

FOR CONSIDERATION

June 15, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Rochester (Monroe County) – GE MDS 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

General Project Plan

I. Project Summary

Grantee: GE MDS, LLC

ESD* Investment: A grant of up to \$222,500, pending passage of the New York State budget, to be used for a portion of the cost of acquisition of property, construction 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 Locations: 170 Science Parkway, Rochester*, Monroe County
175 Science Parkway, Rochester, Monroe County

*Project activity site; other is job-retention site

NYS Empire Zone
(or equivalent): Rochester Empire Zone

Proposed Project: Acquisition of property, construction of a 25,000-square-foot facility and purchase and installation of machinery and equipment to allow for business expansion.

ESD Incentive Offer Accepted: October 14, 2005

Project Completion: November 2007

Number of Employees at Project Location:

Initial employment at time of application:	205
Current employment level:	205
Minimum employment on January 1, 2012:	230

Grantee Contact: Melanie Cook, General Manager
175 Science Parkway
Rochester, NY 14620
Phone: (585) 242-8377
Fax: (585) 242-8427

Anticipated
Appropriation

Source: Empire State Economic Development Fund

ESD Project No.: T231

Project Team:	Origination	Kevin Hurley
	Project Management	Brendan Healey
	Affirmative Action	Helen Daniels
	Environmental	Soo Kang

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Real Estate Acquisition	\$196,842
Facility Construction	3,336,464
Equipment/Furniture	<u>689,007</u>

Total Project Costs \$4,222,313

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$222,500	5%
Company Equity	3,999,813	95%
Total Project Financing	<u>\$4,222,313</u>	<u>100%</u>

III. Project Description

A. Background

Established in 1892, General Electric Company (“GE”) is a publicly-traded company (New York Stock Exchange: GE) that operates in the global infrastructure, finance and media markets. GE offers diversified services in energy, water, transportation, health, finance and information and serves customers in more than 100 countries. GE employs over 300,000 people worldwide.

GE acquired Microwave Data Systems (“MDS”) in January 2007. GE MDS, a division of GE Digital Energy, is the world’s leading single-source, end-to-end wireless solution provider, with over one million units installed to date. The Company serves major industrial markets around the world with mission-critical wireless infrastructure and communications gear. In the energy, oil & gas and water & wastewater markets, GE MDS products monitor and control vital processes. In the transportation field, its products provide wide area coverage over miles of highway and track worldwide. In the public safety sector, GE MDS’ installations include sophisticated mobile data solutions.

In late 2004, MDS had developed a new wireless product that was ready for manufacturing and needed additional space. In order to encourage the Company to proceed with the project in New York State, ESD offered a \$250,000 grant. MDS accepted the offer in October 2005. The grant has been modified to \$222,500, which is reflective of employment commitments the Company is able to make in the current economy. As a result of the project, GE MDS will retain 205 jobs through January 1, 2015 and create 25 new jobs. Without ESD’s assistance, the long-term viability of this facility would have been weakened and 205 jobs could have been relocated from New York State.

Since 2000, ESD has made six accepted grant offers, inclusive of this grant, totaling \$28,500,000 to or for the benefit of GE. The accepted offers include a variety of attraction and retention projects to create 993 jobs and retain 652 jobs. \$250,000 of the \$28,500,000 was approved by the ESD Directors in 2003 for an attraction project in Orange County. This project is complete and the employment goals have been met. It is anticipated that the remaining projects will be completed by 2011.

In 1998, GE Silicones, a former operation of GE (GE Silicones was sold in August 2007 and is no longer a GE operation), was awarded a \$500,000 grant for an expansion project in Albany County. GE Silicones did not meet the employment requirements from 2001 to 2004. GE Silicones repaid a portion of the grant and the job requirement was reduced. GE Silicones then successfully completed the project under these new terms. ESD’s recapture policy has been recently amended to limit the time during which a company that has previously defaulted on job commitments is subjected to more stringent recapture terms. Thus, GE MDS will be subject to the regular recapture terms for this \$222,500 grant.

B. The Project

The project involved the acquisition of property, the construction of a 25,000-square-foot facility and the purchase and installation of new machinery and equipment to accommodate the manufacturing of the new wireless product and to support continued growth. In addition, the building contains a state-of-the-art training facility, which has increased external participation in the Company's training programs, resulting in increased revenue, as well as internal training for valued employees. Lastly, the facility contains a Network Operations Center, which allows new and existing customers to monitor their networks.

The project was completed in November 2007. The building serves as a showcase for many other GE divisions and serves as a meeting center for several GE employees and customers.

C. Financial Terms and Conditions

1. The Company shall pay a commitment fee of 1% of the \$222,500 capital grant (\$2,225) upon execution of the grant disbursement agreement. In addition, 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 be obligated to advise ESD of a material adverse change in its financial condition prior to disbursement.
3. General Electric will guarantee the grant repayment obligation of its subsidiary, GE MDS, LLC, in the event of an Employment Shortfall or other default, as defined in these materials or the Grant Disbursement Agreement.
4. The Company or the Company's owners have contributed 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.
5. 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 Locations 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 Locations 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.
6. Up to \$222,500 will be disbursed to the Grantee in two installments as follows:
 - a) an Initial Disbursement of an amount equal to 50% of the grant (\$111,250) upon documentation of real estate / machinery and equipment project costs totaling

\$4,222,313, upon completion of the project substantially as described in these materials, as evidenced by a certificate of occupancy, and documentation of the employment of at least 205 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 50% of the grant (\$111,250) will be disbursed upon documentation of the employment of at least 230 Full-time Permanent Employees at the Project Locations (Employment Increment of 25), 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 October 14, 2005 to be considered eligible project costs. All disbursements must be requested by April 1, 2012.

- 7. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$222,500, 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.
- 8. 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	205
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A	B
Reporting Date	Employment Goals
February 1, 2011	205+X
February 1, 2012	205+X
February 1, 2013	205+X
February 1, 2014	205+X
February 1, 2015	205+X

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=25, and Employment Goals shall equal [205 + X = 230] 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.

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 retain 205 employees that were at risk of relocation out-of-state, and create 25 new jobs.

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

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):

- Fiscal benefits to NYS government from the project are estimated at \$18,485,793;
- Fiscal cost to NYS government is estimated at \$222,500;
- Project cost to NYS government per direct job is \$1,301;
- Project cost to NYS government per job (direct plus indirect) is estimated at \$270;
- Ratio of project fiscal benefits to costs to NYS government is 83.08:1;
- Fiscal benefits to all governments (state and local) are estimated at \$30,994,175;
- Fiscal cost to all governments is \$222,500;
- All government cost per direct job is \$1,301;
- All government cost per total job is \$270;
- The fiscal benefit to cost ratio for all governments is 139.30:1;

- Economic benefits (fiscal plus total net resident disposable income from project employment) are estimated at \$152,188,014, or \$184,350 per job (direct and indirect);
- The economic benefit to cost ratio is 683.99:1;
- Project construction cost is \$3,336,464 which is expected to generate 33 direct job years and 24 indirect job years of employment;
- For every permanent direct job generated by this project, an additional 3.86 indirect jobs are anticipated in the state's economy;
- The payback period for NYS costs is 1 year.

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

The City of Rochester, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be an Unlisted Action, which would not have a significant effect on the environment. The lead agency issued a Negative Declaration on November 1, 2006. ESD staff reviewed the Negative Declaration and supporting materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

VI. Affirmative Action

ESD's Non-Discrimination and Affirmative Action policy will apply. GE MDS, 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

June 15, 2010

Rochester (Monroe County) – GE MDS 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 GE MDS 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 GE MDS, LLC a grant for a total amount not to exceed Two Hundred Twenty-Two Thousand Five Hundred Dollars (\$222,500) 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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June 15, 2010

Rochester (Monroe County) – GE MDS 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 GE MDS Capital Project, the Corporation hereby determines that the proposed action will not have a significant effect on the environment.

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