



Western NY Power Proceeds Allocation Board

Date: June 21, 2016

To: Western New York Power Proceeds Allocation Board

From: Western New York Regional Director, Empire State Development Corporation

Subject: Applications for Fund Benefits from the Western New York Economic Development Fund

SUMMARY

The Western New York Power Proceeds Allocation Board (“Allocation Board” or “Board”) is requested to recommend to the Board of Trustees of the Power Authority of the State of New York (“NYPA” or “Authority”) that awards of Fund Benefits be made to the following applicants identified in Exhibits “A-1”, Roger L. Urban, Inc. dba Platters Chocolates (“Platters”), and “A-2” the Niagara Falls National Heritage Area, Inc. (“NFNHA”), in the amounts indicated on such Exhibits.

BACKGROUND

1. Western New York Power Proceeds Allocation Act

On March 30, 2012, Governor Cuomo signed into law the Western New York Power Proceeds Allocation Act (the “Act”). The Act provides for the creation, by the Authority, of the Western New York Economic Development Fund (“Fund”). The Fund consists of the aggregate excess of revenues received by the Authority from the sale of Expansion Power (“EP”) and Replacement Power (“RP”) produced at NYPA’s Niagara Power Project that was sold in the wholesale energy market over what revenues would have been received had such energy been sold on a firm basis to an eligible EP or RP customer under the applicable tariff or contract.

Under the Act, an “eligible applicant” is a private business, including a not-for-profit corporation. “Eligible projects” is defined to mean “economic development projects by eligible applicants that are physically located within the state of New York within a thirty mile radius of the Niagara power project located in Lewiston, New York that will support the growth of business in the state and thereby lead to the creation or maintenance of jobs and tax revenues for the state and local governments.” Eligible projects include, for example, capital investments in buildings, equipment, and associated infrastructure owned by an eligible applicant for fund benefits; transportation projects under state or federally approved plans; the acquisition of land needed for infrastructure; research and development where the results of such research and development will directly benefit New York state; support for tourism and marketing and advertising efforts for western New York state tourism and business; and energy-related projects.

Eligible projects do not include public interest advertising or advocacy; lobbying; the support or opposition of any candidate for public office; the support or opposition to any public issue; legal fees related to litigation of any kind; expenses related to administrative proceedings before state or local agencies; or retail businesses as defined by the board, including without limitation, sports venues, gaming and gambling or entertainment-related establishments, residential properties, or places of overnight accommodation.

Fund Benefits have been provided to successful eligible applicants in the form of grants. It is anticipated that Fund Benefits will be disbursed as reimbursement for expenses incurred by an Eligible Applicant for an Eligible Project, or for proposed eligible expenditures to be incurred by the eligible applicant for an eligible project when NYPA has authorized advance disbursements.

At least 15% percent of the Fund is dedicated to eligible projects which are “energy-related projects, programs and services,” which is defined as “energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.”

Allocations of Fund Benefits may only be made on the basis of moneys that have been deposited in the Fund. No award may encumber funds that have not been deposited in the Fund.

2. Western New York Power Proceeds Allocation Board

Under the Act, the Allocation Board is charged with soliciting applications for Fund Benefits, reviewing applications, making eligibility determinations, evaluating the merits of applications for Fund Benefits, and making recommendations to NYPA on Fund Benefit awards. The Allocation Board uses the criteria applicable to EP, RP and PP allocations, and for revitalization of industry, provided for in Public Authorities Law § 1005. Additionally, the Board is authorized to consider the extent to which an award of Fund Benefits is consistent with the strategies and priorities of the Regional Economic Development Council having responsibility for the region in which an eligible project is proposed.

At its meeting on March 4, 2013, the Board, in accordance with the Act, adopted by-laws, operating procedures, guidelines related to the application, and a form of application. A copy of the relevant criteria (collectively, “Program Criteria”), adapted from this Board’s “Procedures for the Review of Applications for Fund Benefits,” is attached as Exhibit “B” to this memorandum.

The Board also defined “retail business” to mean “a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.”

Finally, the Board designated the Western New York Regional Director for Empire State Development (“ESD”) to act on its behalf for administrative matters and along with NYPA, to provide staff services (“Staff”). Among other things, Staff was authorized to perform analyses of applications seeking Fund Benefits and to make recommendations to the Board on the applications.

3. Application Process

Initially, the Allocation Board established a series of application due dates coupled with a schedule of dates the Board expected to meet to consider applications. The program was initially promoted through a media release and with assistance from state and local entities, including the Western New York and Finger Lakes Regional Economic Development Councils, ESD and local and regional economic development organizations within the State. A webpage was created that is hosted on WWW.NYPA.GOV/WNYPPAB with application instructions, a link to the approved application form and other program details including a contact phone number and email address staffed by the Western New York Empire State Development regional office. As the program is now well-known, a rolling application process is used and the Allocation Board meets regularly to consider applications for Fund Benefits.

DISCUSSION AND RECOMMENDATIONS TO THE BOARD

In this sixteenth round, the Allocation Board has before it two applications which have been made available to the Board for review. Staff analyzed the applications and is now making recommendations to the Board.

As detailed in Exhibit A-1, the Platters application seeks Fund Benefits to support a relocation to a larger facility and an expansion of its confections manufacturing capabilities. The new facility – the historic Wurlitzer building – would also incorporate a unique tourism destination at which visitors would be offered a plant tour featuring Platters staff making sponge candy and other confections using traditional methods. The project will support the retention of 15 and creation of 35 new jobs over the next four years. Platters has indicated it would expend approximately \$1,325,000 on this project.

As Exhibit A-2 explains, NFNHA's application seeks Fund Benefits to provide "hop-on, hop-off" transportation to historic/heritage/tourism destinations located between the Niagara Falls State Park and Youngstown, NY to extend visitor stays, increase local economic impact, encourage return visitation, advance tourism initiatives in WNY, cultivate strategic planning within the tourism industry and research the development of more routes. NFNHA plans to expend approximately \$1,860,368 on its project.

Based on a review of these applications and consideration of relevant Program Criteria, Staff recommends that the Allocation Board recommend to the NYPA Trustees that these applicants receive awards of Fund Benefits in the amounts indicated on Exhibits "A-1" and "A-2", respectively.

To the extent these applications propose projects that must receive approval and/or comply with other legal requirements, such as the State Environmental Quality Review Act, before the project may proceed, Staff recommends that any affirmative recommendation by the Board for such projects not be forwarded to the NYPA Board of Trustees for action until after the Board receives appropriate notification that all such approvals and requirements have been satisfied, and that such recommendations be made subject to further consideration by the Board in the event that such approvals and/or legal requirements are not satisfied.

PROJECT STATUS

Under the Act, a recommendation for Fund Benefits by the Allocation Board is a prerequisite to an award of Fund Benefits by NYPA. Upon a showing of good cause, NYPA has discretion to adopt the Allocation Board's recommendations or to award Fund Benefits in different amounts or on different terms than recommended by the Board. In addition, the Authority is authorized to include in any contract providing for the implementation of an award ("Award Contract") any terms and conditions that NYPA deems appropriate.

Given the preliminary stage of the projects identified in Exhibits "A-1" and "A-2", Staff is not in a position to recommend proposed definitive terms and conditions that should be included in any Board recommendation for an award, but Exhibits "A-1" and "A-2" offer general considerations relating to disbursement of fund benefits for NYPA's consideration. It is anticipated that NYPA staff, in consultation with Board Staff, would negotiate final terms and conditions if an award is made after the receipt of more detailed information concerning the project.

RECOMMENDATION

Based on the foregoing discussion and information, Staff recommends that the Allocation Board recommend to the NYPA Board of Trustees that the applicants listed in Exhibits "A-1" and "A-2" receive an award of Fund Benefits in the amounts recommended in the Exhibits for the projects proposed.

For the reasons stated, Staff recommends the adoption of the above-requested action by adoption of a resolution in the form of the attached draft resolution.¹

RESOLUTION

¹ For the Board's information, a current NYPA employee, Mr. Lou Paonessa, has served as a NYPA appointee to the Niagara Falls National Heritage Area Commission, the predecessor organization to the NFNHA. The Commission no longer functions, and Mr. Paonessa does not currently occupy any office for the applicant. In addition to other public and private entities in the region, NYPA is identified on NFNHA's website as a "partner" of the Heritage Area, and in his capacity as a NYPA employee, Mr. Paonessa occasionally works on NFNHA-related matters. Mr. Paonessa has had no role in preparing NFNHA's application for Fund Benefits or the recommendations made to the Allocation Board concerning NFNHA's application for Fund Benefits.

NOW THEREFORE BE IT RESOLVED, That the Western New York Power Proceeds Allocation Board ("Allocation Board") hereby recommends that the Power Authority of the State of New York ("NYPA") make an award of Fund Benefits to the applicants listed in Exhibits "A-1" and "A-2" in the amounts recommended therein, for the reasons set forth in the attached memorandum and any attachments thereto; provided that (i) if an application proposes a project that must receive approvals and/or comply with other legal requirements, such as the State Environmental Quality Review Act, before it may proceed, the recommendation for such application shall not be forwarded to NYPA until Staff, on behalf of the Board, receives appropriate notification that such legal approvals and/or requirements which are necessary for the project(s) to proceed have been satisfied, and (ii) such recommendations shall be subject to further Board review in the event that such approvals and/or legal requirements are not satisfied; and be it further

RESOLVED, That Staff is authorized on behalf of the Allocation Board to transmit the Board's decision and recommendations to NYPA subject to the qualification stated above regarding legal approvals and/or requirements, and to do any and all things and take any and all actions to effectuate the Board's decision and the foregoing resolution.



Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

EXHIBIT A-1

Applicant Name:	Roger L. Urban, Inc. dba Platters Chocolates (“Platters”)	REDC Region:	Western New York
Project Type:	Business Investment	County:	Niagara
Industry:	Candy Manufacturing	Locality:	Niagara Falls
Amount Requested:	\$200,000	Start Date:	April 2016
		Finish Date:	October 2016
RECOMMENDED OFFER			
Recommended Total Award:	\$200,000		
Total Project Cost:	\$1,325,000		
% of Project Cost Recommended:	15%		
PROJECT BUDGET (Proposed by Applicant)			
Use of funds	Amount	Source of Funds	Amount
Planning/feasibility Study	\$150,000	WNY EDF	\$200,000
Construction/Renovation	\$550,000	M & T Bank	\$650,000
Machinery + Equipment	\$450,000	Niagara EDF	\$250,000
Furniture & Fixtures	\$175,000	Cash Equity	\$135,000
		NYS Office of Community Renewal	\$90,000
Total:	\$1,325,000	Total:	\$1,325,000
REGIONAL IMPACT MEASUREMENTS			
Job Commitments:	Applicant will retain 15 full time equivalents (“FTE”) and create 35 FTE positions over four years.		
Average Salary of Jobs:	\$27,000		
Indirect Jobs Created			
Other Impact			



Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

EXHIBIT A-1

PROJECT DESCRIPTION (Adapted from Application)			
<p>The applicant operates a chocolate manufacturing business known as Platters Chocolates. The company has outgrown its current 17,000 sq. ft. location and plans to relocate into a 23,000 sq. ft. facility in the historic Wurlitzer building where it will incorporate into its business a unique tourism destination to attract a portion of the annual Niagara Falls visitors. Guests will be offered a plant tour featuring Platters staff making sponge candy and other confections using traditional methods. The Wurlitzer building is the site where Wurlitzer Organs and Jukeboxes were once produced, which will add to the attractiveness of the project as a tourist destination.</p> <p>A key aspect of the expansion will be to incorporate climate control equipment to expand the candy-making season. At present, the applicant cannot make good chocolate in humid weather, except for fudge, which compels it to shut down chocolate lines in the summer. The project will allow the company to expand chocolate production while accommodating tours thereby requiring the addition of 35 new jobs over the next four years.</p>			
OTHER ECONOMIC DEVELOPMENT BENEFITS RECEIVED			
ESD:	\$175,000 Excelsior	NYS Office of Community Renewal:	\$90,000
Niagara EDF Loan:	\$250,000	Other: NCIDA	\$36.4K sales tax exemption
PREVIOUS STATE ASSISTANCE OFFERED OR PROVIDED			
TYPE	AMOUNT	STATUS	
N/A	\$		



Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

EXHIBIT A-1

BASIS FOR RECOMMENDATION

Since, 2013 Platters has grown revenue to over \$1 million dollars. Platters has reached capacity at its current location (954 Oliver Street in North Tonawanda). In order to maintain the company's current growth and accommodate future growth, Platters plans to add a second production line to manufacture chocolate. Currently, the company has one production line used to manufacture the company's fine chocolate or run sponge candy. The ability to run sponge candy all the time requires the addition of a second line, cooling tables and melters. Platters must also purchase a detailer machine that will identify chocolates and sponge candy that contains peanut butter or nuts to expand to private label and wholesale markets. The new location at the Wurlitzer Building allows Platters to grow from roughly 17,000 square foot to 23,000 square foot and to expand production, create efficiencies and accommodate requests for tours. Platters is also differentiating its products by branding a "Gotta (heart) Buffalo" line of chocolates and working to make WNY the Sponge Candy Capital of the World, which will be facilitated by expanded production capacity.

An award of fund benefits will allow Platters to locate to a new a factory that will accommodate tours, increase wholesale production, allow for expanded brand name recognition and add jobs.

Given Platters' recent acquisition of Ko-ed Candies in 2014 and current debt, an award of fund benefits to support the purchase of machinery and equipment appears necessary in order for project completion to be fulfilled.

ANTICIPATED DISBURSEMENT TERMS

Fund Benefits would be used to reimburse the applicant for a portion of costs associated with new machinery and equipment. It is anticipated that funds will be disbursed in arrears in a manner proportionate to the total for eligible expenses. Payment will be made upon presentation to NYPA of invoices and such other documentation acceptable to NYPA verifying the applicant has incurred eligible expenses of approximately \$1.3 million and is compliant with yearly job commitments.



Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

EXHIBIT A-2

Applicant Name:	Niagara Falls National Heritage Area, Inc. ("NFNHA")	REDC Region:	Western New York
Project Type:	Tourism/Marketing	County:	Niagara
Industry:	Tourism	Locality:	Niagara Falls
Amount Requested:	\$200,000	Start Date:	May 2016
		Finish Date:	October 2017
RECOMMENDED OFFER			
Recommended Total Award:	\$200,000		
Total Project Cost:	\$1,860,368		
% of Project Cost Recommended:	11%		
PROJECT BUDGET (Proposed by Applicant)			
Use of funds	Amount	Source of Funds	Amount
Trolley Lease Costs	\$1,186,668	WNY EDF	\$200,000
Bike Racks	\$10,000	Committed:	
Program Administration	\$216,000	NYPA	\$500,000
Long Term Business Planning	\$10,000	Niagara Tourism & Convention Corp.	\$100,000
Two Year Marketing Costs	\$437,700	NYS Parks	\$400,000
		USA Niagara	\$120,000
		Niagara University	\$30,000
		Cash Equity	\$100,00
		Potential:	
		Day Pass Revenues	\$120,000
		Assembly Member Item	\$100,000
		City of Niagara Falls	\$50,000
		Town of Niagara	\$50,000
		Town of Lewiston	\$50,000
		Niagara County	\$30,000
		Youngstown	\$30,000
		Less: Allowance for Funding Rejections	(\$19,632)
Total:	\$1,860,368	Total:	\$1,860,368
REGIONAL IMPACT MEASUREMENTS			
Job Commitments:	The Funding Track under which the application was submitted does not require job-related impact.		
Average Salary of Jobs:	N/A		



Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

EXHIBIT A-2

Indirect Jobs Created			
Other Impact			
PROJECT DESCRIPTION (Adapted from Application)			
NFNHA proposes to operate a trolley/bus service as a two year pilot project to provide “hop-on, hop-off” transportation to historic/heritage/tourism destinations located between the Niagara Falls State Park and Youngstown, NY in order to extend visitor stays, increase economic impact for businesses and communities by encouraging tourism spending, provide additional amenities to encourage return visitation, collect visitor data to advance tourism initiatives in WNY and cultivate a culture of strategic planning within the tourism industry and research the development of more routes.			
OTHER ECONOMIC DEVELOPMENT BENEFITS RECEIVED (See Above)			
ESD:	N/A		
IDA: PILOT, Sales Tax & Mortgage Recording:	N/A		
PREVIOUS STATE ASSISTANCE OFFERED OR PROVIDED			
TYPE	AMOUNT	STATUS	
ESD	\$	Closed	



Western NY Power Proceeds Allocation Board

Western New York Economic Development Fund Recommendation Memo

EXHIBIT A-2

BASIS FOR RECOMMENDATION

The objective of the NFNHA is to enhance public appreciation for the significant historic and natural resources and landscapes offered by the Niagara region. It looks to make interpretive, environmental, economic and social improvements that benefit residents and visitors alike. In pursuing its mission, the NFNHA encourages historic preservation, recreational access and environmental recovery.

According to the U.S. Office of Travel and Tourism, heritage/cultural based sightseeing is among the fastest growing segments of the tourism industry. Approximately 8 million people visit the Niagara Falls State Park annually. However, research has shown that many rarely venture beyond the Park's perimeter and it is believed this is primarily due to transportation constraints. Current transit service in the Niagara Gorge corridor is limited and provides only continuous travel options accompanied by narration. There presently is no opportunity for passengers to disembark to further explore locations of interest secure in the knowledge that shuttles will reliably arrive at twenty-minute intervals to provide return transportation.

Over the last decade, various studies have reinforced the importance of creating reliable and efficient tourist-oriented shuttle service to enable visitors to enjoy the full range of natural resources available along the entire Niagara Gorge corridor. These studies include the:

- Niagara Falls Multi-Modal Transportation Program (2005);
- Niagara County Transit Restructuring Study (2006);
- Concept study for an "Explore Niagara" trolley produced by Niagara University with funding from Assemblyman John Ceretto (2009), and;
- Management Plan for the NFNHA (2012).

The project would also contribute to cutting carbon emissions by reducing motor vehicle traffic and providing bike racks to allow cyclists to explore stop-over areas within the tour route.

ANTICIPATED DISBURSEMENT TERMS

Fund Benefits could be used to reimburse the applicant for a portion of the costs associated with the annual lease costs for the trolley. A portion of the funds could be dispersed in advance, with the balance distributed in arrears as evidenced by such documentation NYPA may require verifying project start and completion and applicant expenditures.



Western NY Power Proceeds Allocation Board

Exhibit "B"

Criteria adapted from the Western NY Power Proceeds Allocation Board's
"Procedures for the Review of Applications for Fund Benefits"

1. The extent to which an award of Fund Benefits would be consistent with the strategies and priorities of the Regional Economic Development Council ("REDC") having responsibility for the region in which an Eligible Project is located.¹ The Western New York Regional Economic Development Council which is responsible for Eligible Projects in Erie and Niagara Counties Strategies & Priorities are:
 - Promote "Smart Growth" by investing in areas that infrastructure already exists and achieves certain goals, such as: preserving historic buildings; reviving downtowns; reviving main streets; investing in existing neighborhoods; and investing in former industrial sites. A project consistent with Smart Growth will also focus on: enhancing walkability; enhancing multiple modes of transportation; connecting disadvantaged communities to employment clusters; spurring mixed-use private investment in existing communities and preserving/enhancing natural lands and or resources.
 - Promote workforce development by increasing diversity in the labor force, developing and cultivating that includes workers with advancement potential, underemployed, unemployed and special population; align education and skills training to job market for current and future industry needs.

¹ As provided for in EDL § 189-c(4), criteria 2-15 are adapted from the criteria for eligibility for Expansion Power, Replacement Power and Preservation Power under Public Authorities Law § 1005. The specific criteria identified in PAL § 1005(13)(b)(4)-(5) are relevant to power allocations under these programs but do not have any logical application to allocations of Fund Benefits. Therefore, the Board does not expect to use these criteria to evaluate applications for Fund Benefits. Additionally, in accordance with PAL § 1005(13), criteria 13-15 listed herein will only be used in the case of Eligible Projects which are proposed by Applicants as, and determined by the Board to be, "revitalization" projects.

- Foster entrepreneurship and new business formation and growth. Designing a plan that brings new technologies and/or products to the marketplace, increases new startups in strategic industries and facilitates the commercialization of products that can lead to job growth in the Region.
- Increase the industry profile of agriculture in WNY by: creating better access to markets; creating new products; creating new more efficient processes; creating strong regional brands; creating programs that promote careers in agriculture.
- Utilize Western New York’s proximity to Canadian and U.S. population centers to advance economic development in WNY. Bi-national projects will: utilize cross-border planning to create transportation and logistical infrastructure; improve operational relationships; promote the attractiveness of WNY as a hub for global trade.
- Position the WNY region as a global energy hub through new sources of clean energy, energy efficiency and energy efficient transportation.
- Support growth of advanced manufacturing by making research more available to manufacturers to help them innovate.
- Spur growth in the health and life sciences industry through improved commercialization, recruit high profile research talent and reducing the cost burden of healthcare while improving health outcomes.
- Expand the scope of higher education by increasing accessibility to Higher Education for communities that currently have limited access to educational opportunities; better aligning education with the industry needs and creating support structures for start-ups which will assist start-ups with commercialization, business planning, workforce preparation, facilities, etc.
- Grow visitors and visitor spending by raising the profile of WNY as a national and international destination; connect multiple tourist destinations in WNY; improve the profile of the WNY Gateway to the United States.

For more information on the Western New York Regional Economic Development Council please go to <http://regionalcouncils.ny.gov/content/western-new-york>.

2. The extent to which an award of Fund Benefits would be consistent with the strategies and priorities of the Regional Economic Development Council (“REDC”) having responsibility for the region in which an Eligible Project is located.² The Finger Lakes Regional Economic Development Council which is responsible for Eligible Projects in

² As provided for in EDL § 189-c(4), criteria 2-15 are adapted from the criteria for eligibility for Expansion Power, Replacement Power and Preservation Power under Public Authorities Law § 1005. The specific criteria identified in PAL § 1005(13)(b)(4)-(5) are relevant to power allocations under these programs but do not have any logical application to allocations of Fund Benefits. Therefore, the Board does not expect to use these criteria to evaluate applications for Fund Benefits. Additionally, in accordance with PAL § 1005(13), criteria 13-15 listed herein will only be used in the case of Eligible Projects which are proposed by Applicants as, and determined by the Board to be, “revitalization” projects.

Orleans and Genesee Counties Strategies & Priorities can be found at:
<http://regionalcouncils.ny.gov/content/finger-lakes>.

3. The number of jobs that would be created as a result of an award of Fund Benefits.
 4. The applicant's long term commitment to the region as evidenced the current and/or planned capital investment in applicant's facilities in the region.
 5. The ratio of the number of jobs to be created to the amount of Fund Benefits requested.
 6. The types of jobs that would be created, as measured by wage and benefit levels, security and stability of employment.
 7. The amount of capital investment, including the type and cost of buildings, equipment and facilities, proposed to be constructed, enlarged or installed.
 8. The extent to which an award of Fund Benefits would affect the overall productivity or competitiveness of the applicant and its existing employment.
 9. The extent to which an award of Fund Benefits may result in a competitive disadvantage for other business in the State.
 10. The growth potential of the applicant's facilities and the contribution of economic strength to the area in which the applicant's facilities are or would be located.
 11. The extent of the applicant's willingness to satisfy affirmative action goals.
 12. The extent to which an award of Fund Benefits is consistent with state, regional and local economic development strategies and priorities and supported by local units of government in the area in which the business is located.
 13. The impact of an award of Fund Benefits on the operation of any other facilities of the applicant, and on other businesses within the region.
 14. That the business is likely to close, partially close or relocate resulting in the loss of a substantial number of jobs.
 15. That the applicant is an important employer in the community and efforts to revitalize the business are in long-term interests of both employers and the community.
 16. That a reasonable prospect exists that the proposed award of Fund Benefits will enable the applicant to remain competitive and become profitable and preserve jobs for a substantial period of time.
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