

**LETTER OF RESOLUTION BETWEEN NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, AND GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**

**REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
# 10PR01963**

**WHEREAS**, the Genesee County Economic Development Center (“Applicant”) plans to develop the Western New York Science & Technology Advanced Manufacturing Park (“STAMP”), an advanced manufacturing campus to be developed on approximately 1,261.7 acres of land (“Project”) in the Town of Alabama, New York (Attachment 1 – Project Boundary Map) 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 (“STAMP Site”); and

**WHEREAS**, the STAMP Site is within the Tonawanda Seneca Nation’s ancestral territory and adjacent to its treaty-confirmed, federally-recognized Reservation (“Nation’s Territory”); and

**WHEREAS**, portions of the Project are subject to permitting by the United States Army Corps of Engineers, Buffalo District (the “Corps”) and therefore subject to the requirements of Section 106 of the National Historic Preservation Act and its implementing regulations; and

**WHEREAS**, a Programmatic Agreement (“PA”) (Attachment 2) has been executed that may be affected by development associated with the Undertaking that is the subject of federal permitting at the STAMP Site; and

**WHEREAS**, additional development may be proposed that is not subject to federal permitting and that may require State authorizations from the New York State Department of Environmental Conservation (“NYSDEC”); and

**WHEREAS**, elements of the Project that are not defined as an undertaking under Section 106 of the National Historic Preservation Act could require State authorizations and would be an undertaking subject to the requirements of the New York State Historic Preservation Act (Article 14 of the New York State Parks, Recreation, and Historic Preservation Law, N.Y. PRHPL §§14.09 *et seq.*) and applicable regulations (9 NYCRR Part 428) and policies (collectively, “State Historic Preservation Act” or “SHPA”); and

**WHEREAS**, the NYSDEC, the Office of Parks Recreation and Historic Preservation (“OPRHP”) are the parties to this Agreement and have consulted in accordance with SHPA; and

**WHEREAS**, pursuant to NYSDEC Commissioner Policy 42, Contact, Cooperation, and Consultation With Indian Nations (“CP-42”), the NYSDEC has engaged in outreach and consultation with the Tonawanda Seneca Nation (“TSN”) and the Seneca Nation of Indians (“SNI”) in connection with the proposed Project and has invited the TSN and the SNI to sign this Agreement as Concurring Parties; and

**WHEREAS**, the NYSDEC has invited the Applicant to sign this Agreement; and

**NOW, THEREFORE**, the NYSDEC and the OPRHP agree that the Project shall be implemented in accordance with the following stipulations that consider the impacts of the Project on historic properties; provided, however, that nothing in this Letter of Resolution (“LOR”) is intended or shall be construed as an endorsement of the Project by the TSN.

## **STIPULATIONS**

The NYSDEC will ensure that the following mitigation measures are carried out for the undertaking:

### **1. PA Stipulations:**

- a. For all elements of the Project requiring State approval by the NYSDEC, the NYSDEC shall implement Stipulations 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, and 14 found in the PA using the procedures found in SHPA;
- b. For all elements of the Project requiring State approval by the NYSDEC, the NYSDEC shall implement Stipulation 8 found in the PA using the procedures found in SHPA and as outlined below. Stipulation 8 relates to a Traditional Cultural Property investigation intended to “evaluate the eligibility of the Nation’s Territory for listing on the Nation Register [of Historic Places] as a property of religious and cultural significance.” SHPA deems properties eligible for listing on the National Register to be eligible for listing on the State Register of Historic Places (9 NYCRR Part 427.6).
  - i. A Traditional Cultural Property (“TCP”) investigation is currently being performed by the TSN to evaluate the eligibility of the Nation’s Territory for listing on the National Register as a property of religious and cultural significance. Pursuant to the PA, the Corps, in consultation with the TSN and the other consulting parties, finalized development of protocols for the completion of the investigation.
  - ii. The results of the TCP investigation, or an Evaluation of Eligibility document prepared by the TSN, to the extent either is available and/or applicable, will be used by the Applicant to prepare an initial assessment of each element of the Project proposed by the Applicant to make a determination of whether or not they think each individual project at the STAMP site will have an adverse impact to the Nation’s Territory as a property of religious and cultural significance based on the National

Register criteria for eligibility (Criteria A through D). This initial assessment, which will include sufficient justification, will be provided to NYSDEC and OPRHP to help guide the evaluation of potential adverse impacts. A copy will also be provided to the TSN for a 30-day comment period.

- iii. The results of the TCP investigation or an Evaluation of Eligibility document prepared by the TSN, to the extent either is available and/or applicable, will be used by the NYSDEC to help guide the evaluation of potential adverse impacts to the Nation's Territory as a property of religious and cultural significance resulting from the proposed STAMP Site development requiring State approval by the NYSDEC.
  - iv. The NYSDEC will consult with the TSN on the evaluation of potential adverse impacts to the Nation's Territory as a property of religious and cultural significance pursuant to Stipulation 3 below and will consider any comments from the TSN on the initial assessment when making its evaluation.
- c. The terms of this agreement shall also be applicable to any New York State General Permit (e.g., State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity) administered by the NYSDEC that may be applicable to the Project.

## 2. **Notifications:**

- a. The Applicant will make the sponsors of future projects and prospective landowners or lessees at the STAMP Site aware of this LOR.
- b. The Applicant shall notify the NYSDEC, the OPRHP, and the TSN of any pending land sales or leases at the STAMP Site.
- c. To the extent possible, the Applicant shall notify the NYSDEC Region 8 Regional Permit Administrator, Agency Historic Preservation Officer, and Indian Nations Affairs Coordinator of the filing of Project related Notices of Intent for coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity.
- d. The Applicant shall offer to meet with TSN Leadership to consult with the TSN regarding any proposed development at the STAMP Site prior to any NYSDEC permitting for such development.
- e. NYSDEC shall notify the TSN of any DEC administered permit applications subject to the NYS Uniform Procedures Act (ECL 70) related to the STAMP site and any known Notices of Intent for coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity.

**3. Consultation and Environmental Justice:**

- a. NYSDEC acknowledges that the Nation's Territory has been identified as a Potential Environmental Justice Area and that, due to the STAMP Site's location adjacent to Nation Territory, will apply NYSDEC Commissioner Policy 29, Environmental Justice and Permitting ("CP-29") and CP-42, as provided for herein, to all applicable elements of the Project undergoing environmental review and permitting.
- b. If NYSDEC becomes aware that any element of the Project may result in an adverse environmental impact to the Nation's Territory, DEC shall offer to consult with TSN, and any others DEC deems appropriate, about possible resolution or at least mitigation of that impact.
- c. NYSDEC and the Applicant agree to implement the provisions of CP-29 and NYSDEC agrees to implement the provisions of CP-42 in relation to any NYSDEC administered permit applications subject to the NYS Uniform Procedures Act at the STAMP Site. In terms of CP-29, the required Enhanced Public Participation Plan shall provide for enhanced public participation respectful of TSN's status, culture and heritage. Specifically, such a plan shall consist of Applicant offering TSN leadership: 1) the opportunity for public information meetings on the Nation's territory, and 2) a special comment period for TSN citizens. Any enhanced public participation efforts shall be closely coordinated with TSN leadership and Applicant shall refrain from direct communications with TSN citizens without prior approval from TSN leadership.

**4. Dispute Resolution, Objections:**

- a. Should any signatory to this LOR object at any time to the way the terms of this LOR are implemented, the NYSDEC shall consult with others DEC deems appropriate to resolve the objection. Prior to reaching a final decision on the dispute, the NYSDEC shall prepare a written response that considers any timely advice or comments from the signatories regarding the dispute and provide each with a copy of this written response. The NYSDEC will then proceed according to its final decision.

**5. Amendments:**

- a. Any amendment must be agreed to in writing by all signatories and will take effect on the date it is signed by the last signatory. Signature pages may be scanned and transmitted to the other signatories by email. The Agreement may be amended to add other State agencies as parties if it is subsequently determined they also have jurisdiction for this undertaking.

**6. Duration:**

- a. This LOR will be reviewed every five (5) years and will expire if the Project is not built out within twenty (20) years from the date of its execution by NYSDEC and OPRHP. Prior to expiration, the NYSDEC may consult with the signatories to reconsider its terms and propose amendments in accordance with Stipulation 5. The duration of this LOR may be extended only upon approval of all signatories.

**7. Termination:**

- a. If any signatory to the LOR determines that its terms will not or cannot be carried out, that signatory shall immediately confer with the others to attempt to resolve a dispute under Stipulation 4 or develop an amendment per Stipulation 5 above. If within thirty (30) days a dispute cannot be resolved or an agreement on an amendment cannot be reached, any signatory may terminate the LOR upon written notification to the other signatories.

**8. Severability:**

- a. If any section, subsection, paragraph, sentence, clause, or phrase in this LOR is, for any reason, held to be unconstitutional, invalid, or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this LOR.

**9. Counterparts:**

- a. This LOR may be executed in counterparts, with a separate page for each signatory. This LOR will become effective upon the date of the final signature. The NYSDEC will ensure that each signatory is provided with a complete copy of the final LOR.

**SIGNATURE PAGES FOLLOW**

LETTER OF RESOLUTION BETWEEN NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
# 10PR01963

SIGNATURE for:

New York State Department of Environmental Conservation

A handwritten signature in blue ink, appearing to read 'CE Vandrei', with a long horizontal flourish extending to the right.

Name: Charles E. Vandrei

Title: Agency Historic Preservation Officer

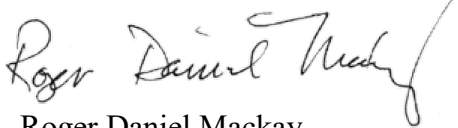
Date: March 25, 2021

LETTER OF RESOLUTION BETWEEN NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
# 10PR01963

SIGNATURE for:

New York State Office of Parks, Recreation and Historic Preservation

A handwritten signature in black ink, appearing to read "Roger Daniel Mackay". The signature is written in a cursive style with a large, sweeping initial "R".

Roger Daniel Mackay  
Deputy Commissioner for Historic Preservation

Date: March 26, 2021

LETTER OF RESOLUTION BETWEEN NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
# 10PR01963

SIGNATURE for Invited Signatory:

Genesee County Economic Development Center

Name:   
Title: SR VP of Operations

Date: 3/24/2021

LETTER OF RESOLUTION BETWEEN NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
# 10PR01963

SIGNATURE for Invited Signatory Concurring Party:

Tonawanda Seneca Nation

Date:

Name:

Title:

LETTER OF RESOLUTION BETWEEN NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
# 10PR01963

SIGNATURE for Invited Signatory Concurring Party:

Seneca Nation of Indians

Date:

Name:

Title:

Attachment 1: Project Boundary Map

J:\PROJECTS\GCEDC\General\STAMP\September 2015 - Master Plan Update\2016.02.19 Aerial Site Plan Parcels.dwg

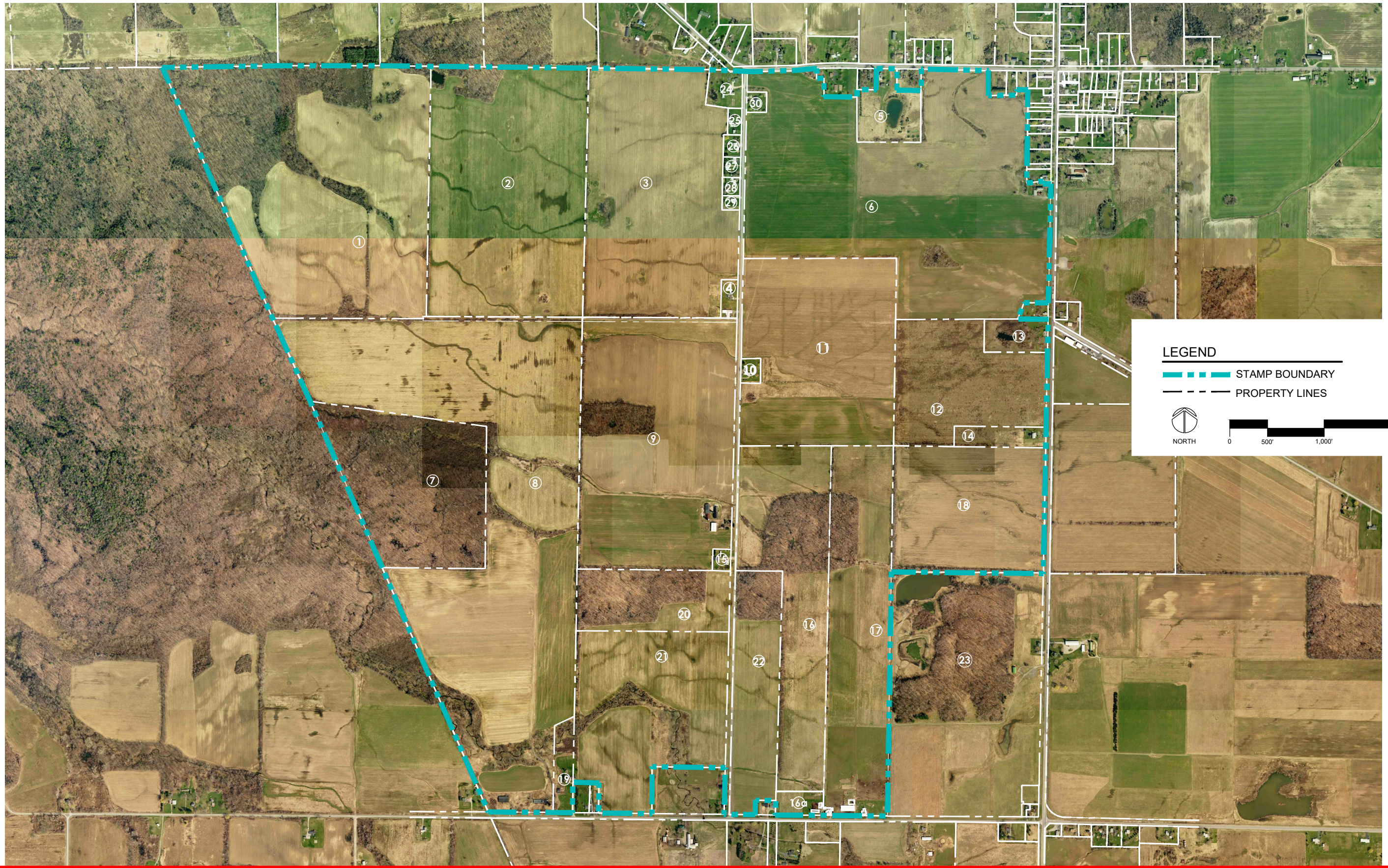


Exhibit A

# ATTACHMENT 2 - STAMP SITE PARCELS

WNY SCIENCE AND TECHNOLOGY ADVANCED MANUFACTURING PARK (STAMP)

FEBRUARY 2016

Attachment 2: Programmatic Agreement

**PROGRAMMATIC AGREEMENT BETWEEN THE UNITED STATES ARMY CORPS  
OF ENGINEERS BUFFALO DISTRICT AND THE NEW YORK STATE OFFICE OF  
PARKS, RECREATION AND HISTORIC PRESERVATION STATE HISTORIC  
PRESERVATION OFFICE**

**REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
SHPO # 10PR01963**

**WHEREAS**, the Genesee County Economic Development Center (“GCEDC” or “Applicant”), plans to develop the Western New York Science & Technology Advanced Manufacturing Park (“STAMP”), an advanced manufacturing campus to be developed on approximately 1,261.7 acres of land (“Project”) in the Town of Alabama, New York 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 (“STAMP Site”); and

**WHEREAS**, the STAMP Site is within the Tonawanda Seneca Nation’s ancestral territory and adjacent to its treaty-protected, federally-recognized Reservation (“Nation’s Territory”); and

**WHEREAS**, the Project consists of multiple, but not necessarily interdependent, parcels, depicted in a map of the STAMP Site attached hereto as *Exhibit A*, some of which may require discharges of dredged or fill material into waters of the United States for development purposes; and

**WHEREAS**, the Applicant has submitted an application to the United States Army Corps of Engineers, Buffalo District (the “Corps”) for a permit or permits pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344) for impacts to waters of the United States in connection with the development of the Project; and

**WHEREAS**, the Corps has determined that the federal undertaking (“Undertaking”) for the Project includes the permitting action associated with the development which will result in a discharge of dredged or fill material into waters of the United States; and

**WHEREAS**, additional development may be proposed on parcels which do not require a discharge of dredged or fill material into waters of the United States, but may require appropriate State authorizations from the New York State Department of Environmental Conservation (“NYSDEC”); and

**WHEREAS**, the Corps, in consultation with the New York State Office of Parks, Recreation and Historic Preservation State Historic Preservation Office (“SHPO”), has determined that the Undertaking’s Area of Potential Effects (“APE”), as defined in 36 CFR 800.16(d) and the permit area as defined in 33 CFR Part 325, Appendix C, are parcels where

development will result in a discharge of dredged or fill material into waters of the United States, and any locations outside these parcels where the character or use of historic properties, if any such properties exist, may be altered by the development associated with the Undertaking; and

**WHEREAS**, additional development at the STAMP Site outside of the area associated with the Undertaking may have direct and/or indirect adverse effects on historic properties pursuant to the New York State Historic Preservation Act (Article 14 of the New York State Parks, Recreation, and Historic Preservation Law, N.Y. PRHPL §§14.09 *et seq.*) and applicable regulations (9 NYCRR Part 428) and policies; and

**WHEREAS**, the NYSDEC is the lead agency with respect to compliance with the New York State Historic Preservation Act for purposes of necessary permitting within its jurisdiction and has associated consultation responsibilities for development regarding parcels outside of the Undertaking; and

**WHEREAS**, the SHPO and NYSDEC, in consultation with the Tonawanda Seneca Nation (“TSN”), will execute a Letter of Resolution pursuant to 9 NYCRR Part 428.10 and 9 NYCRR Part 428.13 that provides for procedures and standards for those projects in parcels that are subject to NYSDEC jurisdiction and where Corps or other federal jurisdiction is absent; and

**WHEREAS**, the Corps has determined that the Undertaking may have direct and/or indirect adverse effects on historic properties and has consulted with the SHPO pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

**WHEREAS**, in accordance with 36 CFR Part 800.6(a)(1), the Corps has notified the Advisory Council on Historic Preservation (“ACHP”) of the potential adverse effects to historic properties, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR Parts 800.6(a)(1)(iii) and (b)(2); and

**WHEREAS**, the Corps has engaged in consultation with TSN and the Seneca Nation of Indians (SNI) in connection with the proposed Project. The SNI has decided not to participate. The Corps has invited TSN to sign this PA as a concurring party; and

**WHEREAS**, the Corps has invited the Applicant to sign this Agreement as an invited signatory; and

**WHEREAS**, the Corps has invited the NYSDEC to sign this Agreement as an invited signatory; and

**WHEREAS**, the Corps, TSN, SHPO, the Applicant, and NYSDEC have consulted and will continue to consult in accordance with Section 106 of the National Historic Preservation Act (54 USC § 306108), and its implementing regulations “Protection of Historic and Cultural Properties” (36 CFR Part 800); Corps regulations at 33 CFR Part 325, Appendix C; “Interim Guidance for Implementing Appendix C of 33 CFR Part 325 with the New Advisory Council on Historic Preservation Regulations at 36 CFR Part 800” dated April 25, 2005; and “Clarification

of Revised Interim Guidance for Implementing Appendix C of 33 CFR Part 325 with the Revised Advisory Council on Historic Preservation Regulations at 36 CFR part 800 dated 25 April 2005”, dated January 31, 2007; and

**WHEREAS**, the TSN has identified the Nation’s Territory as a historic property of religious and cultural significance to the Nation; and

**WHEREAS**, a Traditional Cultural Property (“TCP”) investigation will be undertaken to evaluate the eligibility of the Nation’s Territory for listing on the National Register of Historic Places (“National Register”); and

**WHEREAS**, the Corps has determined, by consensus with the TSN and the SHPO that the proposed Undertaking will have an adverse effect on historic properties with respect to archaeological resources and may have an adverse effect on historic properties with respect to Traditional Cultural Properties; and

**WHEREAS**, phased identification of archeological properties may be undertaken in stages over several years at the STAMP Site; and

**WHEREAS**, the Applicant sponsored a Phase IA Literature Search and Sensitivity Assessment (“Phase IA”) of STAMP Site parcels 1, 2, 3, 4, 6, 8, 9, 10, 11,12, 14, 15, 16, 17,18, 22, 25, 26, 28, 29, and 30; and

**WHEREAS**, Phase IA studies have not been completed for STAMP Site parcels 5, 13, 19, 20, 21, 24, and 27; and

**WHEREAS**, the Applicant sponsored a Phase IB Field Investigation (“Phase IB”) on STAMP Site parcels 1, 2, 3, 4, 6, 8, 10, 11, 12, 14, 15, 16, 17,18, 22, 25, 26, 28, 29, and 30 of the STAMP Site. In addition, Phase IB work was completed for the majority of Parcel 9 (except for approximately three acres surrounding an existing structure). Delineated wetlands identified for avoidance and protection, including all of parcel 7, were not surveyed; and

**WHEREAS**, Phase IB work has not been completed on STAMP Site parcels 5, 13, 19, 20, 21, 24, and 27; and

**WHEREAS**, the Phase IB investigation has identified twenty-eight (28) archeological sites (21 Pre-contact, 6 Historic and 1 Stray Find), twenty-five (25) of which (1 through 24 and 27), were recommended by the SHPO for Phase II Site Evaluation (“Phase II”) to determine National Register eligibility, depicted on the map included as ***Exhibit B***; and

**WHEREAS**, the Applicant sponsored Phase II studies on Archeological Sites 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 26 and 27; and

**WHEREAS**, Phase II studies have not been completed on Archeological Sites 16 and 22; and

**WHEREAS**, the Corps has determined in consensus with the TSN and SHPO that the STAMP Stray Finds Site and Archeological Sites 2, 4, 7, 8, 14, 15, 18, 20, 23, 24, 25, 26, and 27 are not National Register eligible and that Archeological Sites 1, 3, 5, 6, 9, 10, 11, 12, 13, 17, 19, and 21 are eligible for listing on the National Register of Historic Places and should be either avoided or subject to Phase III Data Recovery (“Phase III”) as depicted on the map included as *Exhibit B*; and

**WHEREAS**, Phase III field work is completed at Archeological Sites 3 and 6; and

**NOW, THEREFORE**, the Corps and the SHPO (collectively, the “signatory parties”) agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the Undertaking on historic properties; provided, however, that nothing in this PA is intended or shall be construed as an endorsement of the Undertaking or Project by the TSN.

## **STIPULATIONS**

The Corps will ensure that the following measures are carried out for projects associated with the Undertaking:

### **1. Permit Conditions:**

- a. The Corps will condition its authorization, and shall condition any further authorization it may issue regarding the Undertaking to ensure that the following terms and conditions, including the implementation of any subsequently approved Site Assessment/Data Recovery Plans (“SA/DRPs”), Site Avoidance Plans (“AAPs”), and any other appropriate studies and treatments, shall be completed in a timely manner and with adequate resources.

### **2. Completion of Archeological Site Identification Surveys (Phase IB):**

- a. Pursuant to 36 CFR Part 800.4(b)(2), the Applicant may carry out necessary archeological site identification survey (Phase IB) field work in additional project parcels in a phased manner.
- b. At least fourteen (14) days prior to commencement of any site identification field work, the Applicant shall notify the Corps and the consulting parties. Specific points of contact for each of these parties are listed in *Exhibit C* of this PA. Due to the proximity of the Nation’s Territory to the STAMP Site, the TSN shall continue to be offered the opportunity to have representatives on site during all field work at the Applicant’s expense.
- c. Following field work, the Applicant shall provide copies of Phase IB reports to all consulting parties for a 30-day review period. Comments regarding reports will be submitted by all consulting parties to the Corps. The Corps will consider any comments received from the consulting parties within the 30-day review period.

**3. Phasing of Additional Assessment (Phase II) and Data Recovery Investigations (Phase III):**

- a. Pursuant to 36 CFR Part 800.4(b) (2), the Applicant may carry out any necessary SA/DRPs on additional project parcels in a phased manner.
- b. Applicant may commence construction work on each project parcel after any necessary identification and assessment investigations have been completed and reported on, and any necessary approved treatment plans including DRPs and AAPs have been carried out for each parcel as specified in these PA Stipulations and upon receipt of all applicable authorizations and permits.

**4. Completion of Archeological Site Assessment Investigations (Phase II):**

- a. The Applicant will sponsor appropriate archeological assessment studies for any sites determined to be potentially National Register eligible and proposed for disturbance in association with the development of STAMP according to a testing plan developed in consultation with the Corps and the consulting parties. The Applicant may carry out archeological site assessment investigations of additional project parcels in a phased manner pursuant to PA Stipulation 3 above.
- b. The Applicant shall submit draft Site Assessment Work Plans to the Corps and the consulting parties for a 30-day review period. Comments regarding draft Site Assessment Work Plans will be submitted by the consulting parties to the Corps during the 30-day review period. The Corps will consult with all the consulting parties and consider any comment received from the consulting parties within the 30-day review period, prior to approving a final version of the Site Assessment Work Plan.
- c. At least fourteen (14) days prior to commencement of any Site Assessment fieldwork, the Applicant shall notify the Corps and the consulting parties. Specific points of contact for each of these parties are listed in *Exhibit C* of this PA. Due to the proximity of the Nation's Territory to the STAMP Site, the TSN shall continue to be offered the opportunity to have representatives on site during all field work at the Applicant's expense.
- d. Following field work, the Applicant shall provide copies of Site Assessment reports to all consulting parties for a 30-day review period. Comments regarding reports will be submitted by all consulting parties to the Corps. The Corps will consider any comments received from the consulting parties within the 30-day review period.

**5. Development of Treatment Plans for all Archeological Sites Determined Eligible for Inclusion in the National Register:**

- a. Prior to performing any ground disturbance in the immediate vicinity of identified National Register-eligible sites the Applicant will develop treatment plans in consultation with the Corps and the consulting parties. The Applicant may develop and execute treatment plans for sites located on different project parcels in a phased manner pursuant to Stipulation 3 of this agreement. Archeological treatment plans may include DRPs and/or AAPs or proposals for other mitigation to resolve the adverse effects of the Project on specific archeological sites. Treatment plans should include specific procedures to follow in the event certain sensitive features are encountered during data recovery.
- b. The Applicant will provide copies of Archeological Treatment Plans to the Corps and the consulting parties for a 30-day review period. Comments regarding Archeological Site Treatment Plans will be submitted to the Corps within the 30-day review period. The Corps will consider any comments received from the consulting parties prior to approving final versions of Archeological Site Treatment Plans. Once data recovery fieldwork has begun, the Applicant may request modifications to the Data Recovery Plan to deal appropriately with the archeological materials encountered. For revisions to the Data Recovery Plan, the Applicant shall provide a written request to the Corps and the consulting parties for a 10-day review period. Comments regarding modification requests will be submitted by the consulting parties to the Corps within 10 calendar days of receiving the request. The Corps will consider any comments received from the consulting parties prior to making a decision on the proposed amendment and decision shall be issued within 10 calendar days of receipt of the modification request.
- c. Proposals for mitigation, other than data recovery or avoidance, must include provisions for review and approval of compliance and completion by the Corps in consultation with the consulting parties.

**6. Execution of Archeological Site Avoidance Plans:**

- a. All areas containing archeological sites to be avoided as referenced in Archeological Site Avoidance Plans shall be clearly identified on the construction/grading plans and fenced during all ground disturbance/construction activities. A copy of the plans showing avoidance areas shall be submitted to the Corps for review prior to initiation of any construction activity.
- b. Within sixty (60) days after the treatment plan has been approved for any project parcel, the Applicant shall submit a draft of the deed covenants for any area within that parcel containing archeological sites that will be

protected from current and future development to the Corps and the consulting parties. The Corps and consulting parties will have sixty (60) days to review and comment on the draft deed covenants. Consulting parties will submit any comments they have to the Corps. The Applicant will modify the draft deed covenants as directed by the Corps.

- c. Applicant must file the finalized deed covenants with the Genesee County Clerk within thirty (30) days of Corps approval and provide evidence of the filing to the Corps and the consulting parties.

**7. Execution of Fieldwork and Data Analysis for Archeological Site Data Recovery:**

- a. At least fourteen (14) days prior to commencement of any archeological site data recovery fieldwork, the Applicant shall notify the Corps and the consulting parties. Due to the proximity of the Nation's Territory to the STAMP Site, the TSN shall continue to be offered the opportunity to have representatives on site during all field work at the Applicant's expense.
- b. Following the completion of archeological data recovery fieldwork for each project parcel phase, the Applicant will provide End of Fieldwork Letters to the Corps and the consulting parties for review. End of Fieldwork Letters will reference the SA/DRP and any amendments, summarize the fieldwork carried out, provide any provisional results or interpretations that can be made, and will be accompanied by comprehensive maps that illustrate the completed fieldwork. Comments regarding End of Fieldwork Letters will be submitted by the consulting parties to the Corps within the 30-day review period. The Corps will consider any comments received from the consulting parties prior to approving final versions of End of Fieldwork Letters. The Corps may require additional fieldwork if it determines that additional work is necessary to carry out the stipulations of the approved SA/DRP.
- c. Upon final approval by the Corps and upon receipt of all applicable authorizations and permits, the Applicant may commence construction work within the construction phase addressed by the End of Fieldwork letter.
- d. Following completion of data analysis associated with the archeological data recovery fieldwork, the Applicant will produce a report of the results of the archeological data recovery investigations. The Applicant will provide the report to the Corps and the consulting parties no later than 365 days following the Corps approval of the End of Fieldwork Letter for each site. Comments regarding these reports may be submitted by the consulting parties to the Corps for a 30-day review period, beginning upon receipt of the reports. The Corps will consider any comments received from the consulting parties prior to approving final versions of the reports.

The Applicant shall provide a final version of the report to the consulting parties no later than 90 days after Corps approval.

**8. Traditional Cultural Property (TCP) Investigation:**

- a. A Traditional Cultural Property (TCP) investigation will be performed to evaluate the eligibility of the Nation's Territory for listing on the National Register as a property of religious and cultural significance. The Corps, in consultation with the TSN and the other consulting parties, will finalize development of protocols for the completion of the investigation.
- b. The results of the TCP investigation will be used to guide the evaluation of potential adverse effects to the Nation's Territory as a property of religious and cultural significance resulting from the proposed STAMP Site development associated with the Undertaking.
- c. If the Corps in consultation with the TSN and other consulting parties determines that the Undertaking will result in an adverse effect(s) to the Nation's Territory as a property of religious and cultural significance, the Corps will consult with the TSN and the other consulting parties to resolve the identified adverse effect(s).
- d. To fulfill its obligations under 36 C.F.R. Part 800 with respect to the TCP, including identification and evaluation of eligibility and assessment and resolution of adverse effects, the Corps may invite consulting parties to enter into a consultation protocol agreement pursuant to 36 C.F.R. Part 800.2(c)(2)(ii)(E). Nothing in this stipulation shall be deemed to defer final identification or evaluation of historic properties for purposes of 36 C.F.R. Part 800.4(b)(2) or 800.14(b).

**9. Human Remains:**

- a. In the event that any human remains and/or associated funerary objects are discovered during the archeological field work, pre-construction, or construction activities, all work in the immediate vicinity of the human remains must cease immediately and the Corps and the consulting parties must be notified immediately. The area containing the human remains and/or associated funerary objects must be covered and protected from the elements and other disturbances. Work in that area may not recommence until clearance is given by the Corps in consultation with the consulting parties.
- b. Procedure and protocol for notification, treatment, and disposition of the human remains shall comply with the SHPO and the Haudenosaunee Human Remains Protocols attached in *Exhibit D* respectively.

**10. Curation:**

- a. After the completion of all archeological investigations required pursuant to this PA, ownership of the collection shall be offered for transfer to the TSN. If the TSN does not desire to take ownership of the collection or any portion thereof, the collection or any portion thereof, shall be transferred to a facility that meets the standards set forth in 36 CFR Part 79.

**11. Land Acquisition:**

- a. Upon receipt of all applicable authorizations and permits, the Applicant may acquire additional land for the STAMP Project provided however, that the Applicant shall not physically disturb such additional acquired land or commence construction work until after any necessary identification and assessment investigations have been completed and reported on, and any necessary approved treatment plans (archeological site data recovery plans, archeological site avoidance plans or other treatment plans) have been carried out for each parcel as specified in these PA Stipulations.

**12. Post-Review Discoveries:**

- a. If properties are discovered that may be eligible for inclusion on the National Register of Historic Places or new unanticipated effects on historic properties are identified during work associated with the Undertaking, the Applicant will halt work in the vicinity of the historic properties and notify the Corps and the consulting parties as soon as practicable.
- b. Applicant will employ a qualified historic preservation professional to evaluate the property and make a recommendation to the Corps regarding the eligibility of the property for inclusion in the National Register of Historic Places or regarding new unanticipated effects on historic properties. The Corps will, within five business days from receipt of the recommendation, determine the eligibility of the property in consultation with the consulting parties.
- c. If the property is determined eligible for inclusion in the National Register or if new unanticipated effects on historic properties are identified, the Applicant will provide a draft treatment plan for the property to the Corps. The Corps will review the treatment plan in consultation with the consulting parties. The Corps will provide the draft treatment plan to the consulting parties for a 5 business day review period. The Corps will take into account any comments of the consulting parties within the 5 business day review period before approving a final treatment plan.

**13. Time Periods for Comments:**

- a. Comments received after the expiration of any review period prescribed in this PA shall be considered where practicable prior to finalization of the report or determination to which the comments pertain.

**14. Monitoring and Reporting:**

- a. Each year following the execution of this PA until it expires or is terminated, the Applicant shall provide all parties to this PA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received.

**15. Dispute Resolution:**

- a. Should any signatory or concurring party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented with respect to the Undertaking, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will:
  - i. Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps with its advice on the resolution of the objection within fifteen (15) calendar days of receiving all documentation relevant to the dispute. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that considers and addresses any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.
  - ii. If the ACHP does not provide its advice regarding the dispute within the fifteen (15) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that considers and addresses any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
  - iii. The Corps' responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

**16. Amendments:**

- a. This PA may only be amended when such an amendment is agreed to in writing by all signatory parties, in consultation with concurring parties. Following consultation, concurring parties may choose in writing to concur in or to decline to concur in a proposed amendment. The amendment will be effective on the date a copy of the amendment is signed by all signatory parties and filed with the ACHP.

**17. Letter of Resolution pursuant to the New York State Historic Preservation Act**

- a. The SHPO and NYSDEC, in consultation with TSN, will execute a Letter of Resolution pursuant to 9 NYCRR Part 428.10 and 9 NYCRR Part 428.13 that provides for equivalent procedures and standards for those projects in parcels that are subject to NYSDEC jurisdiction and where Corps or other federal jurisdiction is absent. NYSDEC and SHPO agree to invite the parties of the PA to join in signing the Letter of Resolution.

**18. Duration:**

- a. This PA will expire if its terms are not carried out within twenty (20) years from the date of its execution. Prior to such time, the Corps may consult with the consulting parties to reconsider the terms of the PA and amend it in accordance with Stipulation 16 above. The duration of the PA may be extended only upon approval from all signatories.

**19. Termination:**

- a. If any signatory to the PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation 16 above. If within thirty (30) days an amendment cannot be reached, any signatory party may terminate the PA upon written notification to the other signatory parties.
- b. Once the PA is terminated, and prior to work continuing, the Corps must either: (a) execute a PA pursuant to 36 CFR Part 800.6; or (b) request, consider, and respond to the comments of the ACHP under 36 CFR Part 800.7. The Corps shall notify the signatory parties as to the course of action it will pursue.

**20. Severability:**

- a. If any section, subsection, paragraph, sentence, clause, or phrase in this PA is, for any reason, held to be unconstitutional, invalid, or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this PA.

**21. Counterparts:**

- a. This PA may be executed in counterparts, with a separate page for each signatory. This PA will become effective upon the date of the final signature. The Corps will ensure that each signatory is provided with a complete copy of the final PA.

Execution of this PA by the Corps and the SHPO and implementation of its terms is evidence that the Corps has taken into account the effects of this Undertaking on historic properties and has afforded the ACHP an opportunity to comment, in satisfaction of its responsibilities under Section 106 of the National Historic Preservation Act.

**PROGRAMMATIC AGREEMENT BETWEEN THE UNITED STATES ARMY CORPS  
OF ENGINEERS BUFFALO DISTRICT AND THE NEW YORK STATE OFFICE OF  
PARKS, RECREATION AND HISTORIC PRESERVATION STATE HISTORIC  
PRESERVATION OFFICE**

**REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
SHPO # 10PR01963**

**SIGNATURE for:**

**United States Army Corps of Engineers**



Name: Diane C. Kozlowski

Title: Chief, Buffalo District Regulatory Branch

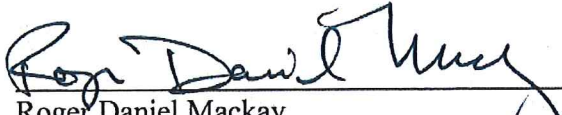
Date: 16 July 2018

**PROGRAMMATIC AGREEMENT BETWEEN THE UNITED STATES ARMY CORPS  
OF ENGINEERS BUFFALO DISTRICT AND THE NEW YORK STATE OFFICE OF  
PARKS, RECREATION AND HISTORIC PRESERVATION STATE HISTORIC  
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**REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
SHPO # 10PR01963**

**SIGNATURE for:**

**New York State Historic Preservation Office**

  
\_\_\_\_\_  
Roger Daniel Mackay  
Deputy Commissioner for Historic Preservation

Date: 7/17/18

**PROGRAMMATIC AGREEMENT BETWEEN THE UNITED STATES ARMY CORPS  
OF ENGINEERS BUFFALO DISTRICT AND THE NEW YORK STATE OFFICE OF  
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**REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
SHPO # 10PR01963**

**SIGNATURE for Invited Signatory:**

Genesee County Economic Development Center



Name: Mark Masse

Title: Senior Vice President of Operations

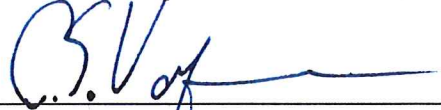
Date: 7/16/18

**PROGRAMMATIC AGREEMENT BETWEEN THE UNITED STATES ARMY CORPS  
OF ENGINEERS BUFFALO DISTRICT AND THE NEW YORK STATE OFFICE OF  
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**REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
SHPO # 10PR01963**

**SIGNATURE for Invited Signatory:**

New York State Department of Environmental Conservation



\_\_\_\_\_  
Name: Charles E. Vandre  
Title: Agency Historic Preservation Office

Date: July 17, 2018

**PROGRAMMATIC AGREEMENT BETWEEN THE UNITED STATES ARMY CORPS  
OF ENGINEERS BUFFALO DISTRICT AND THE NEW YORK STATE OFFICE OF  
PARKS, RECREATION AND HISTORIC PRESERVATION STATE HISTORIC  
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**REGARDING  
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY  
ADVANCED MANUFACTURING PARK  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
SHPO # 10PR01963**

**SIGNATURE for Concurring Party:**

Tonawanda Seneca Nation

\_\_\_\_\_  
Name: Chief Roger Hill  
Title: Chief, Tonawanda Seneca Nation

Date: \_\_\_\_\_

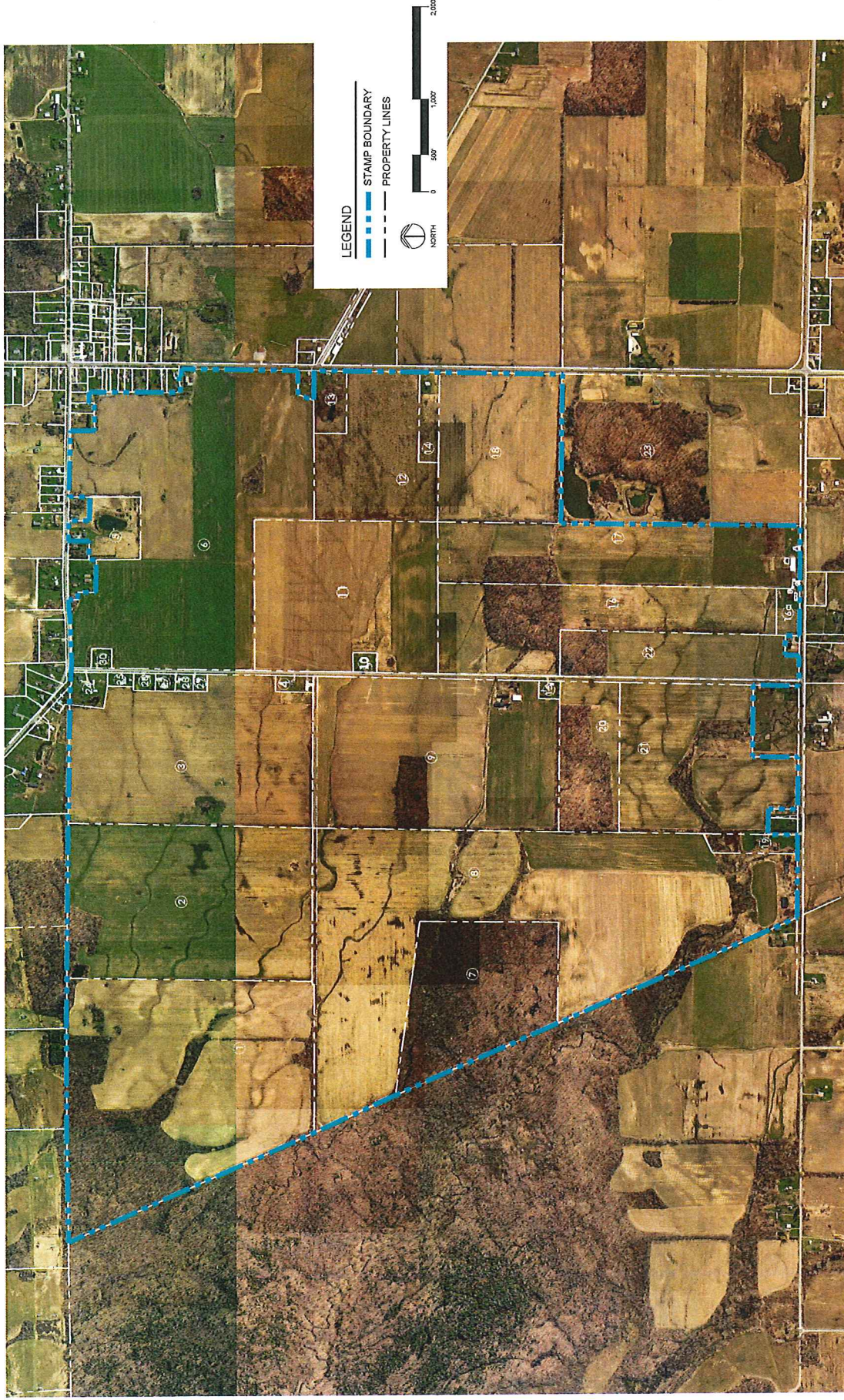
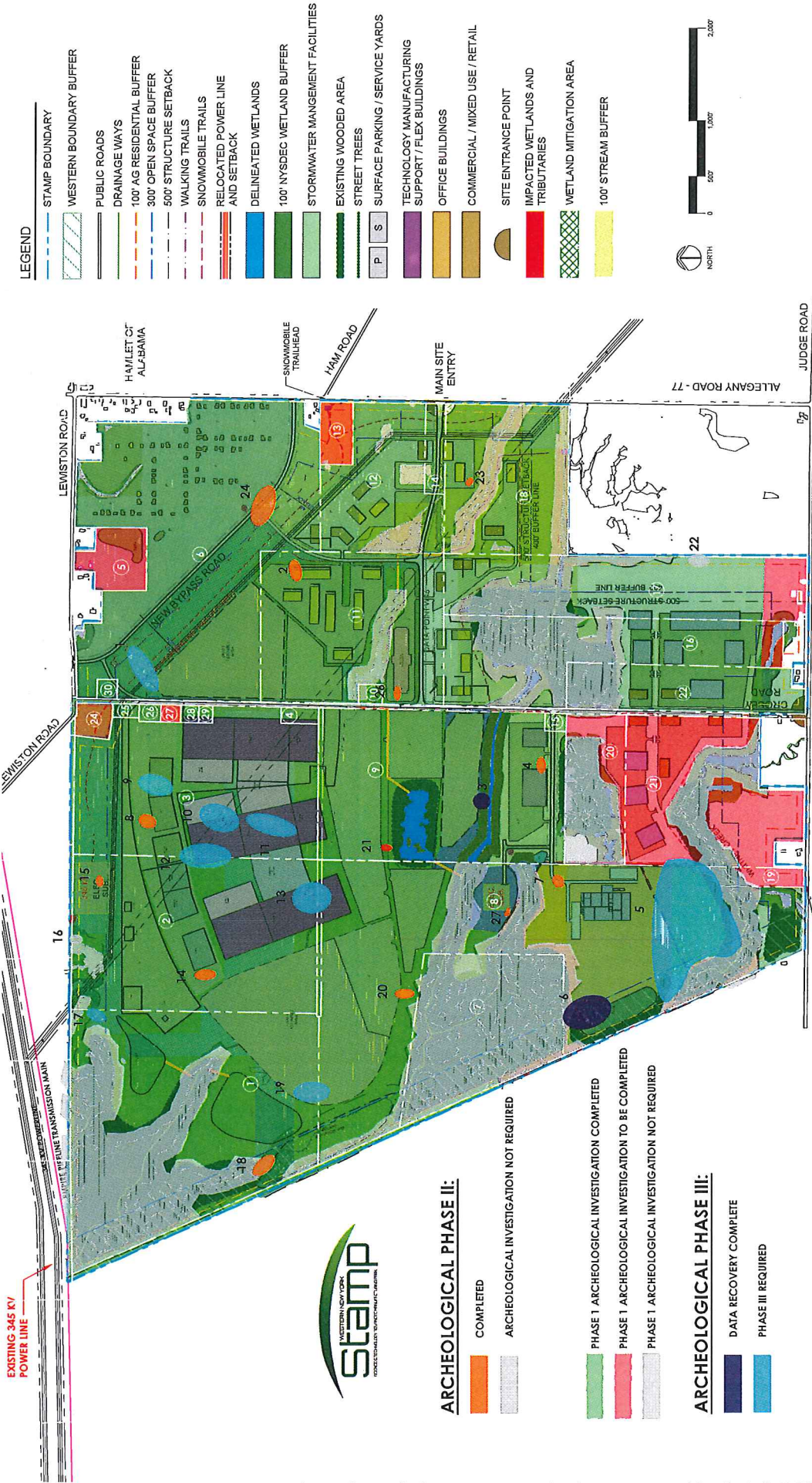


Exhibit A

## ATTACHMENT 2 - STAMP SITE PARCELS

WNY SCIENCE AND TECHNOLOGY ADVANCED MANUFACTURING PARK (STAMP)

FEBRUARY 2016



- LEGEND**
- STAMP BOUNDARY
  - WESTERN BOUNDARY BUFFER
  - PUBLIC ROADS
  - DRAINAGE WAYS
  - 100' AG RESIDENTIAL BUFFER
  - 300' OPEN SPACE BUFFER
  - 500' STRUCTURE SETBACK
  - WALKING TRAILS
  - SNOWMOBILE TRAILS
  - RELOCATED POWER LINE AND SETBACK
  - DELINEATED WETLANDS
  - 100' NYSDEC WETLAND BUFFER
  - STORMWATER MANAGEMENT FACILITIES
  - EXISTING WOODED AREA
  - STREET TREES
  - SURFACE PARKING / SERVICE YARDS
  - TECHNOLOGY MANUFACTURING SUPPORT / FLEX BUILDINGS
  - OFFICE BUILDINGS
  - COMMERCIAL / MIXED USE / RETAIL
  - SITE ENTRANCE POINT
  - IMPACTED WETLANDS AND TRIBUTARIES
  - WETLAND MITIGATION AREA
  - 100' STREAM BUFFER



EXISTING 345 KV POWER LINE



**ARCHEOLOGICAL PHASE II:**

- COMPLETED
- ARCHEOLOGICAL INVESTIGATION NOT REQUIRED
- PHASE I ARCHEOLOGICAL INVESTIGATION COMPLETED
- PHASE I ARCHEOLOGICAL INVESTIGATION TO BE COMPLETED
- PHASE I ARCHEOLOGICAL INVESTIGATION NOT REQUIRED

**ARCHEOLOGICAL PHASE III:**

- DATA RECOVERY COMPLETE
- PHASE III REQUIRED

**ATTACHMENT 3 - ARCHEOLOGY PROGRESS AND SITES**

WNY SCIENCE AND TECHNOLOGY ADVANCED MANUFACTURING PARK (STAMP)  
MARCH 2, 2018

Exhibit C

Points of Contact (Consulting Parties)

Army Corps of Engineers

Molly Connerton  
[molly.a.connerton@usace.army.mil](mailto:molly.a.connerton@usace.army.mil)  
(716) 879-4304

State Historic Preservation  
Office

Nancy Herter  
[Nancy.Herter@parks.ny.gov](mailto:Nancy.Herter@parks.ny.gov)  
(518) 268-2179

Genesee County Economic  
Development Center

Mark Masse  
[mmasse@gcedc.com](mailto:mmasse@gcedc.com)  
(585) 343-4866 ext. 17

Tonawanda Seneca Nation

Christine Abrams  
[tonseneca@aol.com](mailto:tonseneca@aol.com)  
(716) 542-4244

NY Department of Environmental  
Conservation

Charles Vandrei  
[charles.vandre@dec.ny.gov](mailto:charles.vandre@dec.ny.gov)  
(518) 402-9428

# Exhibit D- Haudensosaunee Human Remains Protocol

## 4.7 Protocol for Handling Discovery of Human Remains

	<u>Known Burials</u>	<u>Unidentified Burials</u>
<b>When to contact?</b>	<b>Intentional excavation</b> At the earliest time in decision-making process.	<b>Inadvertent Discovery</b> Upon discovery.
<b>Which Nation to contact?</b>	If find is within existing Nation boundary, contact that Nation's Cultural Resource representatives. If the find is within the traditional land use area (fifty mile radius from the current nation territory, contact the closest Nation's Cultural Resource Representative. If the find is within the aboriginal territory of each nation, as shown on the attached map, contact the Nation within that territory. For finds located within fifty miles on either side of the boundary lines shown on the map, contact the Cultural Resource Representatives of both Nations.	
<b>Who to contact?</b>	Haudensosaunee Cultural Resource Representatives  HSCBRR	Haudensosaunee Cultural Resource Representatives  HSCBRR
<b>How to contact?</b>	Contact list is provided.	
<b>Information Required</b>	Brief description of the find or potential find; site map and any information on the known cultural history of the area and summary of nearby archaeological findings.  Nation will send a representative to review the site.	
<b>Next steps</b>	<p><i>Non-disturbance of burials is preferred.</i></p> <p>If after proper consultation, the remains must be removed, we prefer to have them reburied close to their original location as possible, provided the future sanctity of the grave can be assured. <i>No remains should be removed without proper cultural protocols.</i> If no safe local burial ground can be offered, the Haudensosaunee will reclaim the remains for reburial at an undisclosed location. The local government /state agency/developer must pay all of the costs for such reburial. All objects associated with the original burial must be reburied as well. All of the soil in the immediate area of the burial should also be placed in the new grave.</p>	
<b>Time Frame</b>	30 to 45 days	As soon as possible