Grant -- Empire State Economic Development Fund – General Development Financing (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Sections 16-m and 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms;
2. The project would be unlikely to take place in New York State without the requested assistance;
3. The project is reasonably likely to accomplish its stated objectives and that the likely benefits of the project exceed costs;
4. There are no families or individuals to be displaced from the project area; and be it further

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the Chairman and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, a copy of which Plan, together with such changes, is hereby ordered filed with the records of the Corporation; and be it further

RESOLVED, that upon written finding of the Chairman and Chief Executive Officer of the Corporation or his designee(s) that no substantive negative testimony or comment has been received at the public hearing held on the Plan, such Plan shall be effective at the conclusion of such hearing, and that upon such written finding being made, the Chairman and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to TAM Ceramics Group of NY, LLC a grant for a total amount not to exceed Four Hundred Thousand Dollars (\$400,000) from the Empire State Economic Development Fund, for the purposes, and substantially on the terms and conditions, set forth in the materials presented to this meeting, with such changes as the Chairman and Chief Executive Officer of the Corporation or his designee(s) may deem appropriate, subject to the availability of funds and the approval of the State Division of the Budget; and be it further

RESOLVED, that the Chairman and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the grant, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grant as he or she may deem necessary or appropriate in the administration of the grant; and be it further

RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, and (2) receipt of all other necessary approvals; and be it further

RESOLVED, that the Chairman and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

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August 19, 2010

Niagara Falls (Niagara County) – TAM Ceramics Capital – Empire State Economic
Development Fund – General Development Financing (Capital Grant) – Determination
of No Significant Effect on the Environment

RESOLVED, that based on the material submitted to the Directors with respect to the TAM Ceramics Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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