

FOR CONSIDERATION

November 18, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Hopewell Junction (Dutchess County) – SpectraWatt 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: SpectraWatt, Inc. (“SW” or the “Company”)

ESD* Investment: A grant of up to \$3,000,000 to be used for a portion of the cost of purchase and installation of machinery and equipment and leasehold improvements associated with the creation of a new plant.

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

Project Location: 2070 Route 52, B334, Hopewell Junction, Dutchess County

Proposed Project: Establishment of a solar cell manufacturing, research and development, and headquarters facility.

ESD Incentive Offer Accepted: April 3, 2009

Project Completion: October 2012

Number of Employees at Project Location:

Initial employment (at time of ESD Incentive Offer):	0
Current employment level:	127*
Minimum employment on January 1, 2014:	161**

*Includes 115 full-time SW employees and 12 full-time contract employees.
 **To include up to 10% full-time contract employees.

Anticipated
 Appropriation
 Source: Empire State Economic Development Fund

ESD Project No.: W576

Project Team:	Origination	Adam Tkaczuk
	Project Management	Jill Wolfeld
	Affirmative Action	Denise Ross
	Finance	Ross Freeman
	Environmental	Soo Kang

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Construction/Renovation	\$27,500,000
Equipment	52,000,000
Employee Training	750,000
Other Project Costs	<u>750,000</u>
Total Project Costs	<u>\$81,000,000</u>

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$3,000,000	4%
Company Equity	<u>78,000,000</u>	<u>96%</u>
Total Project Financing	<u>\$81,000,000</u>	<u>100.0%</u>

III. Project Description

A. Background

SpectraWatt is a privately held company formed from assets spun out of Intel Corporation in June 2008 and complemented by a \$50M Series A investment from multiple investors such as Intel Capital and Cogentrix Energy. The Company, which has operations in New York and Oregon, manufactures and distributes high-performance silicon solar cells for use in solar modules. It is dedicated to furthering the development of advanced solar cell technologies and improving current manufacturing processes in order to reduce the cost of photovoltaic energy generation. SW aims to enable solar-generated electricity to compete, on an unsubsidized basis, with conventional sources of electricity.

Solar cells are the single component in photovoltaic systems that enable the conversion of light into electricity. SW manufactures and sells square or “pseudo square” approximately 6” x 6” solar cells that meet the needs of most solar module manufacturers worldwide. Prime customers are solar module manufacturers that rely on an outsourced supply of solar cells to meet their solar module manufacturing needs. Customers integrate the Company’s finished solar cells into solar panels, which are then delivered to distributors and installers.

The market for solar system installations grew at a 45% compounded rate annually during the period of 1998-2009, and a similar growth rate is expected through 2012. The Company has a multifaceted approach to ensure success by dedicating its focus on factory and business practices to improve factory performance, implementing research and development (“R&D”) to improve product performance relative to the industry and accelerating the pace of moving R&D to production relative to the industry by designing its plants to combine manufacturing and technology development.

The Company approached ESD in August 2008, as it was interested in relocating from Oregon to New York State. ESD responded with a \$3,000,000 capital grant incentive offer dated March 3, 2009, which was accepted on April 3, 2009. ESD’s grant induced the Company to establish a new plant and relocate its headquarters into a building previously occupied by IBM, creating 161 jobs by June 2012. If not for ESD assistance, the project would have been completed in Pennsylvania, Oregon or Washington State.

B. The Project

The project, which has three phases, began in April 2009 when the Company executed a seven-year lease for a 142,633-square-foot building with an option to extend for an additional six years. Phase 1, completed September 2010, included construction and renovation and the purchase and installation of machinery and equipment. Solar cell production at the facility began in May 2010. Phase 2 was completed in October 2010 and included the addition of 31 jobs as operations ramped up. Phase 3 will begin in fall 2011 with additional factory construction and purchase and installation of machinery and equipment which will further enhance the Company’s production capabilities. The revenue associated with the factory is expected to be in excess of \$75 million annually. The Company has already hired 127 full-time employees and full-time contract employees, surpassing its employment commitment for Phase 1 and Phase 2.

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Company shall 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.

5. Up to \$3,000,000 will be disbursed to the Grantee in three installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$1,500,000) will be disbursed upon completion of Phase 1 of the project as described in these materials, documentation of total project costs of \$43,000,000 (including \$25,000,000 in purchase and installation of machinery and equipment), and documentation of the combined employment of at least 80 Full-time Permanent Employees and Full-time Contract Employees (not to exceed 10% of total 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 20% of the grant (\$600,000) will be disbursed upon documentation of the employment of at least 111 Full-time Permanent Employees and Full-time Contract Employees (not to exceed 10% of total employees) at the Project Location (Employment Increment of 31), provided Grantee is otherwise in compliance with program requirements;
 - c) a Third Disbursement of an amount equal to 30% of the grant (\$900,000) will be disbursed upon completion of Phase 3 of the project as described in these materials, documentation of additional investment of \$38,000,000, (including an additional \$28,000,000 in purchase and installation of machinery and equipment) for cumulative investment of \$81,000,000 (cumulative machinery and equipment project costs of \$53,000,000), and documentation of the combined employment of at least 161 (Employment Increment of 50) Full-time Permanent Employees and Full-time Contract Employees (not to exceed 10% of total employees) at the Project Location and documentation of the employment of at least 161 Full-time Permanent Employees at the Project Location (Employment Increment of 50), 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 April 3, 2009, to be considered eligible project costs. All disbursements must be requested by April 1, 2014.

6. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$3,000,000, 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 and Full-time Contract 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 and Full-time Contract 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
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A	B
Reporting Date	Employment Goals
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
February 1, 2017	0+X+Y+Z
February 1, 2018	0+X+Y+Z
February 1, 2019	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=80, and Employment Goals shall equal $[0 + X = 80]$ 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=31, and Employment Goals shall equal $[0 + X + Y = 111]$ 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=50, and Employment Goals shall equal $[0 + X + Y + Z = 161]$ 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

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 has established a new facility in New York State and will create 161 new jobs.

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

The Company considered locating its operations in Pennsylvania, Oregon or Washington. ESD's assistance helped to reduce costs and make the project feasible in New York.

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):

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- Fiscal benefits to NYS government from the project are estimated at \$8,490,361;
- Fiscal cost to NYS government is estimated at \$3,000,000;
- Project cost to NYS government per direct job is \$45,883;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$11,986;
- Ratio of project fiscal benefits to costs to NYS government is 2.83:1;
- Fiscal benefits to all governments (state and local) are estimated at \$14,509,663;
- Fiscal cost to all governments is \$3,000,000;
- All government cost per direct job is \$45,883;
- All government cost per total job is \$11,986;
- The fiscal benefit to cost ratio for all governments is 4.84:1;
- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$80,437,840, or \$321,382 per job (direct and indirect);
- The economic benefit to cost ratio is 26.81:1;
- Project construction cost is \$27,500,000 which is expected to generate 279 direct job years and 191 indirect job years of employment;

- For every permanent direct job generated by this project, an additional 2.84 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is 4 years.

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

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 Grantee is encouraged to use its best efforts 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 18, 2010

Hopewell Junction (Dutchess County) – SpectraWatt 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 Medline 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 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 SpectraWatt, Inc. a grant for a total amount not to exceed Three Million Dollars (\$3,000,000) 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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