



Meeting Agenda – STAMP Committee
 Genesee County Economic Development Center
 Wednesday, October 5, 2022 - 8:00 a.m.
 Location: 99 MedTech Drive, Innovation Zone

Page #’s	Topic	Discussion Leader	Desired Outcome
	1. Call to Order – Enter Public Session	P. Zelif	
	1a. Executive Session Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons: <ol style="list-style-type: none"> 1. Discussions regarding proposed, pending or current litigation. 2. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. 3. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof. 	P. Zelif	
	1b. Enter Public Session		
	2. Chairman’s Report & Activities	P. Zelif	
	2a. Agenda Additions / Deletions / Other Business		
2-4	2b. Minutes: August 31, 2022		Vote
	3. Discussions / Official Recommendations to the Board:		
5-13	3a. Second Amendment to MOU with NCWD	M. Masse	Disc / Vote
14-17	3b. Consultant for Evaluation of TCP Issues	M. Masse	Disc / Vote
18-26	3c. Genesee County Water Supply Agreement Assignment	M. Masse	Disc / Vote
27-29	3d. Payment for Storage Yard	M. Masse	Disc / Vote
30-31	3e. Title Fee on Filing of Easement for National Grid Powerline Re-Route	M. Masse	Disc / Vote
32-34	3f. Phillips Lytle Legal Services	M. Masse	Disc / Vote
35-45	3g. Amended SEQR for STAMP for Modified Part 182 Permit	M. Masse	Disc / Vote
	4. Adjournment	P. Zelif	Vote



GCEDC STAMP Committee Meeting
Wednesday, August 31, 2022
Location: 99 MedTech Drive, Innovation Zone
8:00 a.m.

MINUTES

ATTENDANCE

Committee Members: P. Zeliff, C. Kemp, C. Yunker, M. Clattenburg
Staff: M. Masse, J. Krencik, S. Hyde, L. Casey, L. Farrell, C. Suozzi
Guests: M. Landers (County Manager), R. Crossen (Town of Alabama Supervisor)
Absent:

1. Call to Order / Enter Public Session

P. Zeliff called the meeting to order at 8:01 a.m. in the Innovation Zone.

1a. Executive Session

C. Yunker made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 8:03 a.m., for the following reasons:

1. Discussions regarding proposed, pending, or current litigation.
2. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.
3. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

The motion was seconded by M. Clattenburg and approved by all members present.

1b. Re-Enter Public Session

M. Clattenburg made a motion to enter back into public session at 8:46 a.m., seconded by C. Yunker and approved by all.

M. Landers left the meeting.

2. Chairman's Report & Activities

2a. Agenda Additions / Other Business – Nothing at this time.

2b. Minutes: August 3, 2022

C. Yunker made a motion to approve the August 3, 2022 minutes; the motion was seconded by C. Kemp. Roll call resulted as follows:

P. Zelif - Yes
C. Yunker - Yes
M. Clattenburg – Yes
C. Kemp - Yes

The item was approved as presented.

3. Discussions / Official Recommendations to the Board:

3a. Sale of Topsoil Approval – In conjunction with the construction of the lay down area to be utilized by National Grid for the power line reroute, Keeler Construction is completing the construction work. As a result of this work there will be approximately 10,000 cubic yards of topsoil that will be stockpiled on the site. To construct the WWTF in the future, this topsoil will need to be moved or sold. Keeler would like to purchase 1,000 cubic yards of the topsoil at \$3.50 per cubic yard.

Fund Commitment: None. This will appear as a negative change order on their contract.

The Committee recommended that no additional sales of topsoil should be made as there may be future needs for topsoil as construction continues to progress. Additionally, C. Yunker stated that for future reference he believes market rate is higher.

C. Yunker made a motion to recommend to the full Board the sale of 1,000 cubic yards of topsoil at \$3.50 per cubic yard to Keeler Construction; the motion was seconded by C. Kemp. Roll call resulted as follows:

P. Zelif - Yes
C. Yunker - Yes
M. Clattenburg – Yes
C. Kemp - Yes

The item was approved as presented.

3b. Part 182 Permit Preparation and Mitigation Plan – In December and January the GCEDC updated its studies for the endangered and threatened species of winter raptors per the NYSDEC's request. The result of that study showed a few winter raptors at the site and the NYSDEC is determining if the STAMP site would be qualified habitat for those birds. If the NYSDEC takes Jurisdictional Determination over that habitat, the GCEDC would need to complete a Part 182 incidental take permit to impact that habitat for potential development. CC Environment & Planning had a previously approved proposal to complete that process. A Part 182 permit was prepared for the substation, laydown area/WWTF and power line reroute as well as the proposed mitigation area and plan for implementation.

CC Environmental is now submitting an amendment to that original proposal for an additional \$42,750 that will cover the Part 182 permit application and proposed mitigation for the remainder of the STAMP site.

Fund Commitment: \$42,750 to be covered under the \$8 million.

C. Yunker made a motion to recommend to the full Board the approval of the amended Part 182 Take Permit and Environmental Services contract to CC Environment & Planning not to exceed an

additional \$42,750 as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

- P. Zeliff - Yes
- C. Yunker - Yes
- M. Clattenburg – Yes
- C. Kemp - Yes

The item was approved as presented.

3c. Phase II Archeological Work – In February of 2020, the GCEDC awarded a contract to complete the Phase IB archeological work on recently acquired acreage to determine if any additional archeological work would be required. This work was completed and a report of findings and recommendation for additional work was submitted to the USACE and the Seneca Nation for review and comment. The GCEDC has received the comments back and is ready to proceed with the next scope of work as approved by the USACE.

The proposal for this work is from Deuel Archaeology and was included with meeting materials. Deuel performed the Phase IB work on this site.

Fund Commitment: Not to exceed \$9,695 to Deuel Archeology to complete a Phase II Cultural Resource Investigation to be covered under the \$33 million.

C. Yunker made a motion to recommend to the full Board the approval of the Phase II Cultural Resources Investigation contract with Deuel Archeology not to exceed \$9,695 as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

- P. Zeliff - Yes
- C. Yunker - Yes
- M. Clattenburg – Yes
- C. Kemp - Yes

The item was approved as presented.

4. Adjournment

As there was no further business, C. Yunker made a motion to adjourn at 8:54 a.m., seconded by C. Kemp and passed unanimously.

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Second Amendment to MOU with Niagara County Water District (NCWD)

Discussion: In March of 2019 the GCEDC and the NCWD approved a proposal from Wendel Engineering (NCWD's engineer) to complete the design, engineering, permitting and identification of rights of way to be able to supply up to 6 mgd to the Genesee-Niagara County line, as well as the legal expenses of their attorney (Seaman Norris) in connection with the proposal. Wendel and Seaman Norris have provided proposals to the NCWD on the costs associated with securing the necessary easements for the 6 mgd water supply project.

Fund Commitment: Not to exceed \$81,750 (\$36,750 for Wendel and \$45,000 for Seaman Norris) from the \$8 million NYS award.

Committee Action request: Recommend approval of executing the second amended MOU with NCWD to perform the scope of work described in the attached proposal.

**SECOND AMENDMENT
TO AGREEMENT**

WHEREAS, the Niagara County Water District ("NCWD"), the Genesee County Economic Development Center ("GCEDC"), Wendel WD Architecture, Engineering, Surveying and Landscape Architecture PC ("Wendel"), and Seaman Norris LLP entered into an Agreement dated May 5, 2019 concerning the provision of certain professional services, and the reimbursement concerning the same, pertaining to the possible supply of water by the NCWD to the STAMP site in Alabama, New York (the "Agreement"), and

WHEREAS, the parties entered into a "First Amendment to Agreement" dated January 25, 2021, and

WHEREAS, the parties wish to further amend the scope of services to be provided under the Agreement, and the compensation for such additional services, and

WHEREAS, at least 45 parcels have been identified which will require permeant and/or temporary easements to be acquired by the NCWD,

NOW THEREFORE,

The parties hereby agree as follows:

- 1) The scope of services to be provided under the Agreement is hereby amended to include: a) engineering services to be performed by Wendel towards the procurement of said easements, as outlined in a

proposal from Wendel to the NCWD, titled "Subject: Stamp Water Supply Package 03 Easements Wendel Project No. 31461907", and b) legal services to be performed by Seaman Norris LLP towards the procurement of said easements as outlined herein.

- 2) The expenses to be reimbursed to the NCWD by GCEDC shall be increased by \$36,750.00 for services to be provided by Wendel and \$45,000.00 plus disbursements for services to be provided by Seaman Norris, LLP.
- 3) Seaman Norris LLP shall cause certain efforts to be taken, up to and including three contacts with each landowner. Normally, in person visits will be attempted by Seaman Norris representatives for the purpose of explaining and procuring notarized signatures for the easements required for each parcel, and recording of same, as previously identified and described by Wendel.
- 4) The price for such services will be \$1,000.00 for each required easement for a total minimum cost of \$45,000.00, plus disbursements. Seaman Norris LLP will proceed upon the execution of this Contract and will oversee visits to each parcel and contact landowners, and take such other actions required, including telephone and email communication, for the purpose of obtaining necessary easements.

- 5) The services provided herein do not include any payment to the landowners for the procurement of such easements, but GCEDC hereby authorizes Seaman Norris LLP to authorize payment, at a set rate to be later agreed on by GCEDC, per easement obtained. Such payments shall be issued to the landowner via Seaman Norris LLP check and will be reimbursed to Seaman Norris LLP via billings for disbursements to the NCWD. Any payments to landowners in excess of such agreed on rate shall be first authorized by the GCEDC in writing and then paid and reimbursed by Seaman Norris LLP in accordance with this paragraph. GCEDC shall reimburse the NCWD upon invoice for all costs incurred by the NCWD.
- 6) The services provided hereunder do not include legal action or negotiation with attorneys of landowners required to obtain such easements (including but not limited to eminent domain and/or condemnation proceedings), or any time expended in excess of three attempted contacts with landowners. For any and all easements remaining to be obtained, Seaman Norris LLP is authorized to commence legal proceedings, if necessary, upon authorization by the NCWD. If authorized by the NCWD to proceed with obtaining any such easements via legal recourse, Seaman Norris LLP

will be compensated in the amount of \$300.00 per hour which will be billed on a monthly basis.

7) All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement as of the _____ day of _____, 2022.

Genesee County Economic Development Center

By: _____
Name: Steven G. Hyde
Title: President & CEO

Niagara County Water District

By: _____
Name: Jennifer H. Bieber,
Title: Administrative Director

**Wendel WD Architecture, Engineering,
Surveying & Landscape Architecture, PC**

By: _____
Name: Jesse F. Wendell
Title: Principal

Seaman Norris LLP

By: _____
Name: Thomas D. Seaman
Title: Partner



September 13, 2022

Jennifer H. Bieber, Administrative Director
Niagara County Water District
5450 Ernest Road
P.O. Box 315
Lockport, New York 14095

**SUBJECT: STAMP WATER SUPPLY
PACKAGE 03 EASEMENTS
WENDEL PROJECT NO. 31461907**

Dear Mrs. Bieber:

Per your request, Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, PC (Wendel) is pleased to submit this proposal for professional services associated with the preparation of easement descriptions necessary for the installation of the STAMP Package 03: Transmission Main. This proposal will set specific scope and fee parameters based on our understanding of the project services required.

A. SCOPE OF WORK

The following represents our understanding of the scope of services required of Wendel for this project.

Wendel will develop temporary and permanent easement descriptions and maps required for construction of the STAMP Package 3: Transmission Main Project (approximately 25 permanent and 23 temporary easements across 39 properties).

- Review design plans to assess the nature and quantity of required easements
- Confirm highway boundaries and miscellaneous property lines as needed
- Prepare a spread sheet to list:
 - Easement type (permanent or temporary)
 - Name of grantor
 - Address of property
 - SBL of subject parcel
 - Mailing address of owner
 - Liber & Page of deed
 - Status of easement preparation
 - Delivery date to Attorney
- Confirm recorded title data is current
- Obtain SBL of subject parcels, name of owner and deed information
- Obtain current deeds of record and available maps to be used for property line determination
- Plot deeds on tax maps
- Calculate dimensions and area of easements
- Draft descriptions

- Legal descriptions will be prepared for all permanent and temporary easements
- Onsite coordination, at the discretion of the Attorney, with homeowner's questions and concerns
- Coordination with NCWD Administrative Director and Attorney on Homeowner requests for easement acceptance
- Maps will be developed for permanent and temporary easements at the discretion of the NCWD Attorney

The above estimate of the number of easements is based upon the current design information. This number will be determined as the final design documents are completed.

B. DELIVERABLES

The following represents the anticipated deliverables from Wendel for the project. Each deliverable will consist of one (1) hard copy and an electronic copy:

- Permanent Easements – Legal description (in Microsoft Word format) and, when deemed necessary by the NCWD Attorney, an easement map (PDF) showing the permanent easement alignment.
- Temporary Easements – Legal description (in Microsoft Word format) and, when deemed necessary by the NCWD Attorney, an easement map (PDF) showing the temporary easement alignment.

C. ASSUMPTIONS

1. Work will be performed under the direct supervision of a New York State Licensed Land Surveyor.
2. Temporary and Permanent easements will be shown on the same map where applicable.
3. Prevailing wage rates as defined by the New York State Labor Department will be paid for field time.
4. Utility research is not included in this proposal

D. PROPOSAL FEE:

We trust the above scope of work meets NCWD's requirements. We are proposing to perform the scope of work presented in this proposal for a task-by-task basis. The proposed fee for the project is detailed below.

Task	Proposed Fee	
	Amount	Description
Wendel		
Task 1 - Legal Descriptions	\$19,200	(\$400/Easement) LS
Task 2 - Homeowner Coordination	\$9,750	(\$250/Property) LS
Task 3 - Easement Maps	\$7,800	(up to \$200/Property) T&E
TOTAL	\$36,750	

These fees include direct expenses such as first class mailing, local mileage and internal printing costs.

Fee Notes:

- 1) Expenses such as plotting costs, postage, telephone charges are included in the fee.
- 2) Document reproduction for bidding and construction is not included in this fee and will be handled as a reimbursable expense.
- 3) Should Wendel be required to perform additional services beyond those outlined above, Wendel shall be compensated on an hourly or fixed sum basis for a mutually agreed scope of services.
- 4) Our fee and schedule proposal is valid for 60 days. If we do not receive a signed notice to proceed before that date, we reserve the right to re-evaluate our proposal.

E. TERMS:

Please contact me if you have any questions. If this proposal is acceptable to you, please indicate your acceptance by signing both originals and return one (1) executed original to our office.

Thank you for considering Wendel!

Respectfully Submitted,

Brian M. Sibiga, PE
Director of Wastewater Energy Services
Principal

Amanda L. Lingle, RMP
Sr. Project Manager

Should Wendel's proposal be accepted, Wendel WD Architecture, Engineering, Surveying & Landscape Architecture P.C., a New York State licensed architecture and engineering firm that is part of a consolidated group of Wendel Companies, will contract to undertake the work. Our letterhead and plans will still prominently say "Wendel" and we will refer to ourselves as Wendel throughout the project.

Wendel is hereby authorized to proceed with the services described herein under the terms described of the agreement with the Niagara County Water District dated January 1, 2022.

ACCEPTANCE / AUTHORIZATION:

Accepted this _____ day of _____, 20_____

Print Name: _____

Signature: _____

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Title: _____

RETURN TO:

Wendel

Attn: Amanda Lingle

375 Essjay Road, Suite 200

Williamsville, NY 14221

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Consultant for evaluation of Traditional Cultural Property (TCP) issues

Discussion: As part of the STAMP development and the neighboring Tonawanda Seneca Nation, in accordance with Section 106 for the wetland permits, the GCEDC is working with the Tonawanda Seneca Nation on an assessment of the TCP potentials as it relates to the criteria for eligibility of listing on the National Historic Register. KTA Preservation Specialists has prepared a proposal to prepare an assessment of any potential impacts to the Nation from the construction of a proposed development on the STAMP site.

Fund commitment: Not to exceed \$1,440 included in the \$33 million.

Committee action request: Recommend approval of consultant contract with KTA Preservation Specialists for evaluation of TCP issues.

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kta preservation specialists

422 Parker Avenue
Buffalo, New York 14216
716.864.0628
Email: ktraynor@kta-preservation.com

September 1, 2022

Genesee County Economic Development Center Leadership Genesee Class of 2002
99 MedTech Drive
Suite 106
Batavia, NY 14020

Attn.: Senior Vice President of Operations, Mark A Masse CPA

RE: Consultation – Preparation of Cultural Resource Screening Reports (Historic Resources) for the Scannell Development located at 6840 Crosby Road on the STAMP Site.

Dear Mr. Masse,

The Genesee County Economic Development Center (“GCEDC”) plans to develop the Western New York Science & Technology Manufacturing Park (STAMP) on approximately 1,261.7 acres of land (Project) in the town of Alabama, New York. The STAMP Site is within the Tonawanda Seneca Nation’s ancestral territory and adjacent to its treaty-protected, federally recognized Reservation (Nation’s Territory). The United States Army Corps of Engineers, Buffalo District (the Corps), in consultation with the New York State Office of Parks, Recreation and Historic Preservation State Historic Preservation Office (SHPO) has determined the proposed project’s Area of Potential Effects (APE) are parcels where the character or use of historic properties, if any exist, may be altered by the associated development. It has also been determined that additional development at the STAMP Site outside of the APE may have direct and/or indirect adverse effects on historic properties. A Traditional Cultural Property (TCP) investigation is being undertaken by others to evaluate the eligibility of the Nation’s Territory for listing on the National Register of Historic Places (National Register). Archaeological investigations have been conducted to evaluate and identify archaeological properties on the STAMP Site. A Letter of Resolution (LOR) between the New York State Department of Conservation (DEC), SHPO, and the GCEDC has been executed.

Kta preservation specialists proposes the following scope of work for the preparation of a Cultural Resource Screening Report (Report) to identify potential National/State Eligible historic resources (buildings, sites, objects, structures, districts) identified in the New York State Cultural Resource Information System (CRIS), outside the APE, within the Nation’s Territory, which is located adjacent to the western boundary of the

Project. In this way potential direct and/or indirect adverse effects on historic resources can be evaluated from the proposed Scannell Development Project. The Scannell Development involves the development of approximately 22.76 acres of a 87.7-acre site located at 6840 Crosby Road and the construction of up to three distribution and/or manufacturing buildings for commercial and/or industrial purposes facilitated by an option agreement. The Report will also identify applicable National Register Criteria and how the proposed project impacts may affect those criteria.

Report Work Scope

The Reports will be conducted using a methodology in accordance with the New York State Education Department's *Work Scope Specifications for Cultural Resource Investigations* (NYSED 2004). The methodology and criteria used to evaluate properties are codified in the *Code of Federal Regulations, Title 36: Part 60* and reprinted in the National Park Service Publication *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation*. The guidelines followed for the evaluation and identification of National Register Eligible properties/districts are contained in the National Park Service Publications *Standards and Guidelines for Evaluation; Standards and Guidelines for Identification; and Guidelines for Local Surveys: A Basis for Preservation Planning*. The historic resources survey of the properties will be conducted through archival and literature searches, and historic map analysis. (Note: field investigation will not be conducted on the Tonawanda Creek Reservation.) The intent is to identify guidelines and criteria of specific relevance to the history and property types in the study area. By applying the strict rigor of the Department of the Interior (National Park Service), in addition to state and local criteria for evaluation, a comprehensive survey of the historic resources will be produced.

The Historic Context section of the Report will be a thorough study and analysis of the historic trends and themes that influenced social, cultural, economic, political, and industrial growth and development in the study area on a local, state, national, and international level. How these developments were manifest in the built environment will be studied using an historic map analysis of the project area to identify broad development patterns that can then be evaluated in conjunction with the historic trends and themes identified. Archival and literature research, and site file searches of local and state resources including, but not limited to, NYS-OPRHP, Local History Archives, and in the City Planning and Engineering Departments will facilitate study of the historic context.

The study and analysis of historic trends and themes, in conjunction with historic and contemporary map analysis will provide the information necessary to evaluate the properties applying all the National Register Eligibility Criteria to determine both individually potentially eligible properties, and the potential for a historic district.

Analysis of the information using maps and charts will be conducted to determine the number and distribution of resources. Having completed the Report, the investigator will note the existing condition of the property and potential direct and/or indirect impacts from the proposed project.

Project Tasks

- Mapping (2 hours)
- Draft Report (6 hours)
- Final Report (2 hours)
- Consultation/Meetings (2 hour)

Total Hours: 12

Deliverables

- Submission electronic copy of Report to GCEDC

The Report scope does not include any existing conditions documentation except as described above. The above hourly estimate represents a 'not to exceed' number. Any significant increase in the number of hours allotted for each task or additional scope must be approved by GCEDC.

The anticipated fee for the preparation of a Cultural Resource Screening Report as described above is One Thousand Four Hundred & Forty dollars (\$1,440.00).

Sincerely yours,



Kerry L. Traynor
Preservation Specialist

Cost and Work Scope Approved:

Signed _____

Title _____

Dated _____

Mark Masse

**STAMP Committee
October 5, 2022**

Genesee County Water Supply Agreement Assignment

Discussion: In March of 2017 the GCEDC entered into a water supply agreement with Genesee County to supply STAMP with water. The GCEDC may pursue supplies outside of Genesee County once it becomes technically and economically unfeasible for the County to provide the quantities needed. If there are users at STAMP who are non-manufacturing companies, there is a 10% surcharge that MCWA will require Genesee County to pay them.

There is a clause in the agreement that allows for the GCEDC to transfer the Water Supply Agreement to a water works corporation that is formed under NYS Transportation Corporation law. This assignment requires the GCEDC to notify the County.

Fund Commitment: None.

Board Action Request: Approve assignment of the Water Supply Agreement with Genesee County to the STAMP Water Works Corp.

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WATER SUPPLY AGREEMENT

County of Genesee and Genesee County Economic Development Center

This Agreement made this 30th day of March, 2017, by and between the County of Genesee, with offices at 7 Main Street, Batavia, New York 14020 (hereinafter referred to as "County"), and the Genesee County Industrial Development Agency, doing business as the Genesee County Economic Development Center, with offices at 99 Medtech Drive, Suite 106, Batavia, New York 14020 (hereinafter referred to as the "GCEDC").

WHEREAS, the County has adopted a plan to acquire sources of water and to sell and transmit said water to various municipalities and water districts located in the County which plan is contained in the County's February 1999 Genesee County Water Supply System Final Environmental Impact Statement (hereinafter referred to as "Plan"); and

WHEREAS, the Plan includes the supplying of water to the Town of Alabama, New York ("Town") in their water system as defined in a preliminary engineering report dated March 10, 2010 and revised July 27, 2011 (Water Project); and

WHEREAS, the GCEDC and its affiliate, the Genesee Gateway Local Development Corporation ("GGLDC"), have been working for the last several years on the development of the Western New York Science & Technology Advanced Manufacturing Park ("STAMP"), a planned advanced manufacturing campus on approximately 1,262 acres of land located along the west side of New York State Highway 77/63 (north of Judge Road) approximately five miles north of the I-90/New York State Thruway in the Town ("STAMP Site"); and

WHEREAS, at full build out, STAMP will be a high technology campus with the potential to accommodate over 6 million square feet ("sf") of advanced technology manufacturing and related uses and to create up to approximately 10,000 jobs; and

WHEREAS, STAMP will require a minimum amount of approximately 200,000 gallons per day (“gpd”) of water supply for its initial phase of development by approximately Spring 2018; and

WHEREAS, the County desires to sell water to the GCEDC for the initial phases of development at the STAMP Site on the terms and conditions hereinafter set forth; and

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is agreed as follows:

FIRST: The County shall furnish or cause to be furnished water to the STAMP Site at a minimum of two hundred thousand (200,000) gpd and at a normal operating pressure of not less than forty (40) pounds per square inch. At no time shall the pressure provided be less than twenty (20) pounds per square inch at seven hundred (700) gallons per minute. Said pressure will be provided at the intersection of Alleghany Road (State Route 77) and the to be constructed main access road for STAMP. All water so furnished shall meet or exceed all applicable State and Federal Drinking Water Standards and have a hardness level of less than 141 mg/l (approximately 2 grains). The County represents that it has adequate water supplies available to supply the STAMP Site as outlined above, and more if requested as long as it does not adversely impact any other water users in the County, and is in accordance with paragraph TWELFTH.

SECOND: All transmission mains and other water facilities on the STAMP Site used to transmit water within, through and/or out of the STAMP Site shall be maintained, repaired and operated by the GCEDC, its successors or assigns, unless otherwise agreed.

THIRD: The GCEDC shall install or cause to be installed, at its expense, a master meter(s) at such locations on the STAMP Site and/or the Alleghany Road Main so as to be able to

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measure the amount of water being transmitted into the STAMP Site. The GCEDC shall maintain and operate said master meter(s). The County and/or the GCEDC shall have the right, at their expense, to have master meter(s) tested periodically if they so desire.

FOURTH: For and in consideration of \$448,500 in 12 annual payments that the GCEDC shall make to the County commencing in January 2020, and ending after final payment in January 2031, the County shall pay to the GCEDC a total sum of \$4,000,000 to put towards water improvements located in the Town of Alabama and Town of Pembroke and other Phase II improvements to be identified by the County. Such payment shall be made by the County to the GCEDC within 30 calendar days of receiving notice requesting payment associated with the installation of the Water Project but no sooner than January 1, 2018.

FIFTH: The GCEDC shall pay to the County (or its assignee) for water supplied, as defined in paragraph **THIRD**, a rate/surcharge equal to \$0.60/1000 gallons, or such surcharge rate as amended in the future, plus the weighted average (weighted by flow from the respective sources) of the "base" rate charged by the County to the City of Batavia (the total rate charged to the City of Batavia less the above 0.60/1000 gallons) for water supplied to the STAMP Site from the City of Batavia sources and treatment facilities and rate charged by the Monroe County Water Authority ("Authority") to the County for water used by the GCEDC or its customers at the STAMP Site. The parties agree that the pricing mechanism contained in this paragraph is based upon the use of only a Genesee County wholesale water source. In the event that another source of water is added to provide service to the STAMP site, then the parties acknowledge that this paragraph will need to be amended.

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SIXTH: The County shall bill the GCEDC for all net water usage every three (3) months. Any change to the rate of all water usage shall be communicated to the GCEDC at least three (3) months prior to imposition of the new rate.

A. The exact months of such billing shall be mutually agreed between the County and the GCEDC.

B. The master meter(s) shall be read by the County and it shall advise the GCEDC when said reading will take place and the GCEDC shall have the right to be present and observe said reading.

C. In the event the GCEDC or the County dispute or question said reading, the respective party shall have the right, at its own cost and expense, to have the meter tested.

SEVENTH: In the event that the County determines that a water emergency exists due to a reduced supply from one or more the County's supply sources or supply systems and imposes restrictions on other customers, the GCEDC agrees to impose such restrictions on water use by its customers. The GCEDC further agrees not to cause or create any potentially dangerous conditions that could contaminate a County supply source and to correct any such condition or conditions immediately upon written notification by the applicable County or State authorities.

EIGHTH: This agreement shall be interpreted pursuant to the laws of the State of New York and any action or proceeding brought to enforce any provision hereof shall be venued in Genesee County. No delay or failure by either party to exercise any right or remedy under this Water Supply Agreement will constitute a waiver of such right or remedy unless in writing and signed by an authorized representative of the party waiving its rights. A waiver by a party of any breach or covenant shall not be construed as a waiver of any

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succeeding breach of any other covenant. If any provision of this Water Supply Agreement or the application of any such provision is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Water Supply Agreement or invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties waive any provision of applicable law that renders any provision of this Water Supply Agreement invalid, illegal, or unenforceable in any respect. This Water Supply Agreement is the entire agreement between the parties, and supersedes any prior negotiations and agreements, whether written or oral. This Water Supply Agreement may not be changed or amended except in a writing signed by the parties. The parties may execute this Water Supply Agreement in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the parties.

NINTH: Each party giving or making any notice, request, demand or other communication ("Notice") in accordance with this Water Supply Agreement shall give such Notice in writing and use one of the following methods of delivery, each of which for purposes of this Water Supply Agreement is in writing: (i) personal delivery; (ii) registered or certified mail (in each case, return receipt requested and postage prepaid); (iii) reputable overnight courier (with all fees prepaid); (iv) confirmed facsimile; (v) email. Such Notice is effective only if the party giving Notice has complied with this paragraph NINTH and if the Notice is received by the receiving party. Any party giving a Notice shall address the Notice to the appropriate person at the receiving party at the address first listed above, or to such other address as designated in writing by such party.

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TENTH: The GCEDC shall indemnify, save harmless and defend the County from any and all liability, cost, claims and expense arising out of any occurrence related, directly or indirectly, to the GCEDC's ownership, control, operation, maintenance, repair, replacement, transmission or distribution of water through the STAMP Site water system.

ELEVENTH: The County Legislature has designated the entire STAMP Site a "Priority Development Area" pursuant to the County "Smart Growth Plan". Accordingly, after the STAMP Site water system is connected to the County Water System, new lateral connections within the STAMP Site will not require any review, approval and/or certification by the County.

TWELFTH: Nothing in this Water Supply Agreement shall prohibit the GCEDC from developing, securing or accessing other sources of water for the STAMP Site including, without limitation, the right to enter into water supply agreements with any other entities if and when it becomes technically and economically unfeasible for the County to provide that quantities needed for the STAMP Site, contingent upon the ability of Genesee County to secure an exemption from the MCWA agreement.

THIRTEENTH: This Water Supply Agreement shall inure to the benefit of and be binding upon the County and the GCEDC hereto and their respective successors and assigns. This Water Supply Agreement may not be assigned without the prior written consent of the parties except, however, it is acknowledged and agreed that the GCEDC may form an entity to own and operate water infrastructure associated with STAMP including, without limitation, a waterworks corporation pursuant to Article 4 of the Transportation Corporation Law ("Water Works Corp.") and the GCEDC may assign all of its rights and obligations under this Water Supply Agreement to such entity without County approval,

and to the extent required, the County approves the formation of a Water Works Corp. by the GCEDC or its affiliate the GGLDC to service the STAMP Site. The GCEDC shall provide the County with notice of any such assignment. Upon assignment of its rights and obligations under this Water Supply Agreement to an entity formed to own and operate water infrastructure associated with STAMP, the GCEDC shall have no obligations or liability to the County under this Water Supply Agreement and, upon such assignment with the exception of paragraph **FOURTH** which will survive any assignment and remain an obligation to the County from the GCEDC, the County hereby waives and releases the GCEDC, its officers, directors, representatives, employees, servants, agents, and affiliates from any and all liability, claims, actions, losses, damages, judgments, costs and expenses of any kind, whether caused by carelessness, negligence, gross negligence, negligent omissions, fault, want of due care, breach of contract, breach of warranty, or otherwise of GCEDC or any of the above persons, arising out of or in connection with this Water Supply Agreement.

FOURTEENTH: The term of this agreement shall be for a period of forty (40) years beginning the date first written above.

Remainder of page left blank intentionally

IN WITNESS WHEREOF, the parties have executed this Water Supply Agreement as of the date set forth above.

COUNTY OF GENESEE

By: Raymond Cianfrani
Name: Raymond Cianfrani
Title: Chairman
Date: April 11, 2017

GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER

By: Mark A. Masse
Name: Mark A. Masse
Title: SR VP of Operations
Date: March 30, 2017

STATE OF NEW YORK)
) SS.:
COUNTY OF Genesee)

On the 11 day of April in the year 2017, before me, the undersigned, personally appeared Raymond Cianfrani, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Sarah C. Kingdon
Notary Public

SARAH KINGDON
Notary Public-State of New York
No. 01K16054749
Qualified in Genesee County
Commission Expires 02/12/19

STATE OF NEW YORK)
) SS.:
COUNTY OF Genesee)

On the 30th day of March in the year 2017, before me, the undersigned, personally appeared Mark A. Masse, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Penny C. Kennett
Notary Public

Penny C Kennett
Notary Public - State of New York
Qualified In Genesee County
Reg #01KE6134587
My Commission Expires 10/31/17

Doc #01-2943302.1

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STAMP Payment for storage yard

Discussion: In conjunction with the installation of the force main from the STAMP site to the direct discharge point at Oak Orchard Creek, the GCEDC had to extend the rental agreement for the storage of pipes until we can begin construction with the issuance of NYSDEC permits.

Fund Commitment: \$4,000 from the \$33 million.

Board Action Request: Approval of payment of \$4,000 to the landowner.

CONSTRUCTION STORAGE LOT AGREEMENT

FOR AND IN CONSIDERATION of Four thousand dollars (\$4,000.00) and other valuable consideration and of the mutual covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, **Erik Aquina** of 1223 Judge Road Basom, NY 14013 ("Grantor"), does hereby grant for the term of six (6) months to **Genesee County Industrial Development Agency DBA Genesee County Economic Development Center**, a New York public benefit corporation having offices at 99 MedTech Drive, Batavia, NY 14020 ("Grantee") the exclusive right to use and improve the following described premises for the purpose of storing pipe. Said premises being a certain portion of a tract land being situated in the Town of Alabama, Genesee County, State of New York.

(Tax Identification No. (for reference only): 10-1.36.12)

Grantee does further agree to indemnify and save harmless the Grantor of any and all losses, suits, and claims caused by and arising from the use of the aforesaid premises by the Grantee.

Grantee agrees to leave the land in as good or better condition as before Grantee's use of same, including the disposal of all material and equipment stored by Grantee thereon during the foresaid term. Grantee shall remove any trash or construction debris from the property in a timely manner.

Upon execution of this Agreement the Grantee shall have the right to inspect the foresaid premises.

The twelve (12) month term of this agreement commences on November 1, 2022. The payments for the term will be paid in a one-time payment.

This Agreement may be canceled by Grantee at any time given thirty (30) days written notice to Grantor. All payments due hereunder shall cease once said notice is given. Any payments made up to the point of cancellation shall be non-refundable and remain the property of Grantor.

The stipulations as stated herein apply to and bind the said parties hereto, their heirs, representatives, successors, and assigns.

GRANTOR:

By: _____

Name: Erik Aquina

STATE OF NEW YORK)

COUNTY OF GENESEE) ss:

On the ____ day of _____ in the year 2022, before me, the undersigned, personally appeared **Erik Aquina**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

GRANTEE:

By: _____

Genesee County Economic Development Center

Name: Mark A. Masse

SR VP of Operations

STATE OF NEW YORK)

COUNTY OF GENESEE) ss:

On the ____ day of _____ in the year 2022, before me, the undersigned, personally appeared **Mark A. Masse**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Title fee on filing of easement for National Grid power line reroute

Discussion: In connection with the filing of the new easement for the power line reroute for National Grid, there is a title fee payment that needs to be made. This is a cost of the project as stipulated in the signed Cost Reimbursement Agreement that the GCEDC needs to pay. The title fee is base don the value of the improvements within the easement to protect National Grid in case another party tries to claim title to the property.

Fund Commitment: \$25,620 from the \$33 million NYS award.

Committee Action request: Recommend approval of paying the title fee in the amount of \$25,620.

HARRIS BEACH PLLC

ATTORNEYS AT LAW

99 Garnsey Road, Pittsford, NY 14534 • 585-419-8800

John Crane, Title Manager

Title No. 414517-A (Revised)	TITLE PREMIUM INVOICE
Underwriter: Stewart Title Insurance Company	Check payable to: <i>Harris Beach PLLC</i>
Property Type: Commercial	
Transaction Type: Purchase	
Property: Crosby Road, Alabama, NY	
County: Genesee	
Owner/Borrower: Niagara Mohawk Power Corporation/National Grid	
Lender: n/a	
Invoice Date: September 9, 2022	

Premium Description	Liability Amount	Premium	Disclosures
Owner's Policy	\$ 8,300,000.00	\$ 25,520.00	The premium estimate quoted herein is made in accordance with standard charges published by the Underwriter.
Loan Policy			
Loan Policy - Refi Rate			
Loan Policy - Simultaneous			
OWNERS ENDORSEMENTS			
Standard NY		\$ -	The division of total insurance premiums between Underwriter and Harris Beach PLLC (as Agent) is disclosed below and cannot be altered.
TIRSA Land Same as Survey		\$ 50.00	
TIRSA Waiver of Arbitration		\$ 50.00	
TIRSA Policy Authentication		\$ -	
LOAN ENDORSEMENTS			
Standard		\$ -	Role of Title Agent: Harris Beach PLLC is a title insurance agency responsible for underwriting, processing, closing and issuing a title insurance policy insuring title to the Property. Harris Beach PLLC is an independent agent of the Underwriter and neither company has ownership interest in the other. charges which could be determined as of the date above and are subject to change. An updated estimate may be obtained at any time by contacting Harris Beach PLLC at: jcrane@harrisbeach.com
TIRSA Land Same as Survey			
TIRSA Waiver of Arbitration			
TIRSA EPL 8.1			
TIRSA Access			
TIRSA Mortgage Tax			
TIRSA Tax Parcel (Single)			
TIRSA 9			
Owners Policy Total		\$ 25,620.00	
Loan Policy Total			
TOTAL DUE		\$ 25,620.00	

Underwriter Compensation: \$ 3,586.80

Title Agent Compensation: \$ 22,033.20

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\$8 million approval:

Phillips Lytle 2022 additional contract for STAMP related work

Discussion: Phillips Lytle has prepared a proposal to cover the scope of work for the remainder of 2022 as it relates to Tech Team support for the off site sewer permitting and wetland permitting, the wastewater treatment facility permitting, and force main installation.

Fund Commitment: Not to exceed \$185,000 to be included in the \$8 million.

Board Action Request: Recommend approval to the full Board of Phillips Lytle contract not to exceed \$185,000.



Phillips Lytle LLP

VIA EMAIL - PRIVILEGED & CONFIDENTIAL

September 30, 2022

Mark A. Masse
Senior Vice President of Operations
Genesee County Economic Development Center
99 MedTech Drive, Suite 106
Batavia, NY 14020

Re: Proposed Supplement to 2022 Engagement for STAMP Project -
Amended Scope of Work for STAMP Tech Team Project Support

Dear Mark:

Thank you very much for the opportunity to continue to assist the Genesee County Economic Development Center (and Genesee Gateway Local Development Corporation) with the STAMP Project. The purpose of this letter is to supplement our existing engagement letter (collectively, the "Engagement Letter") relating to STAMP, specifically relating to the STAMP Tech Team Support matter. For the Tech Team Support matter, there were a number of important developments with the New York State Department of Environmental Conservation ("NYSDEC") and the Tonawanda Seneca Nation earlier this year that have resulted in significant additional legal work in 2022 (including the NYSDEC determination to classify essentially the entire STAMP campus as "occupied habitat" for the northern harrier and the short eared owl).

This supplement describes generally work for the STAMP Tech Team Support mater through end of this calendar year. Estimated legal fees for this matter are set forth on the attached "Updated Scope of Work". Upon receipt of your approval, we will bill you on a monthly basis for such work as fees are incurred, consistent with our existing engagement.

If you are in agreement with the foregoing, please confirm same by signing and returning a copy of this letter to me. Of course, if you have any questions, please let me know. Thanks again.

Sincerely,

Phillips Lytle LLP

By */s/ Douglas W. Dimitroff*

Douglas W. Dimitroff, Esq.

cc: Adam S. Walters, Esq.
Steve Hyde
Lezlie Farrell

Genesee County Economic Development Center has reviewed and agreed to the above terms of engagement of Phillips Lytle LLP for the purposes and to the extent described in this letter.

Genesee County Economic Development Center

By _____
Mark A. Masse, Senior Vice President of Operations

Date _____, 2022

ATTORNEYS AT LAW

DOUGLAS W. DIMITROFF, PARTNER DIRECT 716 847 5408 DDIMITROFF@PHILLIPSLYTLLE.COM

ONE CANALSIDE 125 MAIN STREET BUFFALO, NY 14203-2887 PHONE 716 847 8400 FAX 716 852 6100

NEW YORK: ALBANY, BUFFALO, CHAUTAUQUA, GARDEN CITY, NEW YORK, ROCHESTER | OHIO: CLEVELAND | WASHINGTON, DC

CANADA: WATERLOO REGION | PHILLIPSLYTLLE.COM

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**STAMP Project - 09/30/2022 Supplement to Phillips Lytle Engagement Letter
Updated Scope of Work
STAMP Tech Team Support Matter**

- I. Additional Fees for STAMP Tech Team Support (PL Matter # 33082.00035): GCEDC is involved in various review and approval processes for STAMP infrastructure projects including the on-site waste water treatment plant and force main, new water main from Niagara County, new water main to Plug Power, hold and haul tank for Plug Power, powerline reroute, substation, and Crosby Road improvements. These projects require approvals from various governmental agencies including the U.S. Army Corps of Engineers, the Niagara County Water District, and the New York State Department of Environmental Conservation ("NYSDEC"). Earlier this year, the NYSDEC determined that the STAMP Site is "occupied habitat" for certain threatened and endangered species. As a result, any development at STAMP will also require a take permit pursuant to 6 NYCRR Part 182 or reclassification from "occupied habitat." In addition, the GCEDC is engaged in on-going consultation to the Tonawanda Seneca Nation ("Nation") and must fulfill various obligations pursuant to a Letter of Resolution with NYSDEC and a settlement agreement with the Nation related to the Plug Power Project. Phillips Lytle will represent and assist GCEDC relative to the foregoing matters on an as needed basis including negotiations and permitting from regulatory agencies and consultation with the Nation. Phillips Lytle will also represent and assist GCEDC relative to any necessary local (Town) permitting approvals for STAMP Infrastructure.

Est. Additional 2022 Legal Fees: \$185,000*

* the foregoing scope of work and fees do not include assistance with any formal challenges to or litigation relating to the STAMP Site; and the estimated legal fees cover this scope of work through December 31, 2022.

Doc #10700417.1

Amended SEQR for STAMP for Modified Part 182 Permit

Discussion: On March 1, 2012, as Lead Agency under SEQR, the GCEDC Board approved the Findings Statement that concluded the GEIS process for the STAMP project. Since that time, there have been a number of changes to STAMP that weren't anticipated at the time SEQR was completed in 2016, a number of changes were made to the Project including changes to the STAMP master plan including an expansion of the footprint of STAMP, demolition of additional houses along Crosby Road, construction of a new municipal water system to serve the residents of the Town of Alabama, and construction of a new sewer force main to discharge wastewater from STAMP to the Village of Medina wastewater treatment plant, twelve miles north of the STAMP Site, as well as the reroute of on-Site powerlines to the western edge of the STAMP Site and in July of 2016 the Agency adopted an Amended Findings Statement to the FGEIS approving the 2016 Project Modifications in accordance with the requirements of the GEIS and SEQR; and in August of 2019, the Agency again considered certain infrastructure modifications to the Project and the Agency circulated a notice of intent to re-establish itself as lead agency pursuant to SEQR; and there were additional Project modifications reviewed in 2019, 2020 and 2022 including all actions necessary to undertake the following:

Having considered the Environmental Information, STAMP Environmental Record, and having considered the relevant environmental impacts, associated with continuing construction of the Powerline Reroute past November 1st, and having weighed and balanced the relevant impacts with social, economic and other considerations, the Agency recertifies that:

- (i) The requirements of 6 N.Y.C.R.R. Part 617 have been met; and
- (ii) Consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the Project remains one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts 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.

This Resolution, which is adopted by a majority vote of the Agency, shall serve as an Amended Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)), and is issued by the Agency pursuant to and in accordance with SEQRA, shall take effect immediately.

Fund commitment: None.

Committee action request: Recommend to the full Board that the Agency adopt the resolution as an Amended Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)), and is issued by the Agency pursuant to and in accordance with SEQRA, shall take effect immediately.

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT
AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER TO
AMEND A NEGATIVE DECLARATION PURSUANT TO THE STATE
ENVIRONMENTAL QUALITY REVIEW ACT CONCERNING CERTAIN PROPOSED
INFRASTRUCTURE IMPROVEMENTS TO THE WESTERN NEW YORK SCIENCE &
TECHNOLOGY ADVANCED MANUFACTURING PARK

Project Name: Infrastructure Improvements to the Western New York Science & Technology Advanced Manufacturing Park
Location: Town of Alabama, Genesee County, NY; Town of Shelby, Orleans County, NY (see location map attached to EAF) (“Site”)

WHEREAS, the Genesee County Industrial Development Agency d/b/a the Genesee County Economic Development Center (“GCEDC” or “Agency”), in conjunction with the Genesee Gateway Local Development Corporation (“GGLDC”), the non-profit real estate affiliate of the GCEDC have been working for more than a decade on the development of the Western New York Science & Technology Advanced Manufacturing Park (“STAMP” or the “Project”), an advanced manufacturing technology campus on approximately 1,262 acres located on the west side of New York State Route 63/77, approximately five miles north of the I-90/New York State Thruway (“STAMP Site”) in the Town of Alabama, New York (“Town”), and

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-e of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, renovating, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, in 2010, the Agency, acting as Lead Agency conducting a coordinated environmental review, commenced preparation of a generic environmental impact statement for STAMP consisting of the Draft Generic Environmental Impact Statement ("**DGEIS**") accepted by the Agency on April 14, 2011 and the Final Generic Environmental Impact Statement ("**FGEIS**") accepted by the Agency on January 19, 2012

WHEREAS, the GCEDC, as lead agency, issued a written Findings Statement ("**2012 GCEDC Findings**") on March 12, 2012 approving the Project and committing to undertake it (collectively, the DGEIS, the FGEIS and the 2012 GCEDC Findings are referred to as the "**STAMP GEIS**"); and

WHEREAS, the purposes of the STAMP GEIS were to identify and evaluate the potential significant adverse environmental impacts of STAMP, compare the reasonable alternatives, and, where applicable, to identify reasonable mitigation measures to reduce the effect of those impacts to the maximum extent practicable, while weighing the substantial potential social and economic benefits of STAMP; and

WHEREAS, the STAMP GEIS analyzed the impacts from full build out of STAMP consisting of the rezoning the entire STAMP Site from agricultural/residential use to industrial/advanced manufacturing use, and with constructing and operating 6,130,000 square feet of advanced technology manufacturing uses at full build-out, providing direct employment for over 9,000 people and certified that, consistent with social, economic and other essential considerations from among reasonable alternatives evaluated, STAMP avoided or minimized adverse environmental impacts to the maximum extent practicable; and

WHEREAS, the Agency prepared a smart growth impact statement ("**SGIS**") pursuant to the State Smart Growth Public Infrastructure Policy Act separately from the GEIS in February, 2012; and

WHEREAS, in 2016, a number of changes were made to the Project including changes to the STAMP master plan including an expansion of the footprint of STAMP, demolition of additional houses along Crosby Road, construction of a new municipal water system to serve the residents of the Town of Alabama, and construction of a new sewer force main to discharge wastewater from STAMP to the Village of Medina wastewater treatment plant ("**Medina Force Main**"), twelve miles north of the STAMP Site, as well as the reroute of on-Site powerlines to the western edge of the STAMP Site ("**Powerline Reroute**" and together with the Medina Force Main, the "**2016 Project Modifications**"); and

WHEREAS, the 2016 Project Modifications necessitated further environmental review and such review was undertaken by the Agency to determine whether the 2016

Project Modifications would result in any significant adverse environmental impacts not previously addressed in the FGEIS; and

WHEREAS, in July of 2016 the Agency adopted an Amended Findings Statement to the FGEIS ("**2016 Amended Findings**") approving the 2016 Project Modifications in accordance with the requirements of the GEIS and SEQR; and

WHEREAS in August of 2019, the Agency again considered certain infrastructure modifications to the Project and the Agency circulated a notice of intent to re-establish itself as lead agency pursuant to SEQR; and

WHEREAS, the Project modifications reviewed in 2019 and 2020 included all actions necessary to undertake the construction of the STAMP wastewater treatment facility, force main, water line, and substation (collectively, the "**Project Infrastructure**"); and

WHEREAS, in August of 2020, the Agency adopted an Amended Findings Statement to the FGEIS ("**2020 Amended Findings**") approving the 2020 Project Modifications in accordance with the requirements of the GEIS and SEQR; and

WHEREAS, in February of 2021, the Agency adopted a SEQR determination ("**2021 SEQR Determination**") that the proposed use of a portion of the STAMP Site for a hydro-powered electrolysis hydrogen production facility ("**Project Gateway**") would be carried out in conformance with the conditions and thresholds set forth in the STAMP GEIS, as amended; and

WHEREAS, earlier this year, the Agency elected to undertake an updated review of, among other things, the Powerline Reroute with respect to this additional environmental analysis to determine if a supplemental GEIS is warranted under the circumstances (the "**2022 SEQR Update**"); and

WHEREAS, in connection with the 2022 SEQR Update, in June of 2022, the Agency circulated a notice of intent to re-establish itself as lead agency pursuant to SEQR for purposes of undertaking the 2022 SEQR Update; and

WHEREAS, all involved agencies consented, or did not respond and were deemed to have consented, to the Agency acting as lead agency and thus, the Agency has properly been established as the lead agency for purposes of these infrastructure improvements; and

WHEREAS, on July 21, 2022, upon the Agency's review of the Environmental Information and investigations of the potential environmental impacts associated with the Project Infrastructure, considering both the magnitude and importance of each

potential environmental impact indicated, and upon the Agency's knowledge of the STAMP Site and surrounding area and such further investigations of the Project Infrastructure and its environmental effects as the Agency has deemed appropriate, the Agency determined that, while the Project Infrastructure was not addressed or not adequately addressed in the STAMP GEIS, and the Project Infrastructure exceeds thresholds set forth in the STAMP GEIS, the Environmental Information demonstrates that the Project Infrastructure will not result in any potential significant adverse environmental impacts, and, pursuant to the STAMP GEIS, a Negative Declaration was issued pursuant to 6 N.Y.C.R.R. § 617.10(d)(3) ("**2022 Negative Declaration**"); and

WHEREAS, pursuant to 6 N.Y.C.R.R. § 617.7(e)(1) at any time prior to its decision to undertake, fund or approve an action, a lead agency, at its discretion, may amend a negative declaration when new information is discovered and the lead agency determines that no significant adverse environmental impacts will occur; and

WHEREAS, at its meeting on August 4, 2022, the Agency resolved to amend the 2022 Negative Declaration to include responses to substantive comments received from The Tonawanda Seneca Nation ("Nation"), to provide further clarification, and to document the Agency's hard look at the concerns raised by the Nation ("**2022 Amended Negative Declaration**"); and

WHEREAS, together, the GEIS, the 2012 GCEDC Findings, the SGIS, the 2016 Amended Findings, the 2020 Amended Findings, the 2021 SEQDR Determination, 2022 Negative Declaration, and 2022 Amended Negative Declaration constitute the prior environmental reviews for STAMP (collectively, these documents, including each and every supporting document referenced therein, are referred to as the "**STAMP Environmental Record**"); and

WHEREAS, on September 3, 2022, NYSDEC issued various permits relating to the Project, including a certain Incidental Take Permit pursuant to Part 182 ("**Take Permit**") which authorized the Agency to construct the STAMP substation and laydown area past November 1, 2022 including the incidental take of certain species as described therein; and

WHEREAS, due to the issuance of the Take Permit so late in the construction season, construction of the Powerline Reroute must now necessarily include construction past November 1, 2022 which activity was not authorized by the Take Permit;

WHEREAS, any construction activity on the Powerline Reroute past November 1st will require an amendment to the Take Permit; and

WHEREAS, the Agency has filed an application with NYSDEC to amend the Take Permit to authorize continuing construction of the Powerline Reroute past November 1st; ("**Take Permit Modification**"); and

WHEREAS the Take Permit Modification includes certain proposed mitigation measures required to demonstrate a new conservation benefit for winter raptors; and

WHEREAS, the Agency has determined, as part of its on-going obligations under SEQRA, that it is appropriate to evaluate the significance of potential environmental impacts associated with continuing construction of the Powerline Reroute past November 1st, particularly any potential impacts upon winter raptors which may use the STAMP Site during colder season months (November through March/ April); and

WHEREAS, to aid the Agency in evaluating the significance of potential environmental impacts associated with continuing construction of the Powerline Reroute past November 1st, the Agency has completed, received and/or reviewed:

- (1) the STAMP Environmental Record;
- (2) the Take Permit;
- (3) an Incidental Take Permit Application submitted to NYSDEC (together with all related studies undertaken to date, the "**Modification Application**");
- (4) other relevant environmental information (collectively, 1-4, together with all analysis and supporting documentation referenced therein or relied upon thereby, are incorporated by reference herein in their entirety and shall be referred to as the "**Environmental Information**"); and

WHEREAS, a thorough analysis of the Environmental Information and potential environmental impacts reveals that it is appropriate that the Agency issue an amended negative declaration pursuant to 6 N.Y.C.R.R. § 617.10(d)(3) and 6 N.Y.C.R.R. § 617.7(e)(1) for the Powerline Reroute with respect to potential environmental impacts associated with continuing construction of the Powerline Reroute past November 1st.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. Based upon a thorough review and examination of the Powerline Reroute and the Environmental Information, and upon the Agency's knowledge of the area surrounding the STAMP Site and such further investigation of the Powerline Reroute and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Powerline Reroute:

- (A) The Project remains a Type I Action;

- (B) The Agency, as Lead Agency for the Project, has undertaken a coordinated review of the Project Infrastructure (including the Powerline Reroute) in accordance with SEQR and the STAMP GEIS, as amended; and

Section 2. Based upon the Agency's review of the Environmental Information and investigations of the potential environmental impacts associated with continuing construction of the Powerline Reroute past November 1st, considering both the magnitude and importance of such potential environmental impact, and upon the Agency's knowledge of the STAMP Site and surrounding area and such further investigations of the Powerline Reroute and its environmental effects as the Agency has deemed appropriate, the Agency has determined that, while the potential environmental impacts associated with continuing construction of the Powerline Reroute past November 1st are not addressed or not adequately addressed in the STAMP GEIS, the Environmental Information demonstrates that potential environmental impacts associated with continuing construction of the Powerline Reroute past November 1st will not result in any potential significant adverse environmental impacts, and thus, pursuant to the STAMP GEIS, the 2022 Amended Negative Declaration, Section 2.8, is hereby amended to include the following analysis pursuant to 6 N.Y.C.R.R. § 617.10(d)(3) and 6 N.Y.C.R.R. § 617.7(e)(1)

1. Impact on Plants and Animals.

The STAMP GEIS previously identified the presence of the Short-Eared Owl and Northern Harrier (together, the "**Winter Raptors**") on the northwestern portion of the STAMP Site, however, in response to a request from NYSDEC, the Agency undertook updated field screening of the STAMP Site starting during the winter of 2021. While no breeding activity was observed, nine Winter Raptors (four Short-Eared Owl and five Northern Harrier) were observed foraging on the STAMP Site, including activity in the northwestern edge of the Site. As detailed in the Environmental Information, including the Modification Application, Winter Raptors are not geocentric - they do not return to the same location every year. Notably, the Winter Raptors were previously identified as foraging adjacent to the STAMP Site, as there are thousands of acres of suitable habitat available in the surrounding areas, including state and federally protected habitat on the nearby John White Wildlife Management Area, Iroquois National Wildlife Refuge, Tonawanda Wildlife Management Area, and Oak Orchard Wildlife Management Area, which include the preferred habitat for the Winter Raptors.

Following receipt of initial reports from the Agency, NYSDEC determined that portions of the STAMP Site constitute "Occupied Habitat" for the Winter Raptors, and that permanent impacts to the same may require an Incidental

Take Permit pursuant to Part 182. The Agency (through its environmental consultant) then prepared and submitted the original take permit application, which was approved and resulted in the issuance of the Take Permit. The Take Permit authorizes the Agency to construct the STAMP substation and laydown area, year-round, within Occupied Habitat and to permanently remove such habitat. To mitigate any potentially adverse impacts associated with the loss of such habitat, the Take Permit provides that the Agency shall establish new and improved habitat to replace the lost habitat. 25 acres of land on the STAMP Site have been set aside for a term of 7 years to serve as mitigation for potential impacts, including 11.5 acres of land that has transitioned into an old field/shrubland matrix that will be mowed/brush-hogged, with treatment and successional mowing thereafter as needed to allow grass and forb species to establish. The mitigation site is located on the STAMP Site, is owned by the Agency, and is located approximately 700' from the adjacent grasslands at the John White Wildlife Management Area. The Agency has consulted closely with NYSDEC to ensure that the approved mitigation plan confers a net conservation benefit to the Winter Raptors, as required by Part 182. As the 2022 Amended Negative Declaration recites, the Winter Raptors prefer open fields of 25 or more acres, and the Take Permit includes provisions for creating the appropriate conditions for the species on the mitigation parcel and maintaining the mitigation parcel as suitable habitat.

Notably, NYSDEC originally confirmed in the NYSDEC Part 182 Response on Electrical Infrastructure that the Powerline Reroute (including its associated laydown area) would not require any additional permitting due to the minor and temporary nature of the disturbance associated with that project. However, due to delays in NYSDEC permitting, the Powerline Reroute construction schedule now extends past November 1, 2022. The Powerline Reroute will temporarily impact approximately 19 acres of NYSDEC-designated "occupied habitat" for the Winter Raptors for one winter. However, the likelihood of any significant impact on the Winter Raptors from the Powerline Reroute is relatively low - the STAMP Site has ongoing, authorized construction planned throughout this winter (), the crops grown on the STAMP Site have largely rotated to row crops (which are less favorable to the Winter Raptors as habitat), and thousands of acres of suitable habitat exists adjacent to the STAMP Site, as noted above. In addition, the Powerline Reroute construction schedule has been condensed to the greatest extent possible to reduce the duration of disturbance to the Site. The majority of earth disturbance will occur and be completed within October, prior to the start of the Winter Raptor foraging period. Once construction is completed, Winter Raptors will be able to utilize the previously impacted area for foraging (as they currently utilize the area occupied by the existing

powerlines). Nevertheless, NYSDEC has determined that a modified Take Permit is necessary due to the extension of construction activities past November 1, 2022.

As a result, the Agency has submitted the Modification Application in order to provide for additional mitigation in order to ensure that a "Net Conservation Benefit" is achieved for the Winter Raptors. The Modification Application proposes to mitigate the temporary impacts resulting from construction activities by extending the term of the mitigation obligations of the Take Permit for an additional year. This results in 25 acres of additional habitat which more than offsets the temporary disturbance associated with the Powerline Reroute construction activities.

Accordingly, continuing construction of the Powerline Reroute past November 1st will not create any significant adverse impacts to plants, animals or natural communities, or wildlife habitat that were not analyzed in the STAMP Environmental Record. In fact, the additional mitigation measures proposed in connection with the Amended Take Permit Application will ensure a net conservation benefit to the Winter Raptors.

Section 3. Having considered the Environmental Information, STAMP Environmental Record, and having considered the relevant environmental impacts, associated with continuing construction of the Powerline Reroute past November 1st, and having weighed and balanced the relevant impacts with social, economic and other considerations, the Agency recertifies that:

- (i) The requirements of 6 N.Y.C.R.R. Part 617 have been met; and
- (ii) Consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the Project remains one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts 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.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to

cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 5. This Resolution, which is adopted by a majority vote of the Agency, shall serve as an Amended Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)), and is issued by the Agency pursuant to and in accordance with SEQRA, shall take effect immediately.

Section 6. For further information on this Determination of Significance/ Amended Negative Declaration contact:

Mark Masse
99 MedTech Drive, Suite 106
Batavia, New York 14020
Phone: 585-343-4866
Email: mmasse@gcedc.com

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

The foregoing Resolution was thereupon declared duly adopted.