

INCENTIVE ZONING AGREEMENT
FOR STAMP

This Agreement, dated as of this 10th day of December, 2012, is made between the Town of Alabama ("Town") acting through its Town Board ("Town Board"), having an address of 2218 Judge Road, Oakfield, NY 14125 and the Genesee Gateway Local Development Corporation, its successors and assigns ("GGLDC") and the Genesee County Economic Development Center, its successors and assigns ("GCEDC"), both having an address of Dr. Bruce A. Holm Upstate MedTech Centre, 99 MedTech Drive, Suite 106, Batavia, NY 14020.

WHEREAS, the Town is empowered pursuant to New York State Town Law § 261-b and §§ 1100-1105 of the Town Zoning Law to grant zoning incentives, including decreases in required minimum lot sizes, changes of use or zoning classifications, changes in set backs or height or any other changes in the provisions of the Zoning Law, in exchange for the provision of certain public amenities which inure to the benefit of the community as a whole including parks, public utilities, cultural facilities or other facilities or benefits to the residents of the community;

WHEREAS, in 2010, the Town commissioned a Public Water Feasibility Study, which identified a need for the Water Project involving the installation of a public water system to protect public health and safety by providing municipally-supplied water to approximately 70% of the households in the Town at a total estimated cost in excess of \$5.2 million;

WHEREAS, in 2011, the Town commissioned an update to its Public Water Feasibility Study, which confirmed the feasibility of expanding the Water Project to an additional 22 households on Ham Road at a total estimated cost in excess of \$6.1 million;

WHEREAS, in addition to the Water Project, the Town has a need for Town Capital Projects including: the relocation, development and construction of a new Alabama Town Hall; the development and construction of a community center, recreational center and/or museum; additional improvements to public water infrastructure (in addition to the Water Project); improvements to public sewers and related infrastructure within the Town; improvements to broadband service within the Town; improvements to the Town Highway Garage; improvements to or development of new parkland or public recreational trails; and acquisition of Farmland Development Rights within the Town to protect farmland and open space as detailed in the STAMP Farmland Protection Strategies Report;

WHEREAS, the Town lacks sufficient funding to undertake the Water Project and/or the Town Capital Projects;

WHEREAS, GGLDC and GCEDC, with support from other State and local economic development agencies, are proposing the development of STAMP to be located in the Town on the STAMP Site;

WHEREAS, GGLDC and GCEDC will develop STAMP in phases with the Initial Phase consisting of up to approximately 1,000,000 square feet of building space along with certain other related public and private improvements;

WHEREAS, GGLDC's and GCEDC's current plans for subsequent phases of STAMP provide for the development of approximately 5,130,000 square feet of additional building space (a total of approximately 6,130,000 square feet of building space);

WHEREAS, in order to implement the Initial Phase and all subsequent phases of STAMP, GGLDC and GCEDC intend to market the Stamp Developable Land to key target industries in advanced manufacturing and other related sectors and/or support services and anticipate selling STAMP Developable Land at an approximate value of \$100,000 per acre;

WHEREAS, to accommodate the development of STAMP, and in exchange for creating certain zoning incentives consisting of the creation of a special technology zoning district for STAMP which will govern all development on the STAMP Site, GGLDC and GCEDC will provide to the Town the STAMP Zoning Amenities (as herein defined);

WHEREAS, GCEDC, as Lead Agency, completed an evaluation of the impacts of the proposed zoning amendments in conjunction with a GEIS that analyzed the potential impacts of STAMP pursuant to the requirements of the SEQR;

WHEREAS, the Town Board participated in the GEIS process as an involved agency;

WHEREAS, both GCEDC and the Town Board have issued favorable SEQR findings for STAMP;

WHEREAS, on October 11, 2012, the Town Board held a public hearing regarding the transactions contemplated by this Agreement, the related zoning changes to the STAMP Site and the associated amendments to the Town Comprehensive Plan necessary to accommodate STAMP;

WHEREAS, on December 10, 2012, the Town Board approved amendments to the Town Comprehensive Plan necessary to accommodate STAMP and, in conjunction therewith, made all necessary findings to approve this Agreement as required by Town Law § 261-b and § 1104 of the Zoning Law;

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town, GGLDC and GCEDC agree as follows:

Section 1. Definitions. Notwithstanding anything to the contrary herein, the following terms used in this Agreement shall have the meanings set forth below.

- A. **Agreement** shall mean this Incentive Zoning Agreement for STAMP including all amendments and modifications hereof.
- B. **Effective Date** shall mean the later of the dates on which the Town, GGLDC and GCEDC have executed and delivered this Agreement.
- C. **Full Build Out** shall mean the date upon which all STAMP Developable Land (as defined below) has been sold, built out and developed to the maximum density allowable under this Agreement and/or applicable law.
- D. **GCEDC** shall mean the Genesee County Economic Development Center and successors and assigns.
- E. **GEIS** shall mean the STAMP Generic Environmental Impact Statement prepared pursuant to the requirements of SEQR.
- F. **GGLDC** shall mean the Genesee Gateway Local Development Corporation, and successors and assigns.
- G. **Initial Phase** shall mean the first phase of development of STAMP to consist of up to approximately 1,000,000 square feet of building space along with certain other related public and private improvements, all as determined by GGLDC and GCEDC.
- H. **SEQR** shall mean the State Environmental Quality Review Act and the rules and regulations promulgated thereunder.
- I. **STAMP** shall mean the WNY Science & Technology Advanced Manufacturing Park, an advanced technology campus accommodating over 6 million square feet of Technology Manufacturing and Technology Manufacturing Support to be located on

approximately 1,243 acres of land in the Town of Alabama, County of Genesee, State of New York, along New York State Highway 77/63, approximately five miles north of the I-90/New York State Thruway.

J. **STAMP Developable Land** shall mean the land within the STAMP Site to be developed as determined by GGLDC and GCEDC, currently consisting of approximately 600 acres, but subject to adjustment (upwards or downwards) as various regulatory processes for STAMP proceed.

K. **STAMP Site** shall mean the land along New York State Highway 77/63 near the Hamlet of Alabama where STAMP will be developed as shown on the map attached hereto as *Exhibit 1*.

L. **STAMP Zoning Amenities** shall mean the community benefits or amenities that GGLDC and GCEDC shall provide to the Town pursuant to Section 2 of this Agreement.

M. **STAMP Zoning Incentives** shall mean the zoning incentives to be granted by the Town Board to GGLDC and GCEDC pursuant to Section 3 of this Agreement.

N. **Technology Manufacturing** shall mean the use, research and development, demonstration, manufacturing and/or distribution of advanced technologies in modern industries such as energy, communications, information and computing technologies, pharmaceuticals and life sciences, including but not limited to semiconductors and semiconductor devices, computing technology and data centers, flat panel display technology and components including light emitting diodes and liquid crystal display, renewable energy, solar photovoltaics, and any related enabler technologies that employ advanced manufacturing techniques and/or resources such as microtechnology or nanotechnology or other manufacturing, industrial or commercial uses appropriate to STAMP.

O. **Technology Manufacturing Support** shall mean support services to Technology Manufacturing including but not limited to office buildings, professional offices, light industrial uses, warehousing and distribution, museum, community and cultural facilities, technology or environmental demonstration facilities and establishments which provide on-site support services to personnel employed at STAMP including but not limited to hotel/motel, retail trade, restaurant, personal services businesses, medical/health related services, offices, banks, shopping center, community center, child day care facility, drive-in business, motor vehicle repair shop, gasoline station and/or gasoline station-market.

- P. **Town** shall mean the Town of Alabama.
- Q. **Town Board** shall mean the Town Board of the Town of Alabama.
- R. **Town Capital Projects** shall mean community benefits or amenities including physical, social or cultural amenities which the Town Board determines, in its sole and absolute discretion, to provide to the Town and its citizens from cash payments made by GGLDC and GCEDC to the Town under the terms of this Agreement and for which the Town has a current need including: the relocation, development and construction of a new Alabama Town Hall; the development and construction of a community center, recreational center and/or museum; additional improvements to public water infrastructure (the Water Project); improvements for public sewers and related infrastructure within the Town; improvements to broadband service within the Town; improvements to the Town Highway Garage; improvements to or development of new parkland or public recreational trails; and, acquisition of Farmland Development Rights within the Town to protect farmland and open space as detailed in the STAMP Farmland Protection Strategies Report.
- S. **Town Comprehensive Plan** shall mean the Oakfield Alabama Comprehensive Plan completed in 2005 by the Town of Alabama, the Village of Oakfield and the Town of Oakfield.
- T. **Town Hall Land** shall mean up to THREE (3) acres of STAMP Developable Land to be transferred to the Town for the purpose of relocating the Town Hall and constructing a new Town Hall on such land.
- U. **Town Law** shall mean New York State Town Law.
- V. **Water Infrastructure** shall mean the public water infrastructure which is necessary for the Water Project described in the Town's Public Water Feasibility Study dated March 8, 2010, and revised July 27, 2011, which infrastructure is more particularly specified in detail in *Exhibit 2* attached hereto.
- W. **Water Project** shall mean a public water service project pursuant to and consistent with the Public Water Feasibility Study dated March 8, 2010, and revised July 27, 2011, completed for the Town Board to protect public health and safety by providing municipally supplied water to approximately 70% of the households in the Town.
- X. **Zoning Law** shall mean the Town of Alabama Zoning Law.

Section 2. STAMP Zoning Amenities. In exchange for the STAMP Zoning Incentives, GGLDC and GCEDC shall provide the following to the Town:

A. GGLDC and GCEDC shall commence necessary planning and design work on the Water Infrastructure at its own expense within sixty (60) days after GGLDC and/or GCEDC receive funding designated for the Water Project and shall install the Water Infrastructure in conformity with all material and construction specifications required by the Monroe County Water Authority within twelve months of the receipt of funding designated for the Water Project. Once installation of the Water Infrastructure is complete, ownership of the Water Infrastructure shall be transferred by GGLDC and/or GCEDC to the Town at no cost to the Town. Prior to installation of the Water Infrastructure by GGLDC and GCEDC, the Town Board shall create appropriate water districts for the Water Project and obtain all necessary approvals including all required governmental agency approvals related to the Water Project at Town expense. The Town shall be obligated to create the appropriate water districts within ninety (90) days after GGLDC and/or GCEDC receive funding for the Water Project

1. The Town shall obtain all necessary approvals from all necessary entities required for establishment of the Water Districts at its own cost and expense.
2. The GGLDC and GCEDC shall not be required to install any distribution system in any area in which there does not exist an established water district, but shall be required to commence such installation within sixty (60) days of such establishment and complete such establishment within one hundred eighty (180) days thereof.
3. The GGLDC and GCEDC may proceed to develop and may complete the development of STAMP prior to the completion of the installation of the distribution portion of the Water Infrastructure, if, and only if, water districts have not been established.

B. Within THIRTY (30) days after the receipt of the net sale proceeds from each sale of portions of the STAMP Developable Land by GGLDC and GCEDC, shall pay to the Town (i) an amount equivalent to FIVE PERCENT (5%) of the gross sale proceeds received by GGLDC and GCEDC from the sale of the first TWO HUNDRED (200) acres of STAMP Developable Land sold by GGLDC and GCEDC (or their successors or assigns), in conjunction with the development of STAMP, and (ii) THREE PERCENT (3%) of the gross sale proceeds received by GGLDC and GCEDC from the sale of the remainder of STAMP Developable Land sold by GGLDC and GCEDC (or their successors or assigns), in conjunction with the development of STAMP, which funds

shall be used by the Town for Town Capital Projects at such time and in such manner as the Town Board deems appropriate. As used herein, the term "gross sale proceeds" shall mean the sale proceeds received by GGLDC and GCEDC without deduction of any and all sale related expenses and closing costs incurred by GGLDC and GCEDC associated with the sale of STAMP Developable Land. In addition, upon final completion of construction of the Initial Phase, GGLDC and GCEDC will pay the Town the sum of EIGHT HUNDRED THOUSAND DOLLARS (\$800,000), which funds shall be used by the Town for Town Capital Projects at such time and in such manner as the Town deems appropriate.

C. Upon written request by the Town Board, which request must be made within TWENTY (20) years following the date of this Agreement, GGLDC and GCEDC shall grant to the Town, fee title of up to THREE (3) acres of STAMP Developable Land for the purpose of the Town relocating the Town Hall and constructing a new Town Hall on such land ("Town Hall Land"). GGLDC and GCEDC's obligation to transfer the Town Hall Land to the Town is contingent upon: (i) GGLDC and GCEDC first completing construction of the Initial Phase of STAMP; (ii) GGLDC and GCEDC being the fee owner of the land requested by the Town Board which shall be conveyed to the Town by bargain and sale deed with covenant against grantor's acts, "as is" "where is," with no representations or warranties express or implied of any kind; and, (iii) the specific location of such land within the STAMP Site being mutually agreed upon by the Town Board and GGLDC and GCEDC. The consideration for the transfer of the Town Hall Land by GGLDC and GCEDC to the Town shall be the Town's performance of its obligations under Section 3 below and the Town shall not be required to pay any monetary consideration for the Town Hall Land. In the event that the parties are unable to mutually agree on the specific location of such land within TWENTY-ONE (21) years following the date of this Agreement, the Town Board's option to acquire the land shall be terminated and the GGLDC and GCEDC shall pay the Town TWO HUNDRED THOUSAND DOLLARS (\$200,000), which funds shall be used by the Town for Town Capital Projects at such time and in such manner as the Town Board deems appropriate.

D. GGLDC and GCEDC shall request that any communications service providers for the Initial Phase of STAMP install or cause to be installed broadband communications infrastructure to STAMP in a manner that would facilitate expansion of such service to other portions of the Town. GGLDC and GCEDC makes no representation or warranties to the Town as to whether and to what extent broadband infrastructure may be installed or expanded within the Town.

Section 3. STAMP Zoning Incentives. In exchange for the STAMP Zoning Amenities, and by approval of this Agreement, the Town Board is acting to:

- A. Adopt the Comprehensive Plan amendment attached hereto as *Exhibit 3*;
- B. Amend the Zoning Law to rezone the STAMP Site to "Technology District" as set forth on the zoning map attached hereto as *Exhibit 4* and the zoning laws applicable to the STAMP Site shall be the STAMP Technology District - TD Zoning Regulations attached hereto as *Exhibit 5*.
- C. Acknowledge and agree that all land use development at the STAMP Site shall be governed by *Exhibits 3, 4 and 5* attached hereto and the Town shall not enact any changes to the Comprehensive Plan or Zoning Law relative to the STAMP Site until Full Build Out.
- D. Upon rezoning the STAMP Site, adopt a resolution requesting that the County Legislature amend the County Smart Growth Plan to include the STAMP Site within a designated development area.

Section 4. Termination of STAMP Zoning Incentives.

A. By the Town.

If, within TWENTY-FIVE (25) years after the Effective Date, GGLDC and GCEDC have not provided the Town with all STAMP Zoning Amenities, the Town Board shall have the right (subject to Section 5 of this Agreement), but not the obligation, to terminate this Agreement by providing ONE HUNDRED AND EIGHTY (180) days prior written notice to GGLDC and GCEDC that the Town intends to terminate this Agreement. Upon expiration of the ONE HUNDRED AND EIGHTY (180) day period, unless GGLDC and GCEDC acts pursuant to Section 5, this Agreement shall terminate and the Town may rezone any portions of the STAMP Site that have not been sold prior to the expiration of the ONE HUNDRED AND EIGHTY (180) day period to a third party for development to the zoning designation Agricultural-Residential District or to the most similar agriculturally-based district if an "Agricultural-Residential" District no longer exists under the Zoning Law. Upon such termination, the GGLDC and GCEDC shall have no further obligations or liability to the Town pursuant to this Agreement and the Town shall have no further obligations or liability to the GGLDC and GCEDC pursuant to this Agreement except that it shall continue to provide the STAMP Zoning Incentives to any STAMP Developable Land that was transferred to a third party prior to termination of the Agreement for a period of TEN (10) years from the date of termination.

B. By GGLDC and GCEDC.

If, at any time prior to providing the Town with any or all of the STAMP Zoning Amenities, GGLDC and GCEDC determines, in its sole and absolute discretion, that it will not develop or further develop Technology Manufacturing or Technology Manufacturing Support at the STAMP Site or for any other reason, GGLDC and GCEDC shall have the right to terminate this Agreement by providing written notice of same to the Town Board, in which case this Agreement shall terminate immediately. In the event of termination by GGLDC and GCEDC, the Town Board shall have the right, but not the obligation, to rezone any portions of the STAMP Site that have not been sold to a third party for development to the zoning designation Agricultural-Residential District or to the most similar agriculturally based district if an "Agricultural-Residential" District no longer exists under the Zoning Law. Upon such termination, neither party shall have any further liability, rights or responsibilities relative to the other pursuant to this Agreement.

Section 5. Completion of STAMP Zoning Amenities as Alternative to Termination. In the event that the Town Board elects to terminate this Agreement pursuant to Section 4A, GGLDC and GCEDC, shall have the right, at its discretion, to provide the Town with any remaining STAMP Zoning Amenities required to be provided to the Town pursuant to Section 2 of this Agreement within the ONE HUNDRED AND EIGHTY (180) day period set forth in Section 4A of this Agreement. In the event that GGLDC and GCEDC provides the Town with any remaining STAMP Zoning Amenities required to be provided to the Town pursuant to Section 2 of this Agreement within the ONE HUNDRED AND EIGHTY (180) day period set forth in Section 4A, this Agreement shall not terminate and shall remain in effect, and all STAMP Zoning Incentives shall remain in full force and effect. For purposes of determining any remaining STAMP Zoning Amenities owed to the Town:

A. To the extent that GGLDC and GCEDC has not installed Water Infrastructure due to causes beyond GGLDC and GCEDC's control, including that the Town Board failed to create appropriate water districts for the Water Project or failed to obtain all necessary approvals related to the Water Project, GGLDC and GCEDC shall have no obligation to install or pay the costs for installing the Water Infrastructure;

B. To the extent that GGLDC and GCEDC has not sold SIX HUNDRED (600) acres of STAMP Developable Land, remaining cash payments associated with the sale of STAMP Developable Land owed to the Town as STAMP Zoning Amenities shall be calculated as follows:

1. Five Thousand Dollars per acre of unsold STAMP Developable Land from the first 200 acres of STAMP Developable Land (such that the maximum payment to

the Town under this Section 5.B.1 shall be ONE MILLION DOLLARS (\$1,000,000.00)); and

2. Three Thousand Dollar per acre of unsold STAMP Developable Land from the remainder of STAMP Developable Land up to four hundred (400) acres (such that the maximum payment to the Town under this Section 5.B.2 shall be ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00)).

C. To the extent that GGLDC and GCEDC has not transferred the Town Hall Land to the Town, GGLDC and GCEDC shall pay the Town TWO HUNDRED THOUSAND DOLLARS (\$200,000) in satisfaction of such obligation.

Section 6. Expiration. This Agreement shall expire upon Full Build Out. While the Town shall have no further obligations once this Agreement has expired, the Town will take any development that has taken place at the STAMP Site during the life of this Agreement and all land use activities occurring at the STAMP Site into account in determining any future land use regulations for the STAMP Site.

Section 7. Cooperation. The parties hereto shall cooperate with one another, in good faith, to effectuate the purposes of this Agreement, and each party agrees to take such actions, and to execute and deliver to one another such documents, as one party may reasonably request of the other, so as to carry out more effectively and completely the purposes of this Agreement. Each party shall bear its own costs in cooperating with the other.

Section 8. Dispute Resolution. If a party to this Agreement has reasonable grounds to believe that the other party hereto has failed to perform any obligation hereunder, such party shall promptly notify the other party in writing of the substance of its belief. The party receiving such notice must respond in writing within thirty (30) days of receipt of such notice and either provide evidence of cure of such failure, or provide an explanation of why it believes that its performance is in accordance with the terms and conditions of this Agreement, and also specify three (3) dates, all of which must be business days within sixty (60) days from the date of its response, for a meeting of the designated representatives of the parties, each of whom shall have the authority to resolve and settle the dispute. The party claiming failure of performance shall then select one (1) of the three (3) dates, and a dispute resolution meeting shall be held. If the parties cannot, in good faith discussions, resolve their dispute, they shall be free to pursue all remedies allowed at law and/or in equity without prejudice.

Section 9. Waiver. A waiver of any of the terms and conditions hereof shall not be deemed a continuing waiver, but shall apply solely to the instance to which the waiver is directed. No waiver of any of the terms of this Agreement shall be valid unless in

writing and designated as such. Any forbearance or delay on the part of either party in enforcing any of its rights under this Agreement will not be construed as a waiver of such right to enforce same for such occurrence or any other occurrence.

Section 10. Entire Agreement. The entire agreement of the parties involving the subject matter of this Agreement is contained herein (including the Exhibits and the documents expressly referenced herein). There are no other promises, representations, or warranties affecting this Agreement.

Section 11. Amendments. No modification or waiver of this Agreement shall bind either party unless expressly set forth in writing and manually signed and accepted by an authorized representative of the party sought to be bound by such writing.

Section 12. Word Usage. As used in this Agreement, the word "including" and variations thereof shall be deemed to be followed by the words "without limitation".

Section 13. Construction. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

Section 14. Obligations of GGLDC and GCEDC. The obligations and agreements of GGLDC and GCEDC contained in this Agreement and in any other document or instrument executed in connection with this Agreement, and any other document or instrument supplemental thereto or hereto, shall be deemed the obligations and agreements of GGLDC and GCEDC, and not of any member, officer, agent, servant or employee of GGLDC and GCEDC in his individual capacity, and the members, officers, agents, servants and employees, past, present and future, of GGLDC and GCEDC shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of GGLDC and GCEDC contained herein and therein shall not constitute or give rise to an obligation of the State of New York or the County of Genesee and the State of New York and the County of Genesee shall not be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of GGLDC and GCEDC, but rather shall constitute limited obligations of GGLDC and GCEDC payable solely from the revenues of GGLDC and GCEDC derived and to be derived for the purposes of developing STAMP or from the lease, sale or other disposition of GGLDC and GCEDC's interest in the STAMP Site.

Section 15. Specific Performance. No order or decree of specific performance with respect to any of the obligations of GGLDC and GCEDC hereunder shall be sought or enforced against GGLDC and GCEDC unless (A) the party seeking such order or decree

shall first have requested GGLDC and GCEDC in writing to take the action sought in such order or decree of specific performance, and thirty (30) business days shall have elapsed from the date of receipt of such request, and GGLDC and GCEDC shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than thirty (30) business days, shall have failed to institute and diligently pursue action to cause compliance with such request within such 30 business day period) or failed to respond within such notice period, (B) if GGLDC and GCEDC refuses to comply with such request and GGLDC and GCEDC's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with GGLDC and GCEDC an amount or undertaking sufficient to cover such fees and expenses, and (C) if GGLDC and GCEDC refuses to comply with such request and GGLDC and GCEDC's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents, servants or employees, past, present or future, shall be subject to potential liability, the party seeking such order or decree shall (i) agree to indemnify, defend (with counsel selected by GGLDC and GCEDC) and hold harmless GGLDC and GCEDC and its members, officers, agents, attorneys, servants and employees, past, present and future, against any liability incurred as a result of its compliance with such demand, and (ii) if requested by GGLDC and GCEDC, furnish to GGLDC and GCEDC satisfactory security to protect GGLDC and GCEDC and its members, officers, agents (other than the Company), servants and employees, past, present and future, against all liability expected to be incurred as a result of compliance with such request.

Section 16. Force Majeure. No party hereto shall be liable to any other for default or delay in the performance of any of their obligations hereunder due to act of God, accident, fire, flood, storm, riot, war, act of terrorism, sabotage, explosion, strike, concerted acts of workers, national defense requirements, governmental law, ordinance, rule or regulation (whether valid or invalid), act of any governmental body, extraordinary failure of equipment or apparatus, inability to obtain electricity or other type of energy, feedstock, raw or finished material from normal sources of supply, labor, equipment, transportation, permits, or licenses, or any similar or different contingency beyond its reasonable control which would prevent or delay performance or make performance commercially impracticable whether or not the contingency is of the same class as those enumerated above, it being expressly agreed that such enumeration shall be nonexclusive, provided however that neither business downturn nor economic conditions shall qualify as a contingency within the meaning of this paragraph.

Section 17. Applicable Law. This Agreement shall be governed by the internal laws of the State of New York, without regard to principles of conflicts of law. **THE TOWN AND GGLDC AND GCEDC HEREBY WAIVE, TO THE FULLEST EXTENT**

PERMITTED BY LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS AGREEMENT.

Section 18. PILOTS. GGLDC and GCEDC shall not, under any circumstances, enter into or otherwise grant or issue any Payment in Lieu of Taxes ("PILOT") payment contracts (sale/leaseback; lease/leaseback or otherwise) to abate payment of local real property taxes for any entity locating on real property located in Technology District 3 (TD-3) as shown on *Exhibit 4* to this Agreement (zoning map).

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

TOWN OF ALABAMA

By: 
Town Supervisor

**GENESEE GATEWAY LOCAL
DEVELOPMENT CORPORATION**

By: _____
President



**GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER**

By: _____
Title: _____

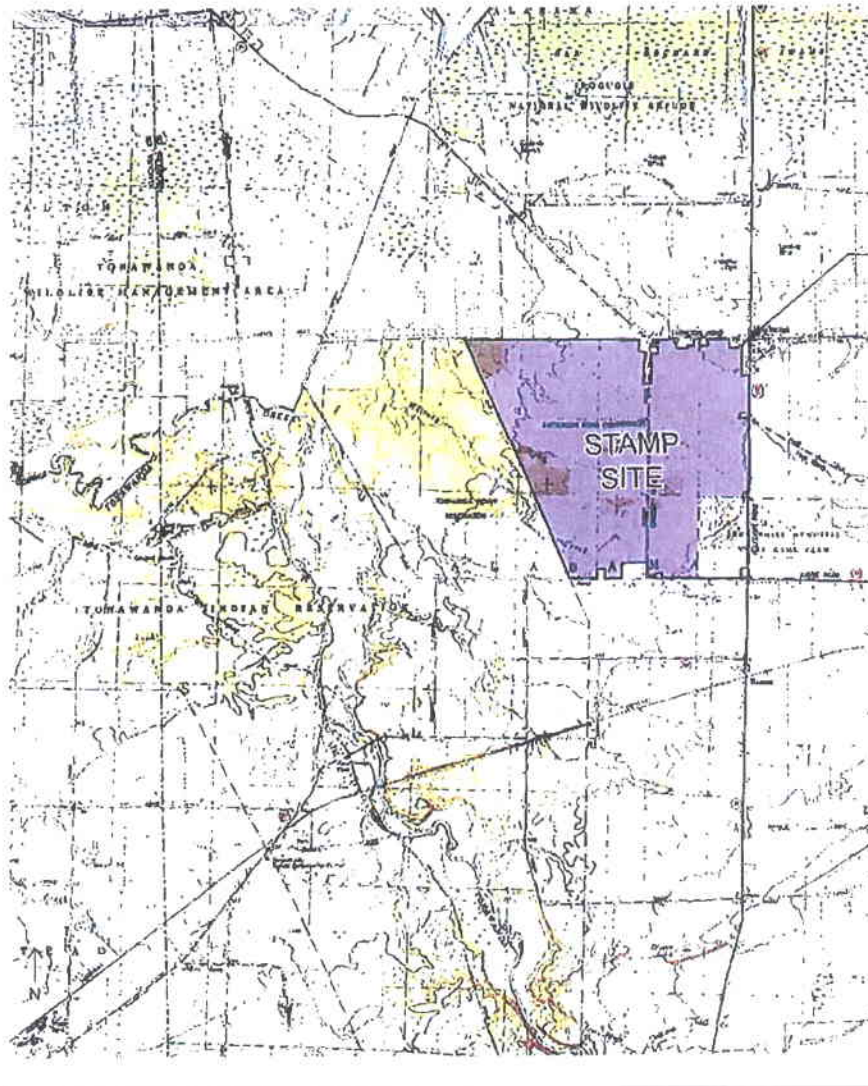


Steven G. Hyde
Chief Executive Officer

Doc # 01-2572110.4

EXHIBIT 1

FIGURE 6-21



STAMP
Final Generic Environmental Impact Statement

Figure 6-21
Public Lands Location Map

Town of Alabama, New York

REPLACE:

The following figure is a replacement to the corresponding DGEIS Figure 6-22 Preferred Alternative based on public/agency comments on the DGEIS and project redesign/refinement since the DGEIS.

EXHIBIT 2

STAMP
WATER FEASIBILITY STUDY
PRELIMINARY BUDGET ESTIMATE
DATE: 09/05/12

Town of Alabama Project (Based on Preliminary Engineering Report prepared by Chatfie and revised on July 27, 2011)

Item	Description	Quantity	Unit
1	Rock Excavation	1,500	CY
2	Select Fill	200	CY
3	6" PVC DR-18 Water Main	1,920	LF
4	8" PVC DR-18 Water Main	85,700	LF
5	12" PVC DR-18 Water Main	29,500	LF
6	Sand Bedding	117,120	LF
7	1" Corp & tap	433	EA
8	1" Copper Service Tubing	10,825	LF
9	1" Curb Stop & Box	433	EA
10	Hydrant Assembly	195	EA
11	6" Hydrant Extension	4	EA
12	12" Hydrant Extension	4	EA
13	18" Hydrant Extension	4	EA
14	Connection To Existing	4	EA
15	Water Sampling Station	8	EA
16	6" Gate Valve	4	EA
17	8" Gate Valve	58	EA
18	12" Gate Valve	20	EA
19	Asphalt Road Crossing Restoration	420	LF
20	Asphalt Driveway Restoration	2,040	LF
21	Crusher Run Driveway Restoration	1,050	LF
22	Horizontal Boring and Casing	5	EA
23	Upsizing Oakfield WST to accommodate Alabama	1	LS

EXHIBIT 3

**Supplement to the Amendments to the
Oakfield Alabama Comprehensive Plan
to Establish the Western New York
Science and Technology Advanced Manufacturing Park**
June, 2012

Following completion of the STAMP Generic Environmental Impact Statement ("GEIS") process for STAMP, there are no specific changes necessary to the proposed Amendments to the Oakfield Alabama Comprehensive Plan to Establish the Western New York Science and Technology Advanced Manufacturing Park. Accordingly, the formal amendments to the Comprehensive Plan necessary to accommodate STAMP remain as follows:

1. The STAMP Project as described herein, and in more detail in the STAMP GEIS, is hereby incorporated into the Comprehensive Plan and the implementation of STAMP in a manner consistent with the GEIS and the Lead Agency Findings Statement for STAMP dated March 1, 2012. the Draft and Final GEIS and the Findings Statement are incorporated herein by reference.
2. The STAMP Site is rezoned to Technology District pursuant to and consistent with the terms of the Incentive Zoning Agreement.

**Proposed Amendments to the
Oakfield Alabama Comprehensive Plan
to Establish the Western New York
Science and Technology Advanced Manufacturing Park**
(Appendix _ to the DGEIS for the STAMP Project)
April, 2011

I. Introduction

The Genesee County Economic Development Center ("GCEDC") has proposed establishment of the Western New York Science & Technology Advanced Manufacturing Park ("STAMP" or "Project") to be located on 1,337.2 acres of land ("STAMP Site") located in the Town of Alabama, Genesee County, New York. The STAMP Site, located along New York State Highway 77/63 approximately 5 miles north of the New York State Thruway, is comprised of twenty three separate parcels, the majority of which are utilized for farming and agricultural uses. A map showing the location of the STAMP Site is attached hereto as *Appendix 1, Figure 1*.

In May and November of 2007, GCEDC conducted four "Town Hall Meetings" at the Town of Alabama Fire Hall in order to discuss the idea of locating a science and technology park in the Town of Alabama. The format of the Town Hall Meetings included PowerPoint presentations describing typical character and makeup of technology manufacturing sites and facilities in other locations followed by question and answer periods.

Following the November 2007 Town Hall Meetings, GCEDC conducted a community opinion survey of residents and property owners in the Town of Alabama to determine the community's view towards continuing to investigate the feasibility of developing a science and technology park within the Town. The central question that the survey asked was whether community residents would support continuing and finalizing a comprehensive feasibility study for the science and technology park initiative. The survey response rate was 42%, and of those responding, 78% indicated support for continuing the feasibility study.

In November of 2008, IDC Architects/CH2M HILL completed a Feasibility Study for STAMP for the GCEDC. The study concluded that the STAMP Site would be attractive to technology manufacturing companies due to a range of factors, including low-cost hydro power, a superb higher education system proximate to the STAMP Site, a large available development footprint and the availability of State incentives. The master plan developed for the feasibility study indicates that over six million square feet of technology manufacturing and support uses, along with office, retail and possibly a renewable energy demonstration center, can be accommodated on the STAMP Site at build-out in an ultra-low density configuration resulting in a floor area to total site area ratio of 0.16. The master plan also suggests investigation of a strong renewable energy theme for the STAMP development.

The majority of the STAMP Site is zoned A-R (Agricultural-Residential). The southeast corner of the STAMP Site is part of the John White Wildlife Management Area and is zoned L-C (Land Conservation). The existing zoning would not accommodate the development of STAMP. Accordingly, the Town Board of the Town of Alabama is considering entering into an Incentive Zoning Agreement ("Agreement") with the GCEDC or its affiliate, the Genesee County Gateway Local Development Corporation ("GCLDC"). Pursuant to the Agreement, in exchange for providing certain public amenities to the Town which will inure to the benefit of the community as a whole, the Town will rezone the STAMP Site to a newly created Technology District to address the Project's unique needs. A copy of the Incentive Zoning Application for the Project is attached hereto as *Appendix 1*. The proposed Agreement includes the proposed zoning regulations for the new Technology District (See *Exhibit A*).

The purpose of the new Technology District is to accommodate the development of advanced technology manufacturing at the STAMP Site. The Technology District accommodates large-scale advanced technology use, research, development, demonstration and manufacturing within areas designated Technology District 1 – TD1 and supporting light industrial, commercial and retail activity within areas designated either Technology District 1 or Technology District 2 – TD2. Technology District 3 – TD3 in the northeast corner of the STAMP Site, and which is in close proximity to the Hamlet of Alabama commercial/residential corridor, is limited to smaller buildings which would accommodate retail related and professional office uses. In addition to providing Technology Manufacturing Support, Technology District 2 and Technology District 3 are designed to serve as a buffer in appropriate circumstances between more intensive land uses in Technology District 1 and any adjoining Residential and/or Agricultural-Residential Districts. A zoning map amendment showing areas of the STAMP Site, including a surrounding 100 foot buffer zone that will remain unchanged, is attached as *to Appendix 1, Figure 2*.

II. Genesee County Smart Growth Plan

On May 9, 2001, the Genesee County Legislature adopted the Genesee County Smart Growth Plan ("Smart Growth Plan") as a mitigation measure associated with the Genesee County Water Supply Project. The purpose of the Smart Growth Plan is to minimize the impacts from additional growth and development that would otherwise occur as a result of the extension of water service. In particular, the Smart Growth Plan is designed to limit the conversion of agricultural lands to non-agricultural uses. Over the decade or so since the Smart Growth Plan was originally adopted, the document has become a guiding force in Genesee County for farmland protection and discouraging development that is not consistent with the general principles of "smart growth."

Specifically, the Smart Growth Plan helps control growth by limiting the ability of landowners to hook up to public water supplies for new development outside of designated development areas. Within designated development areas, development and redevelopment is encouraged and there are no restrictions on water hook ups. Outside of designated development areas, access to the water system is limited to pre-existing structures and agricultural uses.

All other proposed development requires a case-by-case review based upon agricultural impacts, consistency with economic development goals, other available infrastructure and local comprehensive plans and zoning laws. The County also evaluates the impact upon City/Village

revitalization programs and public health or other community needs. The Smart Growth Plan designates three Smart Growth development areas within the Town of Alabama. They are identified as follows:

1. Hamlet of South Alabama: Route 63 and Maple Street Road.
2. Hamlet of Basom: Route 77 at Bloomingdale Road.
3. Hamlet of Alabama: Route 77 at Lewiston Road.

In 2007, the designated development area at the Hamlet of South Alabama was expanded by 24 acres along the west side of Knowlesville Road, north of Judge Road. The Genesee County Smart Growth Plan now requires a review of the Smart Growth Development boundaries every three years (originally it was a two-year cycle). However, revisions can take place prior to a review year (the next review will be in 2013) if a municipality requests a change. After the local legislative body of a municipality indicates in writing that a change to its Smart Growth Development Area boundaries is desired and submits it to the County Legislature, the County Department of Planning evaluates the request and makes a recommendation to the County Legislature. The County Legislature then chooses to amend the Smart Growth Development Areas or take no action. As part of the review process, the County evaluates the impact upon City/Village revitalization programs and public health or other community needs. If the requested amendment is approved, the Smart Growth Plan is then amended.

III. The Existing Oakfield Alabama Comprehensive Plan

In 2004/2005, the Town of Alabama, the Town of Oakfield and the Village of Oakfield undertook a joint planning effort which culminated in the Oakfield Alabama Comprehensive Plan ("Comprehensive Plan"). The Comprehensive Plan was prepared and adopted by the Town of Alabama in conformance with NYS Town Law Section 272-a and was designed to be consistent with the principles of the Genesee County Smart Growth Plan. Along these lines, the Comprehensive Plan designates development areas within which development would be encouraged.

Although the Comprehensive Plan was a joint planning effort designed to formulate a common vision for managing future growth and development, the Town of Alabama was individually responsible for adopting the relevant portions of the Comprehensive Plan and is individually responsible for implementation.

The Comprehensive Plan identified seven specific goals and objectives for the Town of Alabama which represents a consensus of the community's values and vision:

- Protect, promote and preserve agriculture.
- Maintain and enhance community character.
- Provide potable water to appropriate areas of the Town.
- Protect the environmental features and resources.
- Provide for economic development.

- Maintain and promote efficiency of government.
- Encourage a diversity of housing types.

In order to achieve these goals and objectives, the Comprehensive Plan outlines a number of implementation strategies for the Town including:

- Revise the Agricultural-Residential zoning district to build upon the intent that agricultural uses are primary uses in the district.
- Work with Genesee County to expand the designated development areas within the Smart Growth Plan in a manner that does not impact agriculture and fully utilizes the existing infrastructure located in the Town of Alabama. The Vision Map depicts larger long-term planning areas. The development areas delineated in the existing Smart Growth Plan closely follow the existing pattern of hamlet development and represent appropriate limits for sustaining short term growth. As future demand for growth may dictate, the development area boundaries should be expanded to correspond with the Vision Map.
- Draft a set of rural development guidelines that provide written standards and graphic examples to ensure that the vision for growth and development set forth in this document is achieved.
- During future reviews of the County's Agricultural District, recommend to Genesee County that non-agricultural lands be removed from the district. This is primarily the case in Basom and South Alabama.
- Investigate residents' requests/needs for public water due to public health and safety concerns.
- Relocate existing Town Hall, along with other Town facilities, to the hamlet of Alabama.
- Work with Genesee County and the Town of Oakfield to investigate the feasibility and potential funding for a rails-to-trails project on the abandoned Penn Central rail corridor.

The Comprehensive Plan must be formally amended if the Project is to proceed.

IV. Current Conditions in the Town of Alabama

The Town of Alabama is located in the northwest part of Genesee County in Western New York. The Town encompasses 42.8 square miles and is bounded by Orleans County to the north and Erie and Niagara County to the West. Existing conditions, as described in the Comprehensive Plan, have not changed substantially since the Comprehensive Plan was finalized in 2005. According to the most recent census data, the current Town population is 1,869 people, a decline of 12 people since 2000. According to the economic data collected in support of the Economic Impact Analysis for the Western New York Science & Technology Advanced Manufacturing Park ("Economic Impact Report"), which is found in the DGEIS prepared in support of the STAMP Project, the median age of a Town resident is slightly younger (36.3) than the remainder of Genesee County (37.9).

Also according to the Economic Impact Report, the median household income has risen in both the Town and the County since 2005, but lags behind surrounding communities. Current median income in the Town is estimated at \$53,101 as compared to Genesee County, which is estimated at \$55,746. Over the past few years, the median household income in the Town has grown at a rate of 0.78% and in the County at a rate of 0.87%. By comparison, the growth rate in the eastern part of Niagara County has been 2.82%, Orleans County has been 2.97% and the eastern part of Erie County has been 3.21%.

There are currently approximately 642 households in the Town. Only 44 (7%) of homes in the Town of Alabama are currently served by public water and none are served by public sewer. The Town also lacks widespread access to broadband services.

In March 2010, Chatfield Engineers prepared a preliminary engineering report for the Town of Alabama examining the cost and feasibility of providing public water supply and protection to as many as 411 additional homes in the Town of Alabama. This project, which generally consists of installing approximately 103,720 linear feet of 6-12 inch diameter PVC water main, valves, fire hydrants, water services and appurtenances throughout various portions of the Town of Alabama including the STAMP Site, would increase the number of residential homes in the Town of Alabama served by public water to 455 or approximately 70% of the Town's households. The estimated capital cost of this water system is approximately \$5,208,930. Of this amount, the Town of Alabama is pursuing a United States Department of Agriculture ("USDA") grant of \$1,540,000, leaving a net local share of \$3,668,930. The primary impetus for the water supply expansion in the Town of Alabama is to protect public health and safety. According to the Town's preliminary engineering report, residents in the Town not served by public water have experienced problems with poor water quality, insufficient water quantity and contamination of existing well supplies by failing septic systems. In addition, residents face high costs to operate and maintain existing well supplies and most of the Town lacks access to water for fire protection. Providing public water would resolve these important public health and safety needs for a large portion of the Town. Unfortunately, the availability of USDA grants is currently very limited.

V. The STAMP Project

The DGEIS analyzes several alternatives for the STAMP Site. The Preferred Alternative includes 6.1 million square feet of development, including, among other things, technology manufacturing facilities, flex space and support facilities, office space, retail support uses, a new multi-use Town Hall building site, and a network of open space and trails that meander throughout the property. The purpose of the Project is to develop STAMP as a world-class high technology manufacturing center, with a focus on renewable energy, serving as an economic development engine central to the economic sustainability and well-being of the western portion of New York State. The Project goals and objectives center around the creation of a large scale, shovel-ready high tech site of 1,337.2 acres built in a sustainable, campus-style setting. The STAMP Project focuses on attraction of large technology manufacturing facilities needed to compete in the global advanced manufacturing marketplace, and will be developed to accommodate world-class high tech companies. STAMP will provide economic development opportunities not currently offered in the region, and will offer a variety of jobs for the residents

of the Town of Alabama, Genesee County, and the greater Buffalo-Niagara and Rochester regions.

The Project is designed to be a campus setting, meaning that development is respectful of and compliments its natural landscape and the Project will be developed at a low density. In response to community comments, landscape buffers will surround the Project along property lines shared with existing houses, roads, and the hamlet of Alabama in order to maintain existing viewsheds as well as the rural character of the area surrounding the Project. In addition, a ridgeline that runs between the existing hamlet of Alabama will remain undeveloped to provide visual separation between the hamlet and the Project. Central to the Project's open space system is the large wetland system that crosses the Site. The wetlands area will accommodate both an existing headwater stream, as well as the re-routing of another headwater stream, and its associated habitat and wetlands will be preserved and enhanced. This natural corridor, along with the Whitney Creek corridor and various wetlands throughout the campus, will anchor the open space system. A trail network will weave its way throughout the campus, and will be a useful amenity for both workers at STAMP and the Town at large.

There will be two main entry points to the Project site. At build-out, a boulevard entry will extend from NYS Route 77-63 to the heart of the campus. However, Crosby Road will be the Phase 1 access point to the campus, and will be the internal spine that connects the various development areas together, as well as links the internal road network. The intersection of Crosby Road and the boulevard entry from NYS Route 77-63 will lead to and define the center of STAMP.

Ultimately, the building layouts illustrated in the Preferred Alternative will be determined based on the needs of companies that locate at STAMP. The exact placement of buildings within the various development areas will respond to market demand and building prototypes proposed by the individual companies that locate at STAMP. Parking and service areas will be associated with the various development sites, and will be built to serve the needs of the build-out of each parcel. Parking is envisioned as surface lots located throughout the Site. Adequate parking spaces will be provided in accordance with the zoning requirements set forth for the district in the Technology District (TD1, TD2 and TD3) developed for STAMP. Reviews and permitting, as required by the Town, will occur on a development by development basis, as companies decide to locate and develop specific areas at STAMP.

The Project will augment the region's existing economy through the development of jobs and businesses competitive in a global technology marketplace.

- Expected Employment Growth and Economic Impact
 - Direct Impact: The Project will lead to the employment of approximately 9,330 employees at full build-out.
 - Indirect Impact: During the development stage the Project will provide 1,400 to 2,900 direct and indirect jobs related to construction activities. The Project will also create long-term indirect employment, including a wide variety of

service industry providers, material suppliers, retail establishments and professional service providers.

Not only will STAMP offer economic benefits, the Project will offer fundamental benefits to the Town of Alabama and Western New York as a whole. Throughout the extensive public outreach, education, and Project planning process, the community voiced concerns about the area losing highly-educated, local young people due to the lack of well-paying jobs in the community. The Project will address this core community value and concern through the creation of 9,330 potential jobs over its long-term build-out, providing a diversified offering of employment options throughout its construction and operational stages.

In addition, the following specific Project objectives were identified:

- Create well-paying, 21st century jobs in the local community.
- Reduce the 'brain drain' of young people leaving the community.
- Provide increased revenues to support local community services.
- Provide enhanced utility infrastructure, such as water, sewer, natural gas, and broadband.
- Become a demonstration of sustainable development.
- Create a 'place of pride' in the community.

In addition to these community-specific benefits, the Project presents a significant opportunity to leverage New York State's high tech investment in a similar manner as has been done in the eastern part of the State, providing a balanced economic engine across New York.

VI. Incentive Zoning Agreement

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York ("Town Law") and, in particular, Section 261-b of the Town Law and Article XI of the Town of Alabama Zoning Law ("Zoning Law"), in exchange for certain public amenities which shall be provided to the Town of Alabama that will inure to the benefit of the community as a whole, the Town of Alabama is considering providing certain zoning incentives to the GCEDC. Specifically, the Town is considering creating a special technology zoning district for STAMP which will govern all development on the STAMP Site. The purpose of the newly created Technology District would be to accommodate the development of advanced technology manufacturing at the STAMP Site. A copy of the Incentive Zoning Application for the Project is attached hereto as *Appendix 1*. A copy of a draft of the proposed zoning regulations for the new Technology District is attached as *Exhibit A to Appendix 1*.

The Technology District is divided into three sub-districts. Technology District 3 – TD3 in the northeast corner of the STAMP Site, and which is in close proximity to the Hamlet of Alabama commercial/residential corridor, is limited to smaller buildings which would accommodate retail related and professional office uses. Technology District 2 – TD2 would allow all uses permitted within TD3 plus light industrial uses, warehousing and distribution, community and cultural facilities, and technology demonstration facilities. Technology District 1 – TD1 would allow all

uses permitted within TD2 and TD3 plus large-scale advanced technology use, research, development, demonstration and manufacturing. The entire perimeter of the STAMP Site would be surrounded by a 100-foot wide buffer that while part of the STAMP Site, would remain under its current zoning designation. This 100-foot wide area would serve as a buffer zone to all surrounding uses that abut the STAMP Site. An additional 300 foot open space buffer would be required along the edges of STAMP TD1 and TD2 Districts that abut offsite Residential and/or Agricultural-Residential Districts. The STAMP TD3 District would not be subject to the 300 foot buffer requirement, as the intent of the TD3 District is to integrate with the character of the existing Hamlet of Alabama. A zoning map amendment showing the areas of the STAMP Site proposed to be rezoned to TD1, TD2 and TD3 is attached as *Figure 2, to Appendix 1*.

In exchange for granting these zoning incentives, the GCEDC or its affiliate, the GGLDC, has proposed providing:

1. **Water Supply Infrastructure:** In 2010, the Town Board commissioned a Public Water Feasibility Study, which identified a need for the installation of a public water service project to protect public health and safety by providing municipal water to approximately 70% of the households in the Town of Alabama at a total estimated cost of \$5,208,930.00 ("Water Project"). GCEDC will install, as a zoning incentive contribution to the Town, certain public water infrastructure which is part of the Water Project and which overlaps with water infrastructure necessary to supply STAMP with water for the Initial Phase of STAMP (hereinafter referred to as "Overlapping Water Infrastructure"). GCEDC will install the Overlapping Water Infrastructure in conjunction with the development of the initial phase of STAMP. Once installation of the Overlapping Water Infrastructure is complete, ownership of the Overlapping Water Infrastructure will be transferred to the Town at no cost to the Town. Based on the Town's current cost estimates for the Water Project, it is anticipated that this action will save the Town approximately \$1,900,000 on the cost of the Water Project.
2. **Water Supply Contribution Funds:** Upon commencement of construction of the Overlapping Water Infrastructure, GCEDC will pay to the Town the sum of \$1,648,673.00 as a zoning incentive contribution to be used by the Town Board for the Water Project. Based on the Town's current cost estimates, it is anticipated that such contribution, together with the construction of the Overlapping Water Infrastructure, will reduce the Town's cost for the Water Project to approximately \$1,650,000 bringing the cost of the Water Project well below New York State Comptroller guidelines for water service costs.
3. **Real Property for Town Hall:** Upon written request by the Town, GCEDC shall grant to the Town, at no cost to the Town, fee title of up to three (3) acres of vacant land on the STAMP Site for the purpose of the Town relocating the Town Hall and constructing a new Town Hall on such land. GCEDC's obligation to transfer such land is contingent on GCEDC first completing the Initial Phase of STAMP, GCEDC being the fee owner of the land requested to be conveyed to the Town, and the specific location of such land being mutually agreed upon by the Town and GCEDC. In addition, upon completion of 50% of the planned build-out of STAMP (i.e., at least 3,050,000 square feet of building space has

been constructed), GCEDC will pay the Town the sum of \$800,000 as a zoning incentive contribution to be used by the Town Board for the relocation, design and/or construction of a new Town Hall.

4. Town Hall Funds: GCEDC shall request that any communications service providers for the Initial Phase of STAMP install or cause to be installed broadband communications infrastructure to STAMP in a manner that would facilitate expansion of such service to other portions of the Town.

VII. STAMP's Consistency with Comprehensive Plan

As part of the rezoning process necessary for STAMP, the Town must consider the Project's consistency with the Comprehensive Plan.

STAMP, as currently proposed, is very consistent with a number of the community's values and vision as articulated in the Comprehensive Plan including providing for economic development, protecting environmental resources and features and providing potable water to appropriate areas of the Town.

In terms of economic development, the Comprehensive Plan states that "The expansion of commercial and industrial growth, and other economic development activities, helps provide jobs and build a stronger tax base." (Comp. Plan p. 5-12). The Comprehensive Plan further states, "A majority of the respondents believe that commercial and industrial growth is needed in Alabama." (Comp. Plan. p. 5-2). The Project will undoubtedly assist the Town by increasing needed commercial and industrial growth and development in the Town. The Project will also provide employment opportunities and will improve the community's tax base. The Comprehensive Plan recommends targeting locations for these industrial and commercial ventures along Route 77. The Project will conform to the preferences of the Town in this respect, as well, because STAMP will be located along Route 77.

In terms of protecting the Town's environmental features and resources, STAMP has been designed in an environmentally sensitive manner to protect wetlands and stream corridors across the 1,337.2 acre site. (See DGEIS Section 6.2). Thus, the development of STAMP, as envisioned, will ensure long-term protection of hundreds of acres of important environmental features and resources.

The Project also has some inconsistencies with community values and visions as spelled out in the Comprehensive Plan. The primary inconsistency found between STAMP and the Comprehensive Plan centers around the Town's goal to preserve farmland. Farming is the most prevalent land use in the Town and it is the primary industry in Genesee County. Accordingly, much of the Comprehensive Plan focuses on farmland preservation. One of the reasons that the preservation of farmlands is preferable because farmlands form a stable tax base and are net positive taxpayers, meaning farmland costs less in services than it pays in taxes. According to the Comprehensive Plan, residential development, as opposed to farmland, is more costly. Residential development costs the Town more in services, than it offers in taxes. Therefore,

much of the Comprehensive Plan focuses on the preservation of farmland as opposed to allowing unbridled residential development.

While STAMP will result in a loss of farmland, it is not a loss attributable to residential uses. Nonetheless, the conversion of prime farmland is inconsistent with the Comprehensive Plan's goals. In order to mitigate the Project's impact upon agricultural resources, the DGEIS for the Project includes a Farmland Protection Strategies Report ("FPSR") specifically tailored to the Town of Alabama. The FPSR will not include any mandates or requirements; it is designed to merely provide potential options and suggestions specifically tailored for the Town of Alabama. The FPSR will collect and consolidate information and resources that will be helpful to local farmers and the Town representatives. The FPSR also suggests methods and strategies that the Town can adopt to further protect, promote and preserve farmland within the Town. The Town and the community can then consider the suggested options and can pursue the choices that are preferred by Town representatives and the public. Thus, while the Project is inconsistent with the Comprehensive Plan in terms of conversion of farmland to non-agricultural use, the Project provides the Town an opportunity to develop and implement a Town-wide comprehensive Farmland Protection Plan based on the strategies outlined in the FPSR, and ensure farmland protection throughout the rest of the Town for generations to come.

VIII. Proposed Amendments to the Comprehensive Plan

The Comprehensive Plan is designed to grow and change with the Town when circumstances change or new opportunities develop. The Comprehensive Plan states, "This Plan is an active document and over time, as local situations change, so may the priorities of each community." Obviously, the STAMP Project is a new opportunity that was not anticipated at the time of the Comprehensive Plan. Thus, it is appropriate to reconsider certain aspects of the Comprehensive Plan and make amendments necessary to accommodate STAMP. The following formal amendments to the Comprehensive Plan are necessary to accommodate STAMP:

1. The STAMP Project as described herein, and in more detail in the GEIS, is hereby incorporated into the Comprehensive Plan and the implementation of STAMP in a manner consistent with the Final Generic Environmental Impact Statement and any findings issued thereunder is a goal of the Town of Alabama.
2. The STAMP Site is rezoned to Technology District pursuant to and consistent with the terms of the Incentive Zoning Agreement attached hereto.

Section 8 of the Comprehensive Plan, which is entitled, "Annual Review" sets out the process that is to be used to periodically evaluate and amend the Comprehensive Plan. The Comprehensive Plan suggests that the Planning Board (or other Committee designated by the Town to handle Comprehensive Plan issues) should annually update the Implementation Plan found in Section 6.0 of the Comprehensive Plan. Annual changes to the Implementation Plan are to be incorporated into the Town's planning files through a formal acceptance by the appropriate legislative board, here the Town Board.

The formal acceptance is outlined in Town Law 272-1. Amendments to Comprehensive Plans are adopted by the process outlined in Town Law 272-a. The process begins by the preparation

of a Comprehensive Plan amendment. In general, a Comprehensive Plan amendment is usually prepared by the Town Board and then adopted. In this matter, the STAMP Project sponsor, in conjunction with the DGEIS process, has prepared this draft of a proposed Comprehensive Plan amendment which will be utilized for purposes of completing the SEQR process for STAMP. In the event that the Town Board issues favorable written findings at the conclusion of the SEQR process, the Town Board could utilize this draft Comprehensive Plan Amendment as the basis to initiate a separate Comprehensive Plan amendment process. The Town Board would then refer the proposed amendment to the NYS Department of Agriculture for review pursuant to Ag. & Mkt. Law Section 305-a and to the County Planning Board review pursuant to General Municipal Law Section 239-m. The Town Board may also refer the amendment to the Planning Board for its review and recommendation.

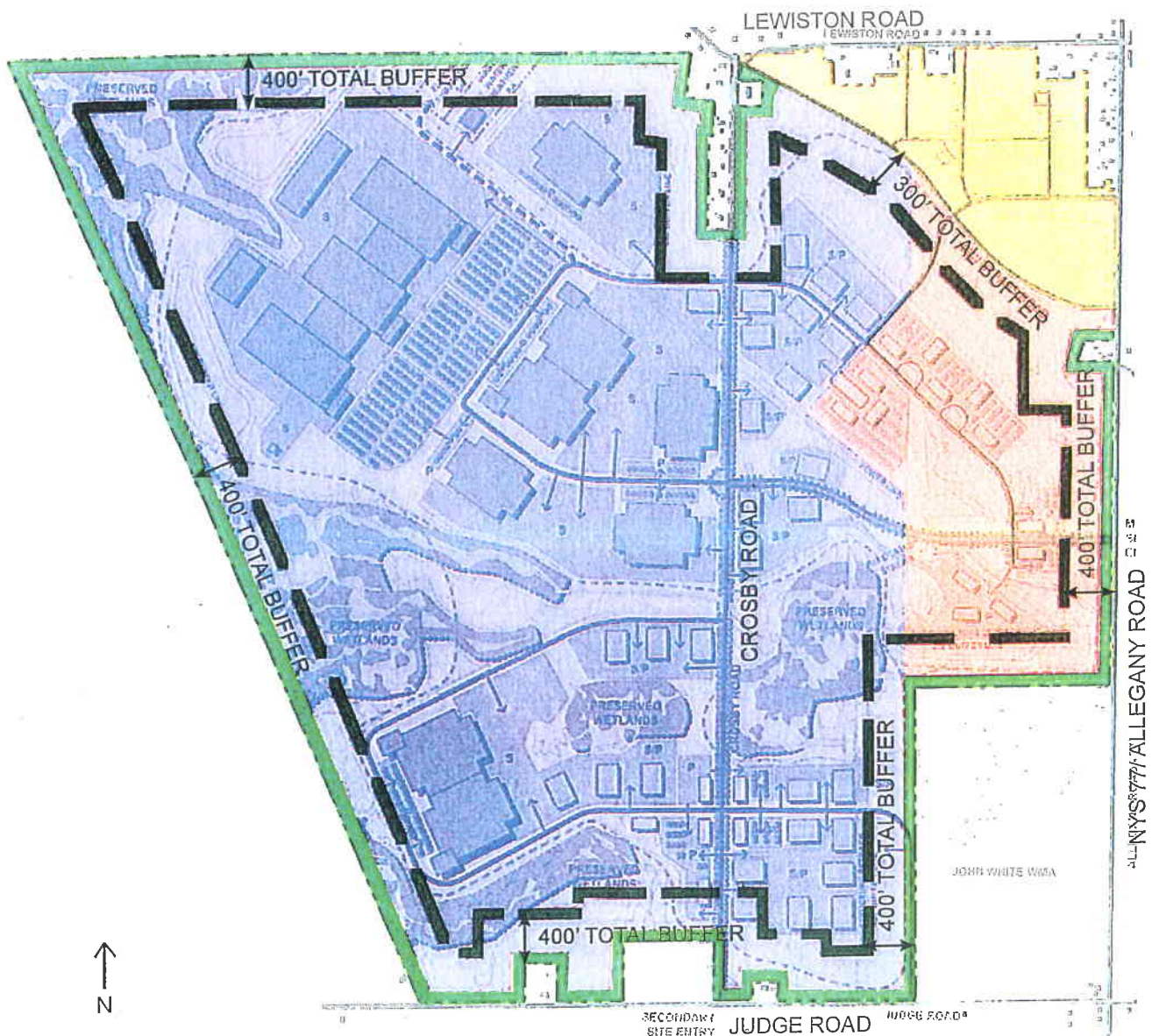
Following the Planning Board's review, pursuant to Town Law Section 272-a (6)(b), the Town Board will hold one or more public hearings to provide for an additional opportunity for citizen input and participation. Notice of the public hearing must be at least 10 calendar days in advance of hearing in a newspaper of general circulation and the proposed amendment must be available for public review during this 10-day period at the Town Clerk's office. After public hearing, the Town Board may adopt the amendment by resolution. The adopted amendment must then be filed with the Town Clerk and the County Planning Board.

IX. Conclusions

The proposed STAMP Project is a world-class high technology manufacturing center, with a focus on renewable energy, and, if approved, will serve as an economic development engine central to the economic sustainability and well-being of the western portion of New York State. While the proposed Project is consistent with the Town of Alabama's existing Comprehensive Plan in a number of important ways, a project the size and scope of STAMP was simply not envisioned at the time the Comprehensive Plan was adopted. Thus, the Town must formally amend its Comprehensive Plan in order for STAMP to proceed.

Doc # 01-2432216.6

EXHIBIT 4



- Technology District 1 (TD-1)
- Technology District 2 (TD-2)
- Technology District 3 (TD-3)
- 100' Buffer / Existing Zoning (A-R)
- Total Buffer Line

Figure 6-16
Proposed Zoning Map

EXHIBIT 5

Proposed Amendment to the Town of Alabama, NY Zoning Code:

Technology District 1 (TD1)

A. Permitted Uses: The following uses are permitted in TD1:

1. Technology Manufacturing. (*Note: see definition at end to be added to definitions section of Town Zoning Code*)
2. Office Buildings.
3. Light Industry.
4. Warehousing and Distribution.
5. Technology or Environmental Demonstration Facilities (profit or not-for-profit enterprises primarily focused on research and development and/or educational programs associated with a particular technology or program.)
6. Establishments providing on-site services to personnel employed at STAMP.
7. Professional Offices.
8. Hotel/Motel.
9. Child Day Care Center.
10. Offices, Banks.
11. Parks, Recreational Trails.
12. Public Utility.
13. Accessory Uses and Buildings.

B. Uses Requiring Special Use Permit in TD1: The following uses are permitted in TD1 with a special use permit as regulated in Section 809:

1. Commercial Communication Tower. The installation of Commercial Communications Towers or Antennas shall conform to Section 614 of the Zoning Law. For purposes of Section 614, TD1 shall be treated as an industrial district. (See Town of Alabama Zoning Law § 614).
2. Non-Commercial Grade Wind Energy Systems. The installation and operation of wind energy systems shall conform to Section 622 of the Zoning Law. For purposes of Section 622, TD1 shall be treated as an industrial district. (See Town of Alabama Zoning Law § 622).

Technology District 2 (TD2)

A. Permitted Uses: The following uses are permitted in TD2:

1. Office Buildings.
2. Professional Offices.
3. Light Industry.
4. Warehousing and Distribution.
5. Community and Cultural Facilities, including Museums.
6. Technology or Environmental Demonstration Facilities (profit or not-for-profit enterprises primarily focused on research and development and/or educational programs associated with a particular technology or program.)
7. Establishments providing on-site services to personnel employed at STAMP.

8. Hotel/Motel.
9. Personal Services Businesses.
10. Medical/ Health-related Services.
11. Child Day Care Center.
12. Motor Vehicle Repair Shops.
13. Car Rental Facilities.
14. Offices, Banks.
15. Parks, Recreational Trails.
16. Public Utility.
17. Accessory Uses and Buildings.

B. Uses Requiring Special Use Permit in TD2: The following uses are permitted in TD2 with a special use permit as regulated in Section 809:

1. Commercial Communication Tower. The installation of Commercial Communications Towers or Antennas shall conform to Section 614 of the Zoning Law. For purposes of Section 614, TD2 shall be treated as an industrial district. (See Town of Alabama Zoning Law § 614).
2. Non-Commercial-grade Wind Energy Systems: The installation and operation of wind energy systems shall conform to Section 622 of the Zoning Law. For purposes of Section 622, TD1 shall be treated as an industrial district. (See Town of Alabama Zoning Law § 622).

Technology District 3 – TD3

A. Permitted Uses

1. Office Building.
2. Professional Offices.
3. Museum.
4. Community and Cultural Facilities.
5. Hotel/ Motel.
6. Retail Trade.
7. Restaurant.
8. Personal Services Businesses.
9. Medical/ Health-related Services.
10. Offices, Banks.
11. Shopping Center.
12. Parks, Recreational Trails.
13. Accessory Uses and Buildings.

B. Uses Requiring Special Use Permit in TD3: The following uses are permitted in TD-3 with a special use permit as regulated in Section 809:

1. Child Day Care Center.
2. Drive-through Businesses.
3. Motor Vehicle Repair Shop.
4. Gasoline Station.

5. Gasoline Station-Market.
6. Public Utility.

Dimensional and Physical Requirements for Development in the Technology District

A. Minimum Lot Size

1. The minimum lot size for Technology Manufacturing Uses shall be 100,000 square feet.
2. There shall be no minimum lot size for other uses; however, any proposed use must be able to meet required setbacks, design guidelines and other site plan requirements.

B. Minimum Frontage/Minimum Yards

1. Frontage Requirements: There is no minimum frontage required within any Technology District.
2. Front Yard Setbacks:
 - a. There are no minimum front yard setbacks required within TD1 or TD2 Districts.
 - b. Within TD3, there shall be a minimum front yard setback of 30 feet, and a maximum front yard setback of 85 feet. In areas where there is an established build to line, new development may match existing setbacks.
3. Side Yard Setbacks: Side yards shall be dictated by Fire Safety Codes (building separation), utility needs and any buffer requirements set below.
4. Buffers:
 - a. There shall be at minimum 300 foot buffer of open space along any Technology District lot line abutting a Residential or Agricultural-Residential District with the exception of the Property zoned TD3 in the northeast corner of the STAMP Site. The 300 feet will be measured from the edge of the portion of the Project Site that has been zoned to Technology District, inwards.
 - b. With the exception of areas zoned TD3, there shall be a 100 foot buffer of land around the perimeter of the Project Site that is not zoned Technology District but remains zoned Agricultural-Residential or Residential. This 100 foot area will be retained as an additional open space buffer.
 - c. Fencing, signs, landscaping, access drives, utilities and utility related uses are permitted within the above required open space buffers within Technology Districts, with the following restrictions:
 - i. Fencing shall be located near the interior 'edge' of the open space buffers adjacent to the TD zone.
 - ii. Access drives and utilities will be allowed to cross the buffer areas.
 - iii. Any utility related uses located within the buffer shall be located near the interior 'edge', adjacent to the TD zone.
 - iv. Other than these allowances and approved landscaping, no other uses shall be allowed within the area designated as a buffer.

C. Maximum Height

1. The maximum height of a building within TD1 shall be 110 feet. Notwithstanding the height limits set herein, the maximum height of a building shall be consistent with the recommendations of the Fire and Emergency Management Committee.
2. The maximum height of a building within TD2 shall be 35 feet.
3. The maximum height of a building within TD3 shall be 30 feet.

D. Maximum Lot Coverage

1. There are no specific lot coverage requirements for the Technology Districts. Minimum landscaping requirements must be met, along with required buffers.

E. Off-Street Parking Space Requirements

1. There shall be off-street parking provided for every building erected, altered or changed in use within the Technology Districts (TD1, TD2, and/or TD3), based on the standards set forth below in this Section. All off-street parking shall be designed in such a manner as to allow vehicles to exit onto a road without backing out. The minimum number of off-street parking spaces to be provided by use are as follows:
 - a. Technology manufacturing space: (1) parking space for every 1,000 square feet of floor area.
 - b. Community, museum, cultural or technology or environmental demonstration space: (3) parking spaces for every 1,000 square feet of space.
 - c. Office building space: Four (4) parking spaces for 1,000 square feet of building space.
 - d. Hotel/Motel, Retail Trade or Restaurant: Five (5) parking spaces for every 1,000 square feet of building space.
 - e. All other development: Two (2) parking spaces for every 1,000 square feet of building space.
2. The minimum off-street parking space requirements specified above may be reduced by the Planning Board for good cause shown considering projected use intensity, turnover, customers, employees and vehicles used.

F. Signs

1. All signs within the Technology District shall conform to Section 606 of the Town of Alabama Zoning Law. For purposes of Section 606, the Technology District shall be treated as an Industrial District.

G. Design Guidelines

1. Development within any Technology District shall conform to the Town of Alabama's Design Guidelines regarding landscaping, lighting, signs and other design features.

DEFINITIONS

Technology Manufacturing: Establishments engaged in the use, research and development, demonstration, manufacturing and/or distribution of advanced technologies in modern industries such as energy, communications, information and computing technologies, pharmaceuticals and life sciences, including but not limited to semiconductors and semiconductor devices, computing technology and data centers, flat panel display technology and components including light emitting diodes and liquid crystal display, renewable energy, solar photovoltaics, and any related enabler technologies that employ advanced manufacturing techniques and/or resources such as micro-technology or nanotechnology or other manufacturing, industrial or commercial uses appropriate to STAMP.

Technology or Environmental Demonstration Facilities: Profit or not-for-profit enterprises primarily focused on research and development and/or educational programs associated with a particular technology or program.