

FOR CONSIDERATION

November 19, 2009

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Highland (Ulster County) – Prism Solar Capital – JOBS Now 100 Program
– Capital Grant

REQUEST FOR: Findings and Determinations Pursuant to Section 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: Prism Solar Technologies, Inc. (“Prism” or the “Company”)

ESD* Investment: A grant of up to \$600,000 to be used for a portion of the cost of machinery and equipment purchase and installation and building acquisition expenses.

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

Project Location: Highland, Ulster County

NYS Empire Zone
(or equivalent): Kingston/Ulster Empire Zone

Proposed Project: Prism Solar will purchase machinery and equipment to establish a new photovoltaic solar cell and module manufacturing operation.

ESD Incentive Offer Accepted: August 15, 2006

Project Completion: December 2010

Number of Employees at Project Location:

Initial employment at time of ESD Incentive Offer: 0
Current employment level: 15
Minimum employment on January 1, 2014: 175*

**Some of the job creation will take place at a TBD additional location.*

Grantee Contact: Stephen Filler, Director of Business Development
180 South Street
Highland, New York 12528
Phone: (845) 883-4200
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Anticipated
Appropriation

Source: JOBS Now 100 Program

ESD Project No.: U288

Project Team: Origination Paul Taxter
Project Management Jill Cherry
Affirmative Action Denise Ross
Finance Ross Freeman
Environmental Soo Kang

II. Project Cost and Financing Sources

| <u>Financing Uses</u> | <u>Amount</u> |
|--------------------------|------------------|
| Acquisition of Facility | \$2,000,000 |
| Acquisition of Equipment | 1,750,000 |
| Purchase of Equipment | <u>2,060,105</u> |

Total Project Costs \$5,810,105

| <u>Financing Sources</u> | <u>Amount</u> | <u>Percent</u> |
|---------------------------------|------------------|----------------|
| ESD-Grant | \$600,000 | 10.33% |
| U.S. Department of Energy Grant | 1,000,000 | 17.21% |
| Company Equity | <u>4,210,105</u> | <u>72.46%</u> |

Total Project Financing \$5,810,105 100.00%

III. Project Description

A. Background

Prism Solar Technologies is a privately held company, founded in 2005, as a photovoltaic (“PV”) company. The field of photovoltaic technology relates to the conversion of solar energy

directly into solar electricity or energy. The Company also utilizes unique proprietary Holographic Planar Concentrator technology (“HPC”) which enables solar modules to generate the same yield as conventional modules while using 50-75% less photovoltaic material.

The Company’s primary business and products are to manufacture and sell its holographic film, which can be used with any PV technology, to PV module manufacturers worldwide. Prism’s HPC technology results in dramatic reductions in module manufacturing cost by replacing expensive solar cells with inexpensive film. Furthermore, the Company will manufacture power modules to demonstrate its newest technologies to existing and potential film customers. It is believed that this will allow Prism to maintain closer relations to end markets. Prism’s technology is protected by patents and patents under development.

Due to the unique nature of the Company’s holographic film technology, there currently are no direct competitors. Prism’s technology competes with thin film PV manufacturers such as First Solar, Nanosolar and Miosole, as well as most of the major module manufacturers, however, many of these competitors are also potential customers.

Prism’s goal is to reach the market quickly and to rapidly expand market share. The Company intends to manufacture and sell modules in the US market and to manufacture and sell HPC film for export. Sales will be directed to other module manufacturers with joint venture and licensing agreements which will create large scale deployment of Prism’s technology into the marketplace.

Prism approached ESD in 2006, as they were interested in establishing its newly formed business in New York State. The Company considered locations in Mexico, Colorado, Florida, Arizona, Ohio, Michigan, and Germany. ESD offered the Company a \$600,000 capital grant to encourage the Company to locate and grow in New York, which it accepted on August 15, 2006. Without ESD assistance, the Company would likely have located elsewhere and New York State would have lost the opportunity for the creation of 175 jobs.

B. The Project

Grant funds will be used to reimburse a portion of the costs associated with the acquisition of a 93,000-square-foot manufacturing facility located on 6.5 acres of land with a 30,000-square-foot clean room as well as the purchase and installation of machinery and equipment. The project commenced in January 2008, with the purchase of ovens, optical equipment, a wet lab, a laser cutter to cut PV cells for module production, conveyor module line, laminating line, and a module flip station. In March 2009, the Company completed the purchase of the facility. The facility became fully operational as of August 24, 2009. Additionally, the Company will have a manufacturing capacity of 28MW annually of photovoltaic modules, making it the largest PV module manufacturer in New York State.

As a result of the project, Prism is expected to create up to 175 new jobs by January 1, 2014. To date, the Company has hired 15 new full-time permanent employees and 9 full-time non-permanent employees which will be converted to permanent.

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 \$8,594,978;
- Fiscal cost to NYS government is estimated at \$600,000;
- Project cost to NYS government per direct job is \$6,493;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$1,511;
- Ratio of project fiscal benefits to costs to NYS government is 14.32:1;
- Fiscal benefits to all governments (state and local) are estimated at \$13,994,732;
- Fiscal cost to all governments is \$600,000;
- All government cost per direct job is \$6,493;
- All government cost per total job is \$1,511;
- The fiscal benefit to cost ratio for all governments is 23.32:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$72,268,577, or \$181,994 per job (direct and indirect);
- The economic benefit to cost ratio is 120.45:1;
- There is no construction activity related to this project;
- For every permanent direct job generated by this project, an additional 3.33 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is 2 years.

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

C. Financial Terms and Conditions

1. At the time of disbursement, the Company will 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 shareholders will contribute at least 10% in equity to the project. Equity is defined as any non-debt source of capital, and should be auditable through Company financial statements or Company accounts, if so requested by ESD.
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 \$600,000 will be disbursed to the Grantee in three installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$300,000) upon completion of the project substantially as described in these materials, documentation of purchase and installation of machinery and equipment and acquisition of real estate totaling \$5,000,000, and documentation of the employment of at least 20 Full-time Permanent Employees at the Project Location (Employment Increment of 20), 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 (\$150,000) will be disbursed upon documentation of the employment of at least 53 Full-time Permanent Employees at the Project Location (Employment Increment of 33), provided Grantee is otherwise in compliance with program requirements;
 - c) a Third Disbursement of an amount equal to 25% of the grant (\$150,000) will be disbursed upon documentation of the employment of at least 175 Full-time Permanent Employees at the Project Location (Employment Increment of 122), 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 August 15, 2006 to be considered eligible project costs.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$600,000, 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.

| | |
|---------------------|---|
| Baseline Employment | 0 |
|---------------------|---|

| A | B |
|------------------|------------------|
| Reporting Date | Employment Goals |
| February 1, 2011 | $0+X+Y+Z$ |
| February 1, 2012 | $0+X+Y+Z$ |
| February 1, 2013 | $0+X+Y+Z$ |
| February 1, 2014 | $0+X+Y+Z$ |
| February 1, 2015 | $0+X+Y+Z$ |
| February 1, 2016 | $0+X+Y+Z$ |

X = Grantee's Employment Increment that will be the basis of the First Disbursement of the Grant as described in section C.5 above (i.e. $X=20$, and Employment Goals shall equal $[0 + X = 20]$ if the First Disbursement is made, in the year such disbursement is made and for each year thereafter). If the First Disbursement has not yet been made then $X=0$.

Y = 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. $Y=33$, and Employment Goals shall equal $[0 + X + Y = 53]$ 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 $Y=0$.

Z = Grantee’s Employment Increment that will be the basis of the Third Disbursement of the Grant as described in Section C.5 above (i.e. $Z= 122$, and Employment Goals shall equal $[0 + X + Y+ Z = 175]$ 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, $Z=0$.

IV. Statutory Basis

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

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. Prism 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

November 19, 2009

Highland (Ulster County) – Prism Solar Capital – JOBS Now 100 Program – Capital Grant – Findings and Determinations Pursuant to Sections 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 Prism Solar Capital – JOBS Now 100 Program – Capital Grant Project (the “Project”), the Corporation hereby determines pursuant to Section 10 (g) of the New York State Urban Development Corporation Act of 1968, as amended (the “Act”), that 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-Designate 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-Designate 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, Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized to make to Prism Solar Technologies, Inc. a grant for a total amount not to exceed Six Hundred Thousand Dollars (\$600,000) from the JOBS Now 100 Program, 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-Designate 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-Designate 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-Designate 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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