



NY State Economic Development Power Allocation Board

ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD

MINUTES

September 28, 2022 – 9:00 a.m.

Meeting Held Via Videoconference

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A regular meeting of the Economic Development Power Allocation Board was held via video conference, at approximately 9:00 am.

The following Members of the Board were present:

Judge Cecily Morris, Chair
Dennis Trainor, Member
Andrew Silver, Member

Also in attendance were:

Justin Driscoll	Interim President and Chief Executive Officer, NYPA
Lori Alesio	Interim Executive Vice President & General Counsel, NYPA
Keith Hayes	Senior Vice President - Clean Energy Solutions, NYPA
Karen Delince	Vice President and Corporate Secretary, NYPA
Maribel Cruz	Vice President - Economic Development & Key Account Management – Clean Energy Solutions, NYPA
Lorna Johnson	Senior Associate Corporate Secretary, NYPA
Sheila Quatrocci	Senior Associate Corporate Secretary, NYPA
Michele Stockwell	Project Coordinator – Corporate Secretary

Introduction

Judge Cecily Morris, newly appointed Chair of the Economic Development Power Allocation Board (“EDPAB”), welcomed members of the Board Dennis Trainor and Andrew Silver and Authority senior staff to the meeting. She said that the meeting had been duly noticed as required by the Open Meetings Law and called the meeting to order pursuant to the EDPAB Bylaws, Article III, Section 2.

1. Adoption of the September 28, 2022 Proposed Meeting Agenda

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Agenda for the September 28, 2022 meeting was adopted.

Chair Cecily Morris, and Members Dennis Trainor and Andrew Silver, declared no conflicts of interest based on the list of entities being considered for power allocations.

2. Approval of the Minutes

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the Minutes of the Meeting held on July 25, 2022 were unanimously approved.

3. Transfer of Recharge New York (RNY) Power Allocations

SUMMARY

The Economic Development Power Allocation Board (“Board”) is requested to approve the transfer of the Recharge New York (“RNY”) Power allocations listed below, subject to the conditions discussed in this report:

1. Transfer of a 1,320 kilowatt (“kW”) RNY Power allocation and pending 230 kW RNY Power allocation awarded to Albert Einstein College of Medicine, Inc. (“Einstein, Inc.”), a New York not-for-profit corporation for use at its facilities located at 1225 Morris Park Avenue, Bronx, New York, to Einstein, Inc.’s successor, “Albert Einstein College of Medicine,” an autonomous educational institution chartered by the Board of Regents of the New York State Department of Education (“Regents”) into which Einstein, Inc. has merged.

The Board has previously approved transfers of RNY Power allocations in similar circumstances.

If the Board approves the requested transfer, the Trustees of the New York Power Authority (“Authority”) will also be requested to approve the transfer.

DISCUSSION

The following discussion describes the facts relating to the recommended transfer.

- 1) Albert Einstein College of Medicine

Einstein, Inc. was awarded a 1,320 kW RNY Power allocation, as well as pending 230 kW RNY Power allocation that has not yet been accessed, each for use at its facilities at 1225 Morris Park Avenue, Bronx, New York. At the time, Einstein was operating under the auspices of the Montefiore Health System (operations) and Yeshiva University (academics).

In 2019, the Regents awarded Einstein, Inc. an absolute charter, establishing “Albert Einstein College of Medicine” as an autonomous educational institution with the authority to confer its own medical

and graduate degrees, and approved the merger of Einstein, Inc. into Albert Einstein College of Medicine (the Regents-chartered entity). As a result, Einstein, Inc. has ceased to exist.

The new/successor Einstein entity has requested that the 1,320 kW RNY Power allocation and pending 230 kW RNY Power allocation be transferred to it. The new Einstein entity would continue to use the allocation at the Morris Park Avenue facilities, and has committed to honor all commitments, including employment, power utilization, and capital investment commitments associated with the RNY Power allocations.

RECOMMENDATION

Staff recommends that the Board approve the transfer discussed above, subject to the following conditions: (1) approval of the transfer of the RNY Power allocation by NYPA; (2) there be no material reductions in the base employment level or capital investment commitment associated with the allocations that would be transferred; and (3) the transfer is addressed in contract documents containing such terms and conditions determined by the Authority to be appropriate to effectuate the transfer.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below.

Chair Cecily Morris invited Mr. Keith Hayes, Senior Vice President of Clean Energy Solutions, to present the Transfer of Recharge New York (RNY) Power Allocations item to the Board.

“Mr. Hayes first introduced Ms. Maribel Cruz-Brown, Vice President of Economic Development and Key Account Management, to the members saying that she has transitioned into a new position and will present future items before the Board because he will be retiring from the Authority at the end of the year.

“He continued that the Economic Development Power Allocation Board (“EDPAB” or “Board”) is requested to approve the transfer of a Recharge New York Power (RNY) Allocation for a customer experiencing business changes necessitating such transfer. Specifically, the transfer of 1,320 kilowatts (kW) of RNY power and pending 230 kW RNY power allocations awarded to Albert Einstein College of Medicine, Inc., for use at its facilities at 1225 Morris Park Avenue, Bronx, New York, to Albert Einstein College of Medicine, an autonomous educational institution chartered by the Board of Regents of the New York Department of Education into which Albert Einstein College of Medicine, Inc. has merged.”

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the transfer of Recharge New York Power Allocation as recommended by staff, was approved by the Board.

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

RESOLVED, That the transfer of a 1,320 kilowatt (“kW”) Recharge New York (“RNY”) Power allocation and a pending 230 kW RNY Power allocation awarded to Albert Einstein College of Medicine, Inc., for use at its facilities at 1225 Morris Park Avenue, Bronx, New York, to Albert Einstein College of Medicine for use at the same facility, as described in the foregoing report be, and hereby is, approved subject to the following conditions: (1) approval of the transfer by the New York Power Authority (“NYPA”); (2) there be no material reduction in the base employment level or capital investment commitment due to the transfer as provided for above; and (3) the transfer is addressed in contract documents containing such terms and conditions determined by NYPA to be appropriate to effectuate the transfer.

**4. Erie Canal Harbor Development Corporation Industrial Incentive Award –
Expansion of Purposes and Acceleration of Payment**

SUMMARY

The Economic Development Power Allocation Board (“EDPAB” or “Board”) is requested to approve a modification to the current Economic Development Plan for Industrial Incentive Awards to: (1) authorize the use of an existing Industrial Incentive Award (“IIA”) provided to the Erie Canal Harbor Development Corporation (“ECHDC”) to support expanded economic development and revitalization activities at the Buffalo Waterfront as more specifically described below; and (2) provide for acceleration of the remaining unpaid portion of the IIA to provide a lump-sum payment to ECHDC of \$27.1 million to be advanced within 30 days of the New York Power Authority’s (“NYPA”) Board of Trustees approval.

To date, ECHDC has received twelve annual payments of \$3.7 million under the original IIA, for a total of \$44.4 million. The total remaining eight payments of \$3.7 million, which total \$29.6 million in nominal terms, is equivalent to a present value amount of \$27.1 million. The accelerated payment of the remaining portion of the ECHDC IIA would allow ECHDC to accelerate the construction and maintenance of various projects on the Buffalo Waterfront consistent with its mission and would support economic development in the State consistent with pertinent criteria in Economic Development Law (“EDL”) §§ 184 and 185.

BACKGROUND

ECHDC, a subsidiary of the Urban Development Corporation (better known as Empire State Development), was created in 2005 to develop the City of Buffalo’s Waterfront and began its work with construction of the Canal Side Development Project (“Canalside Project”). The project was envisioned 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 Canalside Project is revitalizing Buffalo’s inner harbor and restoring the area’s waterfront vitality through a combination of residential, commercial, open space and cultural elements.

In addition to the on-going Canalside Project, ECHDC’s development footprint significantly expanded in 2013 with the transfer of hundreds of acres along Buffalo’s Outer Harbor. ECHDC worked with the City and community to rezone the property and study alternative uses, resulting in a General Project Plan in February 2021. The Outer Harbor Civic and Land Use Improvement Project (“Outer Harbor Project”) involves the development and long-term management of a major open space and civic investment on approximately 208 acres, including improvements at First Buffalo River Marina, Wilkeson Pointe, Michigan Pier, Meadows, Bell Slip, the Lakeside Complex, and the Terminal B (the “Outer Harbor Project”). The Outer Harbor Project is in an area classified as substandard or blighted, and in need of development.

At its December 15, 2009 meeting, the Trustees approved an IIA to ECHDC in the amount of \$3.7 million per year for 20 years in support of the Canalside Project. The terms and conditions for the use and payment of the IIA were set forth in a contract between the Authority and ECHDC entitled Agreement Regarding Industrial Incentive Award date July 13, 2010 (the “IIA Agreement”).

DISCUSSION

ECHDC has pledged monies to finance, construct, and maintain various planned projects along the Buffalo Waterfront, including the Canalside and Outer Harbor Projects, which are estimated to cost approximately \$300 million. ECHDC has identified up to 13 projects (“Buffalo Waterfront Projects”) costing up to approximately \$189 million that can be facilitated by additional immediate funding.

To help facilitate development and maintenance of these projects, ECHDC has requested that the purposes of the ECHDC IIA be expanded to enable funding under the IIA to support the Outer Harbor Project and the Buffalo Waterfront Projects. IIA funds would be used to support the economic

development and revitalization activities of ECHDC, including planning, design, construction, operations & maintenance, programming, security, property acquisition, utilities and related activities at property owned or maintained by ECHDC. The expansion of the uses of the ECHDC IIA will, consistent with pertinent criteria, support ECHDC's efforts to increase jobs in the area, contribute to the economic strength of the area which is classified as blighted and distressed, and is consistent with state, regional and local economic development plans.

To further facilitate these projects, ECHDC has requested that the terms and conditions for payment of the original IIA as set forth in the IIA Agreement be modified to provide for a lump-sum payment of the net present value of the remaining scheduled payments under the IIA (calculated at \$27.1 million) within 30 days of the NYPA Board of Trustees approval. The lump-sum payment would enable ECHDC to accelerate the completion and maintenance of the Buffalo Waterfront Projects in a timely fashion.

Staff believes that the Buffalo Waterfront Projects are consistent with the statutory criteria applicable to IIAs in EDL §§ 184 and 185. Accordingly, staff recommends that the Economic Development Plan be modified to authorize the use of the existing ECHDC IIA to support the Buffalo Waterfront Projects, and to provide for a lump-sum payment in the amount of \$27.1 million representing the net present value of the remaining scheduled payments under the IIA.

If the Board authorizes these actions, staff will confer with ECHDC representatives for the purpose of reaching agreement on modifications to the IIA Agreement that will reflect these revised terms and conditions.

RECOMMENDATION

The Senior Vice President – Clean Energy Solutions recommends that the Board approve a modification to the current Economic Development Plan for Industrial Incentive Awards ("IIA") to: (1) authorize the use of the existing IIA provided to the Erie Canal Harbor Development Corporation ("ECHDC") to support expanded economic development and revitalization activities at the Buffalo Waterfront as described herein; and (2) provide for acceleration of the remaining unpaid portion of the IIA to provide a lump-sum payment to ECHDC of \$27.1 million to be advanced within 30 days of New York Power Authority's ("NYPA") Board of Trustees approval.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below."

Chair Cecily Morris invited Mr. Keith Hayes, Senior Vice President of Clean Energy Solutions, to present the Erie Canal Harbor Development Corporation Industrial Incentive Award for Expansion of Purposes and Acceleration of Payment item to the Board.

Mr. Hayes said that the Board is requested to approve:

- 1) modification to the current Economic Development Plan for Industrial Incentive Awards to authorize the use of an existing Industrial Incentive Award provided to Erie Canal Harbor Development Corporation ("ECHDC"), to support expanded economic development and revitalization activities at the Buffalo Waterfront; and*
- 2) Provide for acceleration of the remaining unpaid portion of the Industrial Incentive Award to provide a lump-sum payment to the ECHDC of \$27.1 million. To date, the ECHDC has received 12 annual payments of \$3.7 million under the original Industrial Incentive Award contract for a total of \$44.4 million.*

The remaining eight payments of \$3.7 million, which totaled \$29.6 in nominal terms, is equivalent to a present value amount of \$27.1 million. The accelerated payment of the remaining portion of the

ECHDC Industrial Incentive Award would allow ECHDC to accelerate the construction and maintenance of various projects on the Buffalo Waterfront, which is consistent with its mission.

Accordingly, NYPA staff requests that the Board approve a modification to the current Economic Development Plan for Industrial Incentive Awards to support expanded economic development and revitalization activities at the Buffalo Waterfront that would support economic development in the State which is consistent with pertinent criteria in Economic Development Law §§184 and 185.

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the modification to the current Economic Development Plan, as recommended by staff, was approved by the Board.

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

RESOLVED, That the Economic Development Power Allocation Board hereby approves a modification to the current Economic Development Plan for the Industrial Incentive Awards to (1) authorize the use of an existing Industrial Incentive Award ("IIA") made to the Erie Canal Harbor Development Corporation ("ECHDC"), for the purpose of supporting additional economic development and revitalization activities of ECHDC at the Buffalo Waterfront, and (2) provide for acceleration of the remaining unpaid portion of the IIA to provide a lump-sum payment to ECHDC of \$27.1 million within 30 days of New York Power Authority's ("NYPA") Board of Trustees approval, for the reasons indicated in the foregoing report.

In closing, Mr. Hayes said that it has been a privilege to serve this Board over the years, recommending allocations of low-cost electricity to ensure businesses make meaningful capital investments while retaining and creating jobs in the State, and thanked the members for their support.

Other Business

No other business to report.

5. Next Meeting

Chair Cecily Morris said that the next meeting of the Board would be held on Monday, December 12, 2022.

Closing

On motion made by Member Dennis Trainor and seconded by Member Andrew Silver, the meeting was adjourned at approximately 9:30 a.m.

Karen Delince

Karen Delince
Corporate Secretary