

FOR CONSIDERATION

December 16, 2010

TO: The Directors

FROM: Dennis Mullen

SUBJECT: Towns of Malta and Stillwater (Saratoga County) – Advanced Micro Devices/GLOBALFOUNDRIES U.S. Inc. Capital – JOBS Now Program and Special Legislative Appropriation (Capital Grant/Land Use Improvement Project)

REQUEST FOR: Authorization to Retain Appraiser; Authorization to Retain Counsel; Authorization to Enter into an Imprest Agreement; and Authorization to Take Related Actions

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I. Project Summary

Grantee: GLOBALFOUNDRIES U.S. Inc. (“GUS” or the “Company”), successor to Advanced Micro Devices, Inc.

Prior ESD Investments: \$650,000,000 - Special Legislative Appropriation (approved on October 26, 2006 and amended on December 1, 2008)  
\$15,000,000 - JOBS Now Program – (approved June 23, 2009)

Project Location: Luther Forest Technology Campus, Towns of Malta and Stillwater, Saratoga County

New ESD Investments/  
Benefits: See Section IV below, “Current Action”

NYS Empire Zone  
(or equivalent): Saratoga County Empire Zone

ESD Incentive Offer  
Accepted: July 7, 2006

Number of Employees at Project Location:  
Initial employment at time of original ESD Incentive Offer: 0  
Current employment level (as of September 30, 2010): 149  
Minimum employment on January 1, 2014: 1,205

ESD Project No.: U223

## II. Project Background/Status

In October 2006, ESDC approved a \$650,000,000 capital grant to Advanced Micro Devices, Inc. (“AMD”) to construct and equip a 1.2 million-square-foot semiconductor wafer manufacturing facility that would be located at the Luther Forest Technology Campus (the “Campus”). Total project costs were anticipated to be \$3.207 billion. AMD was expected to purchase 200 acres of land at the Campus which would be designed and engineered to accommodate up to three semiconductor manufacturing facilities. The project was expected to create at least 1,205 jobs. On June 10, 2009, GUS acquired approximately 222 acres of the Campus constituting the GUS project site (“GUS Project Site”).

In December 2008, the Advanced Micro Devices/GLOBALFOUNDRIES U.S. Inc. Capital General Project Plan was modified (the “Amended General Project Plan”) to permit AMD to assign the approved Grant Disbursement Agreement (“GDA”) to AMD Fab Technologies US Inc., which has changed its name to GLOBALFOUNDRIES U.S. Inc. (“GUS”). GUS will construct, own and operate the project (the “Project”) as a foundry, capable of manufacturing chips on a contract basis for various third party vendees. GUS is the U.S. subsidiary of GLOBALFOUNDRIES Inc., a new global company created by AMD and Advanced Technology Investment Company of Abu Dhabi, to address growing demand for reliable, independent foundry production capabilities.

In June 2009, ESD approved an additional grant of \$15,000,000 to assist in the financing of machinery and equipment for the project, subject to submission to, and approval by, the Division of Budget of a Facility Program Report. Total jobs to be created are 1,465 (only 1,205 are subject to grant fund recapture if projections not met). The aggregate State investment in the GUS Project Site, inclusive of infrastructure costs both on and off the site and Qualified Empire Zone Enterprise benefits noted below, will be over \$1.6B on what is an increased estimated project cost of \$4.289B to develop a world class chip fabrication facility.

The Project, designated as Fab 8, Module 1 by GUS, will contain four major buildings including the wafer fabrication building (“Fab”), and support buildings including the Central Utility Building, the Spine or Fab technical support building, and the Administration Building. In addition, there will be an Electric Substation Building and a Hazardous Production Materials warehouse, as well as other miscellaneous structures and utility yards. The Project also consists of certain related infrastructure on the GUS site. There will be approximately 1.7 mm square feet in the aggregate of all improvements on the GUS Project Site.

Site development work began on June 15, 2009 and official ground breaking occurred on June 24, 2009. Currently, the Project building is approximately 50% complete and \$448 million has been expended on the Project. To date, nearly \$274.76 million in ESDC grant funds has been disbursed to GUS. The construction of the Project is anticipated to be completed in mid-2011.

As separate ESDC projects, the State has funded various infrastructure and utility service projects as detailed below in Related State Incentives. In addition to the current Fab, GUS anticipates constructing two additional Fabs at the GUS Project Site. To date, ESD has not committed funds to these additional Fabs.

### III. Related State Incentives

#### A. Grants to Luther Forest Technology Campus Economic Development Corporation

Luther Forest Technology Campus Economic Development Corporation (“LFTCEDC”) was formed by Saratoga Economic Development Corporation (“SEDC”) to develop infrastructure and other improvements for the 222 acre GUS Project Site and the balance of the approximately 1,190 acres of the Luther Forest Technology Campus (collectively the “Campus”).

On June 10, 2009, LFTCEDC transferred title to the GUS Project Site to GUS. The sale price was \$7,785,750.00. On July 21, 2009, GUS caused fee title to the GUS Project Site to be transferred to the County of Saratoga Industrial Development Agency (“SIDA”) and SIDA leased the GUS Project Site back to GUS so as to provide sales and use tax exemptions.

From 2002 to 2010, LFTCEDC or SEDC received approval from ESDC for \$9,625,000 in loans to acquire the Campus and \$46,482,485 in grants for the development of infrastructure for a chip fabrication facility in New York State, namely the Project. The funds were used for: costs, both on the GUS Project Site and on the Campus, associated with the pre-development of the GUS Project Site, including consultant costs for environmental and engineering studies and other activities related to the completion of the Environmental Impact Statement; pre-permitting costs; acquisition of land; studies related to transportation and utility infrastructure, wetlands preservation, archaeological investigations, mapping, site planning, and environmental surveys and analyses; legal fees, marketing, strategic planning, and project management associated with the Campus; and prerequisite infrastructure elements for GUS’ development of the new chip fabrication facility at the Campus.

As of October 2010, \$13,653,962 in grants has been disbursed and an additional \$3.9MM is being processed. All loan funds have been disbursed. LFTCEDC currently owes approximately \$12MM inclusive of interest to ESDC as repayment of the loans made for land acquisition. Construction and permitting of facilities to provide electrical, sewer, water and gas services to the GUS Project Site and the necessary roadways are not yet complete.

#### B. Zone Benefits

GUS has been certified as a qualified empire zone enterprise under the State Empire Zone Program in anticipation of receiving hundreds of millions of dollars in incentives in the form of enhanced investment tax credits and other Qualified Empire Zone Enterprise (“QEZE”) benefits.

#### IV. Current Actions

##### **1. Retain Appraiser**

GUS has advised ESDC of additional challenges in completing the Project, particularly issues related to infrastructure, taxes and permitting. The Corporation has been advised that the Town of Malta has assessed the GUS Project Site based upon its construction costs, not its market value, an approach that has significantly escalated GUS’s anticipated property tax burden. The State has already invested substantial sums into the project and has a strong interest in the Project’s success. In order to evaluate GUS’ concerns and to protect the State’s investment, the Corporation seeks an independent assessment of the value of the property that is both reasonable in the context of the market for such a unique asset, as well as sufficient to support the financial needs of the taxing jurisdictions and the ongoing infrastructure build-out required by GUS.

Girasole Appraisal Co., Inc. of Niagara Falls, NY, a firm that was recently designated a pre-qualified vendor of appraisal services by ESDC, has extensive experience with the complexities of valuations for real estate in the high technology sector. Girasole is involved in this capacity with the ESDC condemnations in Niagara Falls, the AES Somerset project in Niagara County, as well as several other complex industrial projects.

The Directors are requested to authorize retention of Girasole Appraisal Co., Inc. in an amount not to exceed \$100,000.

##### **2. Retain Counsel**

The firm of Harris Beach, which is on ESDC’s list of pre-approved counsel, was previously engaged by ESDC staff to represent the Corporation in drafting the mortgage associated with the ESDC grant, and to provide advice on related title issues and questions regarding Project infrastructure. Legal fees to date have been paid by ESDC. The Directors are requested to authorize the amendment of ESDC’s retainer with Harris Beach, to include legal services related to the completion of the Project.

### **3. Imprest Agreement**

GUS will be required to enter into an agreement with ESDC or GFDC to pay all reasonable legal fees, appraisal fees and third party costs related to the matters described herein. The Directors are requested to authorize staff to enter into an imprest agreement with GUS or other arrangement acceptable to staff ensuring that such fees, and any other consultant fees and reasonable third party costs, are paid by GUS.

#### V. Requested Action

Therefore, based on the actions as noted, the Directors are requested to retain an appraiser; retain counsel; enter into an imprest agreement; and authorization to take related actions.

#### VI. Additional Submissions to the Directors

Resolutions

December 16, 2010

Towns of Malta and Stillwater (Saratoga County) – Advanced Micro Devices/  
GLOBALFOUNDRIES U.S. Inc. Capital – Authorization to Retain an Appraiser;  
Authorization to Retain Counsel; Authorization to enter into an Imprest Agreement; and  
Authorization to Take Related Actions

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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 Advanced Micro Devices/ GLOBALFOUNDRIES U.S. Inc. Capital Project (the “Project”), the Directors authorize retaining an appraiser, retaining counsel and entering into imprest agreement.

RESOLVED, that the Chairman and Chief Executive Officer of the Corporation or 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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