

FOR CONSIDERATION

September 21, 2023

TO: The Directors

FROM: Hope Knight

SUBJECT: Regional Council Award – Priority Project – Bethlehem (Capital Region – Albany County) – Port of Albany Expansion Capital – Regional Council Capital Fund (Capital Grant)

REQUEST FOR: Findings and Determinations Pursuant to Section 10(g) of the Act; Authorization to Adopt the Proposed General Project Plan for the Purpose of Making a Grant; Authorization to Make a Grant and to Take Related Actions; Adoption of Findings Pursuant to the State Environmental Quality Review Act

ESD Directors' Summary

The Albany Port District Commission (“APDC” or the “Organization”) is a public authority established by the New York State Legislature in 1925. The APDC is responsible for managing the maritime Port of Albany-Rensselaer (the “Port”). In 2016, the APDC applied for funding through Round 6 of the Capital Regional Economic Development Council (“CREDC”) for assistance with project funding. Based on the CREDC recommendation, ESD staff signed an Incentive Proposal with the APDC to implement the project, agreeing to pay a portion of the costs to expand the Port’s operations by purchasing 81-acres of land, infrastructure improvements, and a new heavy access bridge to connect the acquired parcel to the Port. In exchange for \$5,000,000 in grant funding, APDC agreed to invest over \$9,480,000 of its own equity into the project, with a total project cost of \$29,300,000. This project aligns with the CREDC’s mission to modernize and expand the region’s ports.

Since the Organization has satisfied its obligations under the Incentive Proposal for the first disbursement, ESD is now recommending that the Board authorize the release of funds for this project.

General Project Plan

I. Project Summary

Grantee: Albany Port District Commission (“APDC” or the “Organization”)

ESD* Investment: A grant of up to \$5,000,000 to be used for a portion of the cost of property acquisition

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

Project Location: 309 River Road, Bethlehem, Albany County

Proposed Project: Acquisition of an 81-acre parcel, permitting and site approval, construction of a connector vehicle/rail bridge and an access road, and infrastructure improvements for the purpose of a Port expansion facility

Project Type: Land acquisition/New Construction/Port infrastructure investment

Regional Council: The project is consistent with the Capital Region Regional Economic Development Council Plan to modernize and expand the region’s ports to store more cargo and efficiently move it to and from rail or ship transports.

II. Project Cost and Financing Sources

<u>Financing Uses</u>	<u>Amount</u>
Real Estate Acquisition	\$5,250,000
Construction/Renovation	16,000,000
Infrastructure/Site Work	5,000,000
Other (architecture/engineering)	<u>3,050,000</u>

Total Project Costs \$29,300,000

<u>Financing Sources</u>	<u>Amount</u>	<u>Percent</u>
ESD-Grant	\$5,000,000	17%
Organization’s Equity	<u>24,300,000</u>	<u>83%</u>
Total Project Financing	<u>\$29,300,000</u>	<u>100%</u>

III. Project Description

A. Organization

Industry: Port and Harbor Operations

Organization History: In 1925, the Albany Port District Commission (“APDC”) was established through an act of the New York State Legislature (“Enabling Legislation”). The Enabling Legislation granted broad authority to the APDC to develop, construct, and manage a maritime facility. During the succeeding

decades, the APDC developed into a year-round operation encompassing nearly 300 acres within two municipalities, directly and indirectly employing hundreds, and generating hundreds of millions of dollars in regional and state-wide economic output.

Ownership: APDC is a public authority governed by a five-member Board of Commissioners. All Commissioners are appointed by the Governor of New York State based upon recommendations of the Mayors of Albany and Rensselaer.

Size: APDC owns and operates 400 acres on both sides of the Hudson River in Albany and Rensselaer Counties.

Market: The Port of Albany (the “Port”) is a year-round, inland international seaport located on the upper Hudson River approximately 124 miles from the Battery in New York Harbor. The Port of Albany is a part of the Federal Marine Highway system, designated as part of the Marine Highway M-87, the United States Marine Highway that covers the Hudson River and Erie Canal. A variety of bulk cargoes such as grain, salt, molasses, liquid fertilizer, ethanol, petroleum, and scrap iron as well as heavy lift, project, over-dimensional, steel and wood pulp move through the Port of Albany.

APDC is the government entity charged with operating the Port of Albany. Facilities under the jurisdiction of APDC include approximately 400 acres of land on both east and west sides of the Hudson River, which hosts 25 private business tenants. The Port includes almost 3,000 linear feet of wharf on the Albany (west) side, 1,200 feet of wharf on the Rensselaer (east) side of the Hudson River, a freshwater draft of 31 feet.

Through the Port, APDC serves regional customers including Siemens, General Electric, Mohawk Paper, etc., as well as customers throughout the world seeking to transport goods. APDC also leases sites and buildings for business use including scrap activity, grain and flour business, paper warehousing and distribution, material handling and other business activities.

ESD Involvement: In the past several years, APDC has invested in maritime infrastructure improvements such as rebuilding and adding capacity to wharf structures, new mobile harbor cranes and the construction of the “Big Lift.” This land acquisition and infrastructure improvement project for the purpose of a Port expansion facility would eventually include one or more manufacturing, warehouse or distribution facilities and maritime terminals, is a largescale project for the APDC, and a priority for the Capital Region.

In July 2016, APDC applied for funding assistance to close a gap in its project budget under Round 6 of the Regional Economic Development Council’s Consolidated Funding Application in the Capital Region. In June 2021, ESD made the APDC an offer of assistance which was accepted that same month. Without funding from ESD, the project would not have moved forward.

Competition: This project will lead to greater economic output of the Port compared to similar ports in Philadelphia and Baltimore.

Past ESD Support: Funding for the past five years, to the Grantee is summarized in the following chart:

Program	Project #	Amount	Date Start (ESD Directors’ Approval Date)	Date End (Project Completion: Contract Expiration)	Purpose
Regional Council Capital Fund	AA834	\$4,000,000	January 17, 2019	December 31, 2025	Big Lift Maritime Operations Warehouse

B. The Project

Completion: June 2024

Activity: The 81-acre parcel of land was purchased in 2018. The preliminary engineering work started in 2018 as well. Site preparation began in 2022 and is ongoing.

The engineers and all contractors for this project were selected by open competitive bids.

Results: The project will result in adding 25% land size to the Port boundaries with acquisition by developing 81 acres of underutilized land. The project will ultimately yield a connector vehicle/rail bridge and an access road, as well as make infrastructure improvements for the purpose of the Port’s expansion.

Infrastructure Investment Project:

No Benefit-Cost Analysis (“BCA”) is required since these projects generate long-term benefits not captured in the short-term period used for the BCA and may involve no permanent job commitments.

Grantee Contact: Christine Stuto, Chief Financial Officer
Albany Port District Commission
106 Smith Boulevard
Albany, New York 12202
Phone: 518-463-8763
E-mail: cstuto@portofalbany. us

ESD Project No.: AB731

Project Team:	Origination	Joseph Landy
	Project Management	Chelsey Watroba
	Contractor & Supplier Diversity	Danielle Adams
	Finance	Timothy Anderson
	Environmental	Soo Kang

C. Financial Terms and Conditions

1. Upon execution of the grant disbursement agreement, the Organization shall pay a commitment fee of 1% of the \$5,000,000 capital grant (\$50,000) and reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Organization will demonstrate no materially adverse changes in its financial condition prior to disbursement.
3. The Organization will be required to contribute a minimum of 10% of the total project cost in the form of equity contributed after the Organization'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 Organization financial statements or Organization accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project.
4. Up to \$5,000,000 will be disbursed to the Grantee in three installments as follows:
 - a) an Initial Disbursement of an amount equal to 25% of the grant (\$1,250,000) upon documentation verifying project expenditures of \$8,000,000, including \$5,250,000 in property acquisition costs, and verification of SEQRA and GEIS permitting approval and a finalized lease agreement between the Grantee and one or more entities demonstrating a commitment to locate manufacturing, warehousing and/or distribution operations within one or more facilities to be constructed 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 65% of the grant (\$3,250,000) will be disbursed upon documentation verifying an additional \$19,000,000 in project expenditures (cumulative total of \$27,000,000), including infrastructure/site improvements and construction of a bridge connecting the acquired parcel to

existing Port facilities, provided Grantee is otherwise in compliance with program requirements;

- c) a Third Disbursement of an amount equal to 10% of the grant (\$500,000) will be disbursed upon project completion, as described in Sections II and III above including documentation verifying an additional \$2,300,000 in project expenditures (cumulative total of \$29,300,000) and construction and occupancy of one or more manufacturing, warehousing and/or distribution facilities in accordance with the above-noted lease agreement, as evidenced by attainment of a certificate of occupancy and/or other documentation verifying project completion as ESD may require, provided Grantee is otherwise in compliance with program requirements.

Payment will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after December 8, 2016, to be considered eligible project costs. All disbursements must be requested by April 1, 2025.

- 5. Grant funds will be subject to pro rata recapture if the property at the Project Location is sold within five years of disbursement of funds. The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the transfer 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 transfer occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- (i) 80% of the disbursed amount if the transfer occurred in the second full calendar year after the disbursement was made;
- (ii) 60% of the disbursed amount if the transfer occurred in the third full calendar year after the disbursement was made;
- (iii) 40% of the disbursed amount if the transfer occurred in the fourth full calendar year after the disbursement was made;
- (iv) 20% of the disbursed amount if the transfer occurred in the fifth full calendar year after the disbursement was made.

IV. Statutory Basis – Regional Council Capital Fund

The funding was authorized in the 2016-2017 New York State budget and reappropriated in the 2017-2018, 2018-2019, 2019-2020, 2020-2021, 2021-2022, 2022-2023, and 2023-2024 New York State budgets. No residential relocation is required as there are no families or individuals residing on the site.

V. Environmental Review

ESD (the “Corporation”), pursuant to the State Environmental Quality Review Act (“SEQRA”), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617), ratifies and makes the following findings based on the Final Generic Environmental Impact Statement (“FGEIS”) certified as complete on May 5, 2020 and Final Supplemental Environmental Impact Statement (“FSEIS”) certified as complete on March 1, 2022 by the Town of Bethlehem Planning Board, as lead agency, for the APDC Port of Albany Expansion project in connection with ESD’s authorization of funding (the “proposed action”).

SEQRA requires the adoption of written findings, supported by a statement of relevant facts and conclusions considered, prior to agency decisions on actions that have been the subject of an FGEIS and FSEIS. The Findings Statement, attached as Exhibit A, contains the facts and conclusions in the Draft Generic Environmental Impact Statement (“DGEIS”), FGEIS, Draft Supplemental Environmental Impact Statement (“DSEIS”), and FSEIS relied upon to support the Corporation’s decision on the action that is the subject of the requested authorization.

The findings that the Corporation hereby ratify and make are that:

- The Corporation has given consideration to the DGEIS, FGEIS, DSEIS, and FSEIS;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed action is one that avoids or minimizes significant adverse environmental effects to the maximum extent practicable, including the effects disclosed in the relevant environmental impact statement;
- Consistent with social, economic and other essential considerations to the maximum extent practicable, any significant adverse environmental effects revealed in the environmental impact statement process as a result of the proposed action will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable;
- The Project is in compliance with Section 14.09 of the State Historic Preservation Act; and
- The action is consistent with applicable coastal policies set forth in 19 NYCRR 600.5.

Therefore, it is recommended that the Corporation ratify and adopt the SEQRA Findings Statement attached as Exhibit A.

VI. Non-Discrimination and Contractor & Supplier Diversity

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises (MWBES) in the performance of ESD projects. The Office of Contractor and Supplier Diversity has reviewed the project and has determined that MWBE participation goals need not be applied to this project.

VII. Smart Growth Public Infrastructure Review

Pursuant to the requirements of the State Smart Growth Public Infrastructure Policy Act (the “SG Act”), ESD’s Smart Growth Advisory Committee has reviewed a Smart Growth Impact Statement for the project and found that the project is consistent with the State Smart Growth Public Infrastructure Criteria (“Smart Growth Criteria”). The designee of the Chief Executive Officer of the Corporation has attested that the project, to the extent practicable, meets the relevant Smart Growth Criteria set forth in the SG Act.

VIII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

IX. 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.

X. Additional Submissions to Directors

Resolutions

New York State Map

Project Finance Memorandum

Project Photographs

Exhibit A - State Environmental Quality Review Act Findings Statement