

FOR CONSIDERATION

June 28, 2011

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Hopewell Junction (Dutchess County) – Spectral Systems 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; Determination of No Significant Effect on the Environment

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General Project Plan

I. Project Summary

Grantee: Spectral Systems, LLC (“Spectral” or the “Company”)

ESD\* Investment: A grant of up to \$220,000 to be used for a portion of the cost of asset purchase, subsequent facility improvement and the purchase of machinery and equipment.

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

Project Location: 35 Corporate Park Drive, Hopewell Junction, Dutchess County

Proposed Project: Asset purchase facility improvements and purchase of machinery and equipment, to expand manufacturing operations.

ESD Incentive Offer Accepted: March 22, 2011

Project Completion: January 2012

Number of Employees at Project Location:

Initial employment at time of ESD Incentive offer:	45
Current employment level:	45
Minimum employment through January 1, 2014:	56

Grantee Contact: Bruce Capuano, General Manager  
35 Corporate Park Drive  
Hopewell Junction, NY 12533  
Phone: (845) 897-1519  
Fax: (845) 896-2203

Anticipated  
Appropriation

Source: Empire State Economic Development Fund

ESD Project No.: X356

Project Team:	Origination	Paul Taxter
	Project Management	Beverly Bobb
	Affirmative Action	Denise Ross
	Environmental	Soo Kang

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction and Renovation	\$180,000
Asset Purchase	3,000,000
Working Capital	400,000
Machinery and Equipment	511,650
Real Estate Lease	196,000
Soft Cost	<u>150,000</u>

Total Project Costs \$4,437,650

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>	<u>Rate/Term/Lien</u>
ESD-Grant	\$220,000	5%	
TD Bank - Loan	2,400,000	54%	6%/10 yrs/first lien on RE
Company Equity	<u>1,817,650</u>	<u>41%</u>	
Total Project Financing	<u>\$4,437,650</u>	<u>100%</u>	

### III. Project Description

#### A. Background

Spectral Systems LLC was established in 1983 as a division of Smiths Detection NA (“Smiths”). Smiths is a global technology company that develops threat detection equipment to identify contraband or dangerous materials. Smiths’ products service the transportation, ports and borders, military, emergency responder and critical infrastructure markets.

Spectral is a manufacturer of hi-tech precision optical components specializing in the production of optics for ultraviolet (“UV”) and infrared (“IR”) spectrometers that are used to measure various properties of light waves. The Company’s products and services are organized into five groups: Fourier Transform Infrared (“FT-IR”) optics, military sensors, optics for accessories, pass-thru sales and original equipment manufacturers (“OEM”) assemblies. Spectral end users are universities, research labs, pharmaceutical labs, and the military. The Company’s major customers include Thermo-Fisher, Perkin Elmer and Homeland Security programs such as, Night Vision Systems, and Mars Global Explorer. Spectral’s primary facility is located in Hopewell Junction, New York, and the second facility is located in Milford, Connecticut.

In May 2010, Smiths determined that Spectral was no longer a core capability needed to sustain its business and that Spectral could benefit operationally as a stand-alone business. Smiths considered a divestment process from Spectral that would be completed in the first quarter of 2011. Alternatively, if Smiths was unable to divest Spectral, Smiths would begin to downsize the operation and eventually close the Hopewell Junction facility.

In order to move forward with the divestment efforts and keep the company in New York State, Spectral sought ESD’s financial support to assist with the cost associated with the buyout. To encourage Spectral to proceed with this project, ESD provided an incentive offer of \$220,000 that was accepted in March 2011. As a result, the Company will be able to continue to manufacture products in New York State, consolidate their Milford, CT location to Hopewell Junction, retain 45 full-time employees and create 11 new full-time positions.

#### B. The Project

The project involves the divestment of Spectral, from Smiths Detection NA. The general manager along with three other executives of Spectral formed a management buyout (“MBO”) team to acquire Spectral in a \$3 million asset purchase. The divestment is scheduled to be completed by the end of second quarter of 2011. After the buyout is complete, the MBO team will invest an additional \$842,000 to lease, fit-out, and equip the Hopewell Junction site. Upon completion of the project, the Company will retain 45 jobs and create 11 jobs within the next three years.

#### C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall pay a commitment fee of 1% of the \$220,000 capital grant (\$2,200) and reimburse ESD for all

out-of-pocket expenses incurred in connection with the project.

2. The Company will demonstrate no material adverse change in its financial condition prior to disbursement.
3. The Company will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Company's acceptance of ESD's offer. Equity is defined as cash injected into the project by the Company or by investors, and should be auditable through Company financial statements or Company accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Prior to disbursement, the Company must employ at least the number of Full-time Permanent Employees set forth as the Baseline Employment in the table below. A Full-time Permanent Employee shall mean (a) a full-time, permanent, private-sector employee on the Grantee's payroll, who has worked at the Project Location for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties; or (b) two part-time, permanent, private-sector employees on Grantee's payroll, who have worked at the Project Location for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Grantee to other employees with comparable rank and duties.

Up to \$220,000 will be disbursed to the Grantee in two installments as follows:

- a) an Initial Disbursement of an amount equal to 65% of the grant (\$143,000) upon documentation of asset purchase and installation of at least \$220,000 of machinery and equipment, documentation of the employment of at least 45 Full-time Permanent Employees at the Project Location and submission of documentation verifying project costs totaling \$3,620,000, assuming that all project approvals have been completed and funds are available;
- b) a Second Disbursement of an amount equal to 35% of the grant (\$77,000) will be disbursed upon documentation of the employment of at least 56 Full-time Permanent and Contract Employees (up to 5 of the 56 may be Contract Employees) at the Project Location (Employment Increment of 11), and submission of documentation verifying total project expenditures of approximately \$4,241,650 provided Grantee is otherwise in compliance with program requirements;

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after March 22, 2011, to be considered eligible project costs. All disbursements must be requested by April 1, 2014.

5. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$220,000, 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.
  
6. In consideration for the making of the Grant, Grantee will achieve the Employment Goals set forth in Column B of the table below. If the Full-time Permanent Employee Count for the year prior to the reporting date set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant, as follows:

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

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

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

Baseline Employment	45
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A	B
Reporting Date	Employment Goals
February 1, 2012	45+X
February 1, 2013	45+X
February 1, 2014	45+X
February 1, 2015	45+X
February 1, 2016	45+X

X = Grantee's Employment Increment that will be the basis of the Second Disbursement of the Grant as described in section C.5 above (i.e. X=11\*, and Employment Goals shall equal  $[45 + X = 56]$  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.

\* Up to 5 of the 56 employees may be contract employees

#### IV. Statutory Basis

1. The proposed project would promote the economic health of New York State by facilitating the creation or retention of jobs or would increase activity within a municipality or region of the state or would enhance or help to maintain the economic viability of family farms.

As a result of this project, the Company will maintain its employment level of 45 and create 11 new jobs.

2. The proposed project would be unlikely to take place in New York State without the requested assistance.

ESD assistance is needed to fill a financing gap. Without ESD's assistance, the Spectral division may have been purchased and relocated out of New York State.

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 \$2,327,508;
- Fiscal cost to NYS government is estimated at \$220,000;
- Project cost to NYS government per direct job is \$5,375;
- Project cost to NYS government per job (direct plus indirect ) is estimated at \$2,738;
- Ratio of project fiscal benefits to costs to NYS government is 10.58:1;
- Fiscal benefits to all governments (state and local) are estimated at \$4,080,628;
- Fiscal cost to all governments is \$220,000;
- All government cost per direct job is \$5,375;

- All government cost per total job is \$2,738;
- The fiscal benefit to cost ratio for all governments is 18.55:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$24,525,142, or \$305,227 per job (direct and indirect);
- The economic benefit to cost ratio is 111.48:1;
- Project construction cost is \$330,000 which is expected to generate 2 direct job years and 2 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 0.98 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is 1 year.

(See Project Summary Benefit-Cost Evaluation attached for detail and definitions.)

4. The requirements of Section 10(g) of the Act are satisfied.

No residential relocation is required because there are no families or individuals residing on the site.

V. Environmental Review

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

VI. Affirmative Action

ESD's Non-discrimination and Affirmative Action policy will apply. The Company 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  
 Cost-Benefit Analysis

June 28, 2011

Hopewell Junction (Dutchess County) – Spectral Systems 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

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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 the Spectral Systems Capital – Empire State Economic Development Fund – General Development Financing (Capital Grant) Project (the “Project”), the Corporation hereby determines pursuant to Sections 16-m and 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that

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

RESOLVED, that the Corporation does hereby adopt, subject to the requirements of Section 16(2) of the Act, the proposed General Project Plan (the “Plan”) for the Project submitted to this meeting, together with such changes therein as the President 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 President 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 President and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Spectral Systems a grant for a total amount not to exceed Two Hundred Twenty Thousand Dollars (\$220,000) 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 President 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 President 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 President and Chief Executive Officer 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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June 28, 2011

Hopewell Junction (Dutchess County) – Spectral Systems Capital – Empire State  
Economic Development Fund - General Development Financing (Capital Grant) –  
Determination of No Significant Effect on the Environment

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

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