

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Impact on Plants and Animals.

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

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

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

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

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

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

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

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

- (i) The requirements of 6 N.Y.C.R.R. Part 617 have been met; and
- (ii) Consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the Project remains one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

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

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

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

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

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

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zelif	[ X ]	[ ]	[ ]	[ ]
Matthew Gray	[ X ]	[ ]	[ ]	[ ]
Paul Battaglia	[ X ]	[ ]	[ ]	[ ]
Craig Yunker	[ X ]	[ ]	[ ]	[ ]
Todd Bender	[ ]	[ ]	[ X ]	[ ]
Marianne Clattenburg	[ X ]	[ ]	[ ]	[ ]
Chandy Kemp	[ X ]	[ ]	[ ]	[ ]

The foregoing Resolution was thereupon declared duly adopted.

**CERTIFICATION**

STATE OF NEW YORK            )  
COUNTY OF GENESEE        ) ss.:

I, the undersigned Chairman of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

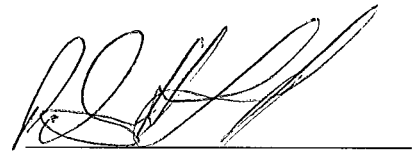
That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on October 6, 2022, with the original thereof on file at the Agency's office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 6<sup>th</sup> day of October, 2022.



***Full Environmental Assessment Form***  
***Part 3 - Evaluation of the Magnitude and Importance of Project Impacts***  
***and***  
***Determination of Significance***

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

(See attached GCEDC Amended Negative Declaration SEQR Determination)

**Determination of Significance - Type 1 and Unlisted Actions**

SEQR Status:       Type 1                       Unlisted

Identify portions of EAF completed for this Project:    Part 1               Part 2               Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information  
See attached determination of significance.

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the  
Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

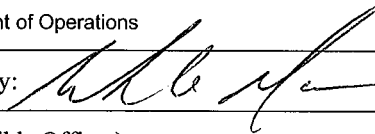
Name of Action: STAMP Powerline Reroute

Name of Lead Agency: Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center

Name of Responsible Officer in Lead Agency: Mark A. Masse

Title of Responsible Officer: Senior Vice President of Operations

Signature of Responsible Officer in Lead Agency:



Date: 10/6/22

Signature of Preparer (if different from Responsible Officer)

Date:

**For Further Information:**

Contact Person: Mark A. Masse

Address: 99 MedTech Drive, Batavia, New York 14020

Telephone Number: 585-343-4866

E-mail: mmasse@gcedc.com

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

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