

**ECONOMIC DEVELOPMENT POWER
ALLOCATION BOARD**

MINUTES

Special Meeting

February 2, 2010 - Video conference – 8:30 a.m.

New York Power Authority Offices:

123 Main Street, 16th Floor, White Plains, NY

30 South Pearl Street, 10th Floor, Albany, NY

501 Seventh Avenue, 9th Floor, New York, NY

Empire State Development Corp., 95 Perry Street, Suite 500, Buffalo, NY

1. Use of Net Revenues Produced by Sale of Expansion
Power as Industrial Incentive Awards

OTHER BUSINESS

2. Next Meeting

A special meeting of the Economic Development Power Allocation Board was held via video conference at the following participating locations:

- 1) New York Power Authority, 123 Main Street, White Plains, NY
- 2) New York Power Authority, 30 South Pearl Street, Albany, NY
- 3) New York Power Authority, 501 Seventh Avenue, New York, NY
- 4) Empire State Development Corp., 95 Perry Street, Suite 500, Buffalo, NY

The following Members of the Board were present at the following locations:

Kenneth Schoetz, Chairman (Buffalo, NY)
Eugene L. Nicandri, Member, (Melbourne, FL)
Robert B. Catell, Member (New York, NY)

Also in attendance were:

James F. Pasquale	Senior Vice President - Marketing & Economic Development, NYPA
Karen Delince	Corporate Secretary, NYPA
Lorna Johnson	Assistant Secretary, NYPA
Mary Jean Frank	Associate Corporate Secretary, NYPA
Michael Huvane	Director – Business Muni & Coop Marketing & Economic Development, NYPA

**1. Use of Net Revenues Produced by Sale
of Expansion Power as Industrial Incentive Awards**

SUMMARY

The Members of the Economic Development Power Allocation Board (“EDPAB”) are requested to approve an extension of the Economic Development Plan that will provide for the use of net revenues from the sale of Expansion Power (calendar years 2010-2029) for economic development assistance to support the Canal Side Development Project, and to authorize an Industrial Incentive Award (“IIA”) to the Erie Canal Harbor Development Corporation (“ECHDC”) to enable ECHDC to secure the necessary funding for the Canal Side Development Project.

BACKGROUND

ECHDC, a subsidiary of the Empire State Development Corporation/Urban Development Corporation (“ESDC”), was created in 2005 to develop the City of Buffalo’s harbor waterfront. It is sponsoring a major economic development project known as the Canal Side Development Project (“Canal Project”).

The Canal Project has been described as a “public/private investment consisting of 1,075,000 square feet of retail, cultural, residential, and office space on 23 development parcels within approximately 20 acres of land in downtown Buffalo.” The Canal Project is intended to revitalize Buffalo’s inner harbor, and restore the area’s waterfront vitality through a combination of residential, commercial, open space and cultural elements. According to ECHDC, when fully complete, the Canal Project has the potential to generate approximately 1,000 new jobs, almost \$9.5 million in annual sales-tax revenues and \$1.2 million in new yearly property taxes for the City of Buffalo. ECHDC states that over the course of 20 years, the Canal Project will generate approximately \$189 million in sales tax revenue.

Authority staff has been in discussions with ECHDC to explore additional sources of financial support for the Canal Project. Staff has identified two possible sources of financial support for the Canal Project: (1) a modification of the Authority’s payment schedule under the Settlement Agreement; and (2) an IIA from net revenues from the sale of Expansion Power.

Under the present terms of the Settlement Agreement, the Authority is providing ECHDC with \$3.5 million per year for the 50-year term of the Niagara Project license to support economic development and revitalization within the vicinity of the Buffalo waterfront. To date, two of the payments have been made, leaving 48 annual payments remaining, representing a present value of approximately \$56 million.

Regarding IIAs, under Public Authorities Law (“PAL”) §1005 (eighth unnumbered paragraph) and Economic Development Law §188, the Authority is directed, no less than annually, to identify net revenues and submit, for Economic Development Power Allocation Board (“EDPAB”) approval, an Economic Development Plan (“Plan”) for the use of such revenues as IIAs. Net revenues are defined by PAL §1005 as any excess of revenues properly allocated to sales of Expansion Power over the costs and expenses properly allocated to such sales.

At its meeting of May 18, 2009, EDPAB approved a modified Plan. Under this modified Plan, IIAs were made available to companies in New York State that are at identifiable risk of closure or relocation to another state. EDPAB also extended the Plan until 2010 at that meeting. At its meeting of October 26, 2009, EDPAB extended the Plan to cover the period 2010 through 2016.

DISCUSSION

ESDC has pledged monies to finance the planned Canal Project, which is estimated to cost approximately \$300 million. ECHDC needs an additional \$105 million (present-value amount) to support the Canal Project. According to ECHDC, the \$105 million need may be met by securing a payment stream of \$8.4 million annually over 20 years. By securitizing (i.e., borrowing against) this payment stream, ECHDC has indicated that it can obtain the remaining \$105 million in funding necessary for the Canal Project.

Authority staff has been in discussions with ECHDC to explore additional sources of financial support for the Canal Project. The Authority can provide the required \$8.4 million payment stream to enable ECHDC to satisfy its stated funding need. The payment stream would consist of the following two components.

The first component would derive from a revision to the Authority's scheduled payments to ECHDC provided under its Settlement Agreement. In summary, the Authority would convert the \$3.5 million payment stream for the remaining 48 years to an equivalent (in present-value terms) payment stream of \$4.7 million per year over a period of 20 years.

The second component would consist of an IIA to ECHDC in the amount of \$3.7 million per year for 20 years (2010-2029) from Expansion Power net revenues pursuant to of PAL §1005 (eighth unnumbered paragraph). This provision authorizes the Authority to make available net revenues earned from the sale of Expansion Power for "industrial incentive awards ... in conformance with an economic development plan covering all such net revenues." As discussed above, this component requires an amendment to the current Economic Development Plan to extend the term of the Plan and authorize the use of net revenues for the award to ECHDC. This amendment would add to the list of permissible uses of IIAs previously approved by EDPAB and the Authority.

EDPAB is being asked to approve a revised Economic Development Plan that will provide for the use of net revenues from the sale of Expansion Power (calendar years 2010-2029) for economic development assistance to support the Canal Side Development Project, as well as authorize an IIA to ECHDC, as described above and in Attachment A.

RECOMMENDATION

It is recommended that EDPAB approve the amendment to the Economic Development Plan for Industrial Incentive Awards to provide for the use of net revenues from the sale of Expansion Power (calendar years 2010-2029) for economic development assistance to support the Canal Side Development Project as discussed above.

It is also recommended that an Industrial Incentive Award to the Erie County Harbor Development Corporation in the amount of \$3.7 million per year for 20 years (2010-2029) be approved by the Board. The Industrial Incentive Award, as described in Attachment A, would be provided for the sole purpose of enabling the Erie County Harbor Development Corporation to secure the necessary funding for the Canal Side Development Project.

Mr. James Pasquale presented the highlights of staff's recommendations to EDPAB. In response to a question from Judge Eugene Nicandri, Mr. Pasquale said that another payment stream other than the \$3.7 million annual one from the Industrial Incentive Award would be providing an additional \$4.7 million in annual funding for the project.

Chairman Kenneth Schoetz said he would be able to vote on this item because counsel at Empire State Development Corporation ("ESDC") had determined no conflict of interest was involved related to the Erie Canal Harbor Development Corporation being a subsidiary of ESDC.

The following resolution was unanimously adopted by Members of the Board present.

WHEREAS, section 10005 of the Public Authorities Law authorizes the Power Authority of the State of New York to identify an amount of net revenues produced by the sale of Expansion Power which shall be used for industrial incentive awards; and

WHEREAS, such industrial incentive awards must be made in conformance with an Economic Development Plan submitted by the Authority and approved by the Board pursuant to Section 188 of the Economic Development Law; and

WHEREAS, the Board on December 1, 1988, endorsed the use, to the extent necessary, of available industrial incentive awards for the purpose of Assisting Authority efforts to limit future rate increases for Fitzpatrick Power Program customers; and

WHEREAS, The Board on December 1, 1988, recommended that any Economic Development Plan submitted by the Authority in the future be approved to the extent it provides for such use of an industrial incentive award; and

WHEREAS, The Authority has approved an Economic Development Plan through calendar year 2016 that provides for the use of net revenues from the sale of Expansion Power to support Industrial Incentive Awards and further, has authorized the submission of such Plan to the Board for its approval; and

WHEREAS, The Board has determined that an Economic Development Plan through calendar year 2016 which was submitted by the Authority and its implementation is consistent with the criteria and requirements provided for in Sections 184 and 185 of the New York Economic Development Law and in Part 370 of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York;

NOW THEREFORE BE IT RESOLVED, That the Board hereby determines that the Canal Side Development Project's Economic Development Plan for the years 2010 through 2029 which is submitted by the Authority and its implementation is consistent with the criteria and requirements provided for in Sections 184 and 185 of

February 2, 2010

the New York Economic Development Law and in Part 370 of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York; and be it further

RESOLVED, That the Board hereby approves the Plan providing for the use of net revenues from the sale of Expansion Power for an Industrial Incentive Award to the Erie Canal Harbor Development Corporation in the amount of \$3.7 million per year for 20 years (2010-2029) in support of the Canal Side Development Project on the terms and conditions and for the purposes set forth in the attached memorandum.

Industrial Incentive Award (IIA)

Erie County Harbor Development Corporation

- Buffalo (Erie County)
- IIA of \$3.7 million per year
- Term - 20 years (2010-2029)
- Provided for the sole purpose of enabling the Erie County Harbor Development Corporation to secure the necessary funding for the Canal Side Development Project

2. **Next Meeting**

The next meeting of the Board is to be determined.