

**Genesee County Economic Development Center
Meeting Agenda**

Thursday, October 6, 2022

Location: 99 MedTech Drive, Innovation Zone

PAGE #

1.0	Call to Order	4:00 pm
	Presentation – 8250 Park Rd LLC	4:00 pm
1.1	Enter Executive Session	4:10 pm
	Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons:	
	1. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.	
	2. Discussions regarding proposed, pending or current litigation.	
1.2	Enter Public Session	4:50pm
2.0	Chairperson’s Report & Activities	4:50pm
2.1	Upcoming Meetings: Next Scheduled Board Meeting: Thursday, October 27th at 4 p.m. Audit & Finance Committee Meeting: Tuesday, October 25 th at 8:30 a.m. STAMP Committee Meeting: Wednesday, October 26 th at 8 a.m.	
2.2	Agenda Additions / Deletions / Other Business **Vote	
2.3	Minutes: September 1, 2022 **Vote	
3.0	Report of Management –	4:55pm
3.1	8250 Park Rd LLC – Initial Resolution **Vote – C. Suozzi	
3.2	Yellowtail Energy, LLC – Authorizing Resolution **Vote – M.Masse	
3.3	GLOW With Your Hands Update – C. Suozzi / J. Krencik	
3.4	Tax Base Analysis Presentation	
4.0	Audit & Finance Committee – M. Gray	5:05pm
4.1	August 2022 Financial Statements **Vote	
4.2	GCEDC 1+3 Budget **Vote	
4.3	2023 General Cleaning Services **Vote	
4.4	Land Lease Rates **Vote	
5.0	Governance & Nominating Committee – C. Yunker	5:15pm
5.1	Nothing at this time.	
6.0	STAMP Committee – P. Zeliff	5:15pm
6.1	Second Amendment to MOU with NCWD **Vote	
6.2	Consultant for Evaluation of TCP Issues **Vote	
6.3	Genesee County Water Supply Agreement Assignment **Vote	
6.4	Payment for Storage Yard **Vote	
6.5	Title Fee on Filing of Easement for National Grid Powerline Re-Route **Vote	
6.6	Phillips Lytle Legal Services **Vote	
6.7	Amended SEQR for STAMP for Modified Part 182 Permit **Vote	
7.0	Employment & Compensation Committee – T. Bender	5:30pm
7.1	Nothing at this time.	
8.0	Housing Committee – P. Battaglia	5:30pm
8.1	Nothing at this time.	
9.0	Other Business	5:30pm
9.1	Nothing at this time.	
10.0	Adjournment	5:30pm

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**GCEDC Board Meeting
Thursday, September 1, 2022
Location: 99 MedTech Drive, Innovation Room
4:00 PM**

GCEDC MINUTES

Attendance

Board Members: C. Yunker, P. Battaglia, C. Kemp, P. Zeliff, M. Gray, M. Clattenburg, T. Bender
Staff: L. Farrell, M. Masse, S. Hyde, L. Casey, J. Krencik, P. Kennett, C. Suozzi
Guests: R. Gaenzle (Harris Beach/Video Conference), D. Cunningham (GGLDC Board Member), J. Tretter (GGLDC Board Member), S. Noble-Moag (GGLDC Board Member), T. Felton (GGLDC Board Member)

Absent:

1.0 Call to Order

P. Zeliff called the meeting to order at 4:01 p.m. in the Innovation Zone.

1.1 Enter Executive Session

C. Yunker made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 4:01 p.m. for the following reasons:

1. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.
2. Discussions regarding proposed, pending, or current litigation.

The motion was seconded by P. Battaglia and approved by all members present.

1.2 Enter Public Session

P. Battaglia made a motion to enter back into public session at 4:49 p.m., seconded by C. Yunker and approved by all members present.

2.0 Chairman's Report & Activities

2.1 Upcoming Meetings:

Next Scheduled Board Meeting: Thursday, October 6th at 4:00 p.m.

Audit & Finance Committee Meeting: Tuesday, October 4th at 8:30 a.m.

STAMP Committee Meeting: Wednesday, October 5th at 8:00 a.m.

2.2 Agenda Additions / Deletions / Other Business – Nothing at this time.

2.3 Minutes: July 21, 2022 & August 4, 2022

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M. Gray made a motion to accept the minutes from July 21, 2022 & August 4, 2022; the motion was seconded by C. Yunker. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zeliff -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

3.0 Report of Management

3.1 NEXgistics – Final Resolution – Nexgistics is seeking to develop a 140,000 square-foot facility on Vision Parkway in the Town of Pembroke.

Nexgistics is a fast-growing third-party logistics provider specializing in consumer electronics, sporting and outdoor goods, e-bikes and related productions with operations in New York and Nevada.

The company currently leases buildings at two separate western New York locations, and desires to construct a centrally located distribution center and national headquarters at a site suitable for future growth. Following a multi-state site search, Nexgistics is seeking to build their facility on 30 acres of vacant land currently under contract for the project.

The \$17.6 million project in Pembroke will enable the company to retain the 21 full-time equivalent positions currently employed in NY and add 3 FTE.

Nexgistics is requesting assistance from the GCEDC with a sales tax exemption estimated at \$812,000, a property tax abatement estimated at \$1,116,360 based on incremental increase in assessed value via new traditional PILOT, and a mortgage tax exemption estimated at \$154,650.

A public hearing was held on August 22, 2022. No written or oral comments were received.

M. Masse stated that this project will result in the abandonment of a facility from one area of the state to another but is necessary to discourage the project from moving outside the state. A notice of abandonment was provided to the impacted County.

See the Statement of Compliance of Project Criteria listed in the Uniform Tax Exemption Policy (UTEP), attached to the minutes for additional Project details and Board approvals.

Resolution No. 09/2022 - 01

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON AUGUST 22, 2022, WITH RESPECT TO THE NEXGISTICS LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA; (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS

RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT AND (C) A MORTGAGE RECORDING TAX EXEMPTION AS AUTHORIZED BY THE LAWS OF THE STATE OF NEW YORK; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

P. Battaglia made a motion to accept Final Resolution #09/2022-01, accepting the incentives as presented; the motion was seconded by C. Yunker. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

3.2 GLOW With Your Hands Update – J. Krencik provided a brief update on the upcoming GLOW With Your Hands event. J. Krencik stated that approximately 1,000 students are anticipated to attend the event at the Genesee County Fairgrounds on September 27, 2022. Over 65 businesses will have representation at the event, which is the largest assembly to date. The biggest indicator of success for the event is that there has been 30% growth in students attending BOCES. C. Suozzi, M. Gray and D. Cunningham then provided highlights of the recent Box Car Derby event, which, by all accounts, was a fantastic day for not only the 28 kids that participated, but the Community as well.

3.3 Trousdale I & II Consent to Assign – The Governance Committee previously had discussions related to Consent to Assignment. It had been determined that if a company acquires a facility there *would* be a fee charged for that acquisition. However, if a company is buying the outstanding stock in LLC membership units, there *would not* be a transfer fee charged. In the Agency’s PILOT documents, there is an assignment clause that requires Board approval if a company wishes to sell more than 50% of their ownership stock. This clause allows the Agency to perform any due diligence on the acquiring company that is deemed necessary. Trousdale Solar I and II are selling their LLC interests entirely, therefore requiring Board approval. The company that is buying their interests is a wholly owned subsidiary of NextEra Energy. Staff does not have any concerns about this acquisition.

Resolution No. 09/2022 - 02

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE “AGENCY”) (i) AUTHORIZING AN ASSIGNMENT REQUEST RECEIVED FROM TROUSDALE SOLAR, LLC (THE “COMPANY”) IN CONNECTION WITH A CERTAIN PROJECT TO BE UNDERTAKEN BY THE AGNECY AND THE COMPANY; AND (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS WITH RESPECT TO SAME.

T. Bender made a motion to accept Authorizing Resolution #09/2022-02; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
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T. Bender - Yes
M. Clattenburg – Yes
C. Kemp - Yes

P. Zelif - Yes
M. Gray - Yes

The item was approved as presented.

Resolution No. 09/2022 - 03

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE “AGENCY”) (i) AUTHORIZING AN ASSIGNMENT REQUEST RECEIVED FROM TROUSDALE SOLAR II, LLC (THE “COMPANY”) IN CONNECTION WITH A CERTAIN PROJECT TO BE UNDERTAKEN BY THE AGNECY AND THE COMPANY; AND (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS WITH RESPECT TO SAME.

T. Bender made a motion to accept Authorizing Resolution #09/2022-03; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Yes
M. Clattenburg – Yes
C. Kemp - Yes

C. Yunker - Yes
P. Zelif - Yes
M. Gray - Yes

The item was approved as presented.

4.0 Audit & Finance Committee

4.1 July 2022 Financial Statements - L. Farrell reviewed the July 2022 financial statements with the Board. The following was noted:

- On the balance sheet, unrestricted cash increased. The Genesee County Funding Corp. (GCFC) granted approximately \$328,000 to the GCEDC to support the on-going economic development program. This grant was 95% of the origination/issuance fee related to the GCFC’s Rochester Regional Health (RRH) Tax-Exempt Bond project.
- On the P&L, we closed on the Apple Tree Acres, LLC project and land sale.
- There is normal monthly activity.

The financial statements were reviewed in detail by the Committee and are recommended for approval.

M. Gray made a motion to approve the July 2022 Financial Statements as presented; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia - Yes
T. Bender - Yes
M. Clattenburg – Yes
C. Kemp - Yes

C. Yunker - Yes
P. Zelif - Yes
M. Gray - Yes

The item was approved as presented.

4.2 2023 GCEDC Budget – L. Farrell stated that the Board packet included a PowerPoint presentation that summarizes the assumptions that were made in the 2023 Budget. She also noted that the County funding request will remain at the same level, including the additional \$25,000 for workforce development.

The Audit & Finance Committee completed a detailed review of 2023 budget assumptions and 2022 projections.

This was recommended for approval by the Committee.

P. Battaglia made a motion to approve the 2023 GCEDC Budget as presented; the motion was seconded by C. Yunker. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zeliff -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

4.3 Consulting Assistance on Local Labor Reporting – At the October 1, 2019 meeting, the GCEDC staff presented a sample proposal from Loewke Brill Consulting Group, Inc. on how they could assist companies that will have to report to the GCEDC under the local labor reporting requirements, including assistance with waiver requests and finding local contractors to bid their projects.

The GCEDC Staff had requested a quote for the costs related to the Nexgistics project in Pembroke. A copy of the application for incentives were sent to Loewke Brill for them to calculate the fee. They submitted the following:

\$9,170 - 12 Inspections (\$225 per visit), 12 Monthly Reports (\$460 per month), 1 time set up fee (\$950)

The time was determined by what the projects listed for the duration of construction in their applications. GCEDC staff has the following recommendation which is consistent with prior approvals:

1. The GCEDC will pay for the set-up fee, monthly inspections, and reporting, not to exceed the construction timeline in the application. If it runs over that the company should be responsible.
2. The company will pay for any waiver requests that get submitted and sent to the Board for consideration (estimated at two waivers at \$230 per waiver).

Fund Commitment: \$9,170 (if waivers are needed \$9,630); waivers covered by the company.

This will be the last project that the GCEDC will pay these costs. Going forward any new projects will be subject to the new policy of making a deposit to cover all the costs associated with the local labor inspection process. The GCEDC will continue to pay the monthly inspection and reporting fees for the existing contracts that were previously approved.

This was recommended for approval by the Committee.

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M. Gray made a motion to approve the Loewke Brill Agreement for the Nexgistics project as presented; the motion was seconded by C. Yunker. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zeliff -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

5.0 Governance & Nominating Committee – C. Yunker

5.1 Nothing at this time.

6.0 STAMP Committee – P. Zeliff

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

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

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

This item was recommended for approval by the Committee.

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

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zeliff -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

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

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

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

This item was recommended for approval by the Committee.

P. Battaglia, C. Yunker, P. Zeliff and M. Clattenburg expressed dissatisfaction about the obstacles, imposed by governmental bodies, that add little value to the development of the STAMP site. Board members are growing weary of the ongoing costs associated with these requirements. However, if this proposal is not approved, progress at the STAMP site comes to a halt. Therefore, those that expressed dissatisfaction will ultimately vote "yes" for this proposal.

C. Yunker made a motion to approve the amended Part 182 Take Permit and Environmental Services contract to CC Environment & Planning not to exceed an additional \$42,750 as presented; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zeliff -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

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

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

P. Battaglia questioned if the Nation would ask the GCEDC to pay for additional monitoring fees. M. Masse confirmed that there would be a request for additional monitoring fees. P. Battaglia stated that he has the same concerns regarding *this* approval as the previous approval (Agenda item 6.2). However, if this proposal is not approved, progress at the STAMP site comes to a halt. Therefore, he will ultimately vote "yes" for this proposal.

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

This item was recommended for approval by the Committee.

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

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

7.0 Employment & Compensation – T. Bender

7.1 Nothing at this time.

8.0 Housing Committee – P. Battaglia

8.1 Nothing at this time.

9.0 Other Business

9.1 Nothing at this time.

10.0 Adjournment

As there was no further business, P. Battaglia made a motion to adjourn at 5:20 p.m., which was seconded by M. Gray and passed unanimously.



Project Name: NEXgistics

Board Meeting Date: August 4, 2022

STATEMENT OF COMPLIANCE OF PROJECT CRITERIA LISTED IN UNIFORM TAX EXEMPTION POLICY (UTEP)

PROJECT DESCRIPTION:

Nexgistics is seeking to develop a 140,000 square-foot facility on Vision Parkway in the Town of Pembroke.

Nexgistics is a fast-growing third-party logistics provider specializing in consumer electronics, sporting and outdoor goods, e-bikes and related productions with operations in New York and Nevada.

The company currently leases buildings at two separate western New York locations, and desires to construct a centrally located distribution center and national headquarters at a site suitable for future growth. Following a multi-state site search, Nexgistics is seeking to build their facility on 30 acres of vacant land currently under contract for the project.

The \$17.6 million project in Pembroke will enable the company to retain the 21 full-time equivalent positions currently employed in NY and add 3 FTE.

Nexgistics is requesting assistance from the GCEDC with a sales tax exemption estimated at \$812,000, a property tax abatement estimated at \$1,116,360 based on incremental increase in assessed value via new traditional PILOT, and a mortgage tax exemption estimated at \$154,650.

Criteria #1 – The Project pledges to create and/or retain quality, good paying jobs in Genesee County.

Project details: The project is planning on creating 3 direct jobs between \$31,200-40,000 annual plus benefits.

Board Discussion: None.

C. Yunker made a motion to concur with Criteria #1; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zelff -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

Board Concurrence: **YES** NO If no, state justification:

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Criteria #2- Completion of the Project will enhance the long -term tax base and/or make a significant capital investment.

Project details: The project will enhance long term tax base with an investment of \$17,600,000 and 140,000 sq. ft.

Board Discussion: None.

T. Bender made a motion to concur with Criteria #2; the motion was seconded by C. Yunker. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

Board Concurrence: YES NO If no, state justification:

Criteria #3- The Project will contribute towards creating a “livable community” by providing a valuable product or service that is underserved in Genesee County.

Project details: N/A

Board Discussion: None.

Criteria #4: The Board will review the Agency’s Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.

The Fiscal impacts (discounted value) on Local Benefits totals \$10,629,026 (\$9,835,384 in payroll and \$793,641 to the public in tax revenues). See attached MRB Cost Benefit Calculator.

Project details: For every \$1 of public benefit the company is investing \$7 into the local economy

Board Discussion: None.

M. Gray made a motion to concur with Criteria #4; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes

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C. Kemp - Yes
The item was approved as presented.

Board Concurrence: YES NO If no, state justification:

Criteria #5: The Project is included in one of the Agency's strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.

Project details: N/A

Board Discussion: None.

Criteria #6: The Project will give a reasonable estimated timeline for the completion of the proposed project.

Project details: The project is planning to begin construction in early 2023 and be operational within 12 months

Board Discussion: None.

**P. Battaglia made a motion to concur with Criteria #6; the motion was seconded by T. Bender.
Roll call resulted as follows:**

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

Board Concurrence: YES NO If no, state justification:

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GCEDC Opportunity Summary

Created On: 10/6/2022

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9/30/22

Customer Information

Potential Customer:	8250 Park Rd, LLC	Opportunity Type:	Retention
Proj. St. Address:	8250 Park Road	Opportunity Product:	Property Sales & Mortgage Recording Taxes Only
City/Town/Village:	Town of Batavia//	Type of Project:	Retention
Proj. Description:	Hotel and Water Park Renovation	New Jobs:	38 ✓
Total Capital Investment:	\$12,000,000	Retained Jobs:	4.5
Incentive Amount:	\$1,197,921	School District:	Batavia
Benefited Amount:	\$12,000,000	PILOT Applicable:	Increase in assessed value of land and/or other buildings (pre-project value of land and or buildings excluded)

Project Information

Organization:	GCEDC
Opportunity Source:	3rd Party Professional Date of Public Hearing: TBD
Initial Acceptance Date:	10/6/2022 Inducement Date:

Opportunity Summary: 8250 Park Road, LLC is seeking to purchase and renovate the former Quality Inn & Suites and Palm Island Indoor Water Park on Park Road in the Town of Batavia. The \$12 million project will enable the company to upgrade the hotel rooms, lobby, event spaces, water park, and restaurant, as well as add 38 full-time equivalent positions. 8250 Park Road, LLC is requesting assistance from the GCEDC with a sales tax exemption estimated at \$458,400, a property tax abatement estimated at \$659,521 based on the incremental increase in assessed value via the GCEDC's traditional PILOT, and a mortgage tax exemption estimated at \$80,000.

Economic Impact: The proposed project is estimated to result in \$27,775,818 of total fiscal impacts (\$24,102,924 in payroll and \$3,672,895 in tax revenues). The company is investing \$32 into the local economy for every \$1 of proposed public benefits.

Project Detail (Total Capital Investment)

Building Cost (Construction):	\$5,800,000	Capital Improvements:	\$450,000 ✓
Equipment (non-taxable):	\$3,500,000	Equipment (Taxable) / Other Proj Investment:	\$2,250,000 ✓
Land Cost (Real Estate):	\$0		
Total Capital Investment:	\$12,000,000 ✓		

Estimated Benefits Provided

Sales Tax Exempt:	\$458,400	Tax Exempt Bond:	\$0
Mortgage Tax Exempt:	\$80,000	Land Sale Subsidy:	\$0
Property Tax Exempt:	\$659,521		
Total Estimated Tax Incentives Provided:	\$1,197,921		

Total Amount Finance:	\$12,000,000
Mortgage Amount:	\$8,000,000 ESD-JDA:
GCEDC RLF:	\$0 Other Name: Equity (\$2,000,000) and Bank Loans (\$2,000,000)
City of Batavia:	\$0 Other Amount: \$4000000

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9/30/22

Genesee County Industrial Development Agency MRB Cost Benefit Calculator



Date: September 12, 2022
Project Title: 8250 Park Rd, LLC
Project Location: Batavia, NY

Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

Project Total Investment

\$12,000,000

Temporary Construction

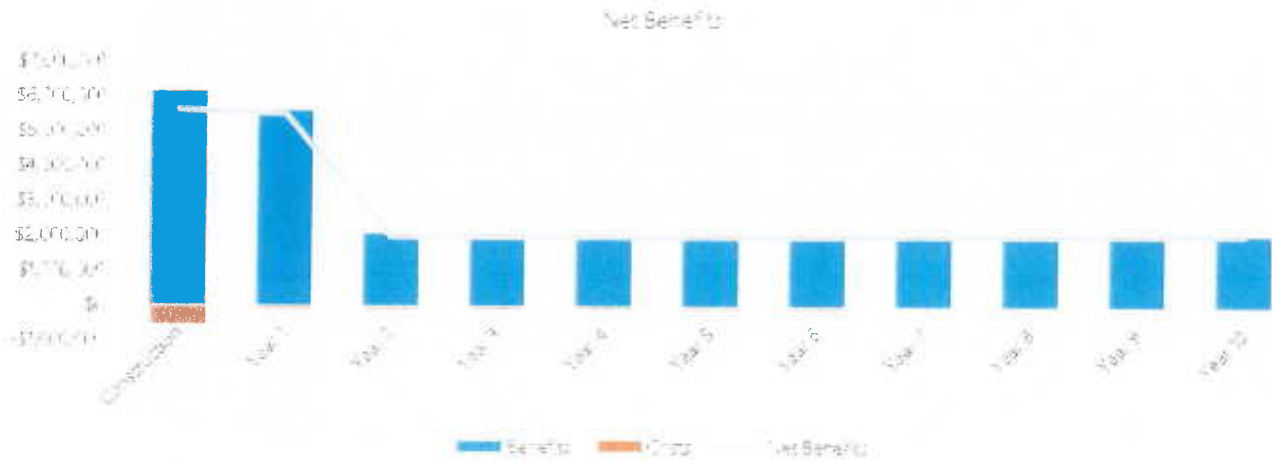
	Direct	Indirect	Total
Jobs	79	17	96
Earnings	\$4,986,709	\$833,191	\$5,819,900
Local Spend	\$12,000,000	\$2,985,495	\$14,985,495

Ongoing Operations

Aggregate over life of the PILOT

	Direct	Indirect	Total
Jobs	38	8	46
Earnings	\$11,400,000	\$5,133,828	\$16,533,828

Figure 1



Net Benefits chart will always display construction through year 10, irrespective of the length of the PILOT

Figure 2

Figure 3

Total Jobs

Total Earnings



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Fiscal Impacts

Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$659,521	\$603,079
Sales Tax Exemption	\$458,400	\$458,400
Local Sales Tax Exemption	\$229,200	\$229,200
State Sales Tax Exemption	\$229,200	\$229,200
Mortgage Recording Tax Exemption	\$80,000	\$80,000
Local Mortgage Recording Tax Exemption	\$40,000	\$40,000
State Mortgage Recording Tax Exemption	\$40,000	\$40,000
Total Costs	\$1,197,921	\$1,141,479

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$29,949,885	\$27,775,818
To Private Individuals	<u>\$25,853,728</u>	<u>\$24,102,924</u>
Temporary Payroll	\$5,819,900	\$5,819,900
Ongoing Payroll	\$16,533,828	\$14,851,651
Other Payments to Private Individuals	\$3,500,000	\$3,431,373
To the Public	<u>\$4,096,157</u>	<u>\$3,672,895</u>
Increase in Property Tax Revenue	\$439,681	\$384,289
Temporary Jobs - Sales Tax Revenue	\$40,739	\$40,739
Ongoing Jobs - Sales Tax Revenue	\$115,737	\$103,962
Other Local Municipal Revenue	\$3,500,000	\$3,143,905
State Benefits	\$1,162,394	\$1,074,921
To the Public	<u>\$1,162,394</u>	<u>\$1,074,921</u>
Temporary Income Tax Revenue	\$261,895	\$261,895
Ongoing Income Tax Revenue	\$744,022	\$668,324
Temporary Jobs - Sales Tax Revenue	\$40,739	\$40,739
Ongoing Jobs - Sales Tax Revenue	\$115,737	\$103,962
Total Benefits to State & Region	\$31,112,278	\$28,850,739

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$27,775,818	\$872,279	32:1
State	\$1,074,921	\$269,200	4:1
Grand Total	\$28,850,739	\$1,141,479	25:1

*Discounted at 2%

Additional Comments from IDA

Does the IDA believe that the project can be accomplished in a timely fashion? Yes

ms
9/22/22

MRB Cost Benefit Calculator

Genesee County Industrial Development Agency

Date
 Project Title
 Project Location

Construction Phase - Project Assumptions

Project Costs
 Enter total project costs:
 Local Construction Spending*
 % of locally sourced materials and labor:
 In-region construction spending:

Construction Economic Impacts

Industry	NAICS	% of Total Investment	Investment by Type
Other Heavy and Civil Engineering Construction	237990	100%	\$12,000,000
(Not Applicable)	0		\$0
(Not Applicable)	0		\$0
		100%	\$12,000,000

Most projects will only have one line related to construction type.

Operation Phase - Project Assumptions

Jobs and Earnings from Operations

Year 1 - Enter NAICS

NAICS	Count	Per Job Annual Earnings	Total Earnings	
Hotels (except Casino Hotels) and Motels	721110	38	\$30,000	\$1,140,000
0				\$0
0				\$0
0				\$0
0				\$0
0				\$0
Total		38		\$1,140,000

Year 2

NAICS	Count	Per Job Annual Earnings	Total Earnings	
Hotels (except Casino Hotels) and Motels	721110	38	\$30,000	\$1,140,000
0				\$0
0				\$0
0				\$0
0				\$0
0				\$0
Total		38		\$1,140,000

Year 3+ (Full Employment)

NAICS	Count	Per Job Annual Earnings	Total Earnings	
Hotels (except Casino Hotels) and Motels	721110	38	\$30,000	\$1,140,000
0				\$0
0				\$0
0				\$0
0				\$0
0				\$0
Total		38		\$1,140,000

Fiscal Impact Assumptions

Estimated Costs of Incentives

Sales Tax Exemption	%	Value	PILOT Term (Years)	<input type="text" value="10"/>
Local Sales Tax Rate	4.00%	\$229,200	Escalation Factor	<input type="text" value="0%"/>
State Sales Tax Rate	4.00%	\$229,200	Discount Factor	<input type="text" value="2%"/>
Mortgage Recording Tax Exemption		\$80,000		
Local	0.50%	\$40,000		
State	0.50%	\$40,000		
Total Costs		<input type="text" value="\$1,197,921"/>	<small>Includes 4% COF estimation calculated below.</small>	

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Project Name: 8250 Park Rd, LLC

Board Meeting Date: October 6, 2022

STATEMENT OF COMPLIANCE OF PROJECT CRITERIA LISTED IN UNIFORM TAX EXEMPTION POLICY (UTEP)

PROJECT DESCRIPTION:

8250 Park Rd, LLC is seeking to purchase, renovate, and modernize the former Quality Inn & Suites and Palm Island Indoor Water Park on Park Road in the Town of Batavia.

The \$12 million project will enable the company to significantly upgrade the building exterior, and fully upgrade the interior hotel rooms, lobby, event spaces, restaurant, and improvements to the hotel's water park, a significant tourism draw. The project pledges to create 38 FTE's and retain 4.5 FTE's.

The company is requesting assistance from the GCEDC with a sales tax exemption estimated at \$458,400, a property tax abatement estimated at \$659,521 based on incremental increase in assessed value via new traditional PILOT, and a mortgage tax exemption estimated at \$80,000.

Criteria #1 – The Project pledges to create and/or retain quality, good paying jobs in Genesee County.

Project details: The project is planning on creating 38 direct jobs and retaining 4.5 direct jobs between \$30,000-35,000 annual salary plus benefits.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #2- Completion of the Project will enhance the long -term tax base and/or make a significant capital investment.

Project details: The hotel is located along the thruway and is the gateway to our community/tourism center. It has been in decline for several years. Thus, the investment into this property will enhance the long-term tax base with an investment of \$12,000,000.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #3- The Project will contribute towards creating a “livable community” by providing a valuable product or service that is underserved in Genesee County.

Project details: The project is significant to upgrading the facility as a main “gateway”, in addition the indoor water park and increased in event space is valuable to our community.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #4: The Board will review the Agency’s Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.

The Fiscal impacts (discounted value) on Local Benefits totals \$27,775,818 (\$24,102,924 in payroll and \$3,672,895 to the public in tax revenues). See attached MRB Cost Benefit Calculator.

Project details: For every \$1 of public benefit the company is investing \$32 into the local economy

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #5: The Project is included in one of the Agency’s strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.

Project details: N/A

Board Discussion:

Criteria #6: The Project will give a reasonable estimated timeline for the completion of the proposed project.

Project details: The project is planning to begin construction in Winter 2022 and be operational by Summer of 2023.

Board Discussion

Board Concurrence: YES NO If no, state justification:

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9/22/22

INITIAL RESOLUTION
(8250 Park Rd LLC Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, October 6, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. 10/2022 - _____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF 8250 PARK RD LLC WITH RESPECT TO A CERTAIN PROJECT (AS DEFINED BELOW, THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, (iii) MAKING A DETERMINATION UNDER ARTICLE 8 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW IN CONNECTION WITH THE PROJECT, (iv) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT, AND (v) AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT; PROVIDED THAT NO FINANCIAL ASSISTANCE EXCEEDING \$100,000.00 SHALL BE PROVIDED TO THE COMPANY UNTIL SUCH TIME AS THE AGENCY HAS HELD A PUBLIC HEARING.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **8250 PARK RD LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in approximately 8.70 acres of land located at 8250 Park Road, Town of Batavia, Genesee County, New York (the "Land", being more particularly described as tax parcel number 8.-1-74) and the existing improvements located thereon, consisting principally of an approximately 190,000 square foot hotel (the "Existing Improvements"); (ii) the renovation, reconstruction, rehabilitation and operation of the Existing Improvements, including upgrades to hotel rooms, lobby space, event spaces, restaurant and indoor water park (collectively, the "Improvements"); and (iii) the acquisition by the Company in and around the Existing

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Improvement and Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land, Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project, and authorizing the Financial Assistance with respect to the Project; provided that the Financial Assistance (as defined below) provided to the Company shall not exceed \$100,000.00 until such time as the Agency has held a public hearing and adopted a subsequent resolution; and

WHEREAS, it is contemplated that the Agency will (i) hold a public hearing, (ii) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (iii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a tax agreement (the "Tax Agreement") and related documents, (iv) take a leasehold interest in the Land, the Existing Improvements, the Improvements, the Equipment and the personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (v) provide Financial Assistance to the Company in the form of a mortgage recording tax exemption as authorized by the laws of New York State (collectively, the "Financial Assistance"); and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Par 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Company has represented to the Agency that the Project is likely to attract a significant number of visitors from outside the economic development region (as established by Section 230 of the New York State Economic Development Law), and therefore the Project constitutes a "tourism destination" as defined in Section 862(2) of the Act.

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

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

(F) Based upon the review by the Agency of the Application submitted by the Company with respect to the Project, the Agency finds that the proposed action constitutes a "Type II" action pursuant to 6 N.Y.C.R.R. Part 617.5 and therefore is exempt from review under SEQRA.

(G) Based upon the Agency's prior review of the Application submitted by the Company, along with supporting materials, the Project will include facilities or property that are primarily used in making retail sales, as defined within Section 862(2) of the Act, to customers who personally visit the Facility. Notwithstanding the foregoing, and based upon the Application and supporting materials prepared and presented by the Company to the Agency, the Project constitutes a "tourism destination" inasmuch as the Project and Facility will likely attract a significant number of visitors from outside the economic development region (as established by Section 230 of the Economic Development Law) in which the Project is located.

Section 2. The Agency is hereby authorized to conduct a public hearing in compliance with the Act.

Section 3. *Provided that no Financial Assistance exceeding \$100,000.00 shall be provided to the Company until such time as the Agency has held a public hearing,* the Chairman, Vice Chairman, Executive Director and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender/financial institution identified by the Company (the "Lender") up to a maximum principal amount of **\$8,000,000.00** to undertake the Project, acquire the Facility and/or finance or re-finance equipment and other personal property and related transactional costs (hereinafter, with the

Lease Agreement and the Leaseback Agreement, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Executive Director and/or Senior Vice President of Operations of the Agency shall approve, with the execution thereof by the Chairman, Vice Chairman, Executive Director and/or Senior Vice President of Operations of the Agency to constitute conclusive evidence of such approval; *provided, however*, in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 4. The Agency is hereby authorized to provide the Company with an exemption from mortgage recording taxes as permitted by New York State law in an amount not to exceed Eighty Thousand and 00/100 Dollars (**\$80,000.00**).

Section 5. 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 6. These Resolutions shall take effect immediately.

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 Zeliff	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION
(8250 Park Rd LLC Project)

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

I, the undersigned Secretary 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 ____ day of _____, 2022.

Secretary

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Resolution for sales tax exemption for substation construction

Discussion: In Plug Power's original application, all that was specified was the construction of the hydrogen facility, which was the subject of the Initial Resolution and Final Resolution, dated March 4, 2021 and March 25, 2021, respectively. The Board then approved the supplemental resolution authorizing the amended project scope (to add the substation) and increased sales tax exemption benefits.

The GCEDC was informed by the company and their team that the substation project would be undertaken by an entity completely separate from Plug Project Holding Co., LLC and requested these projects be treated separately. As such, Harris Beach went ahead and prepared a second set of sales tax documents to cover the substation project (which the Yellowtail entity would technically be appointed as primary agent).

A simple amendment to the documents is unlikely, given the Plug team will further want to amend other provisions of the document. There has been a draft Project Agreement in circulation for the substation project that is almost in final form. The easiest way to resolve this would be to just treat these as two separate projects, finalize the sales tax documents that are currently in circulation and close on the substation portion.

Fund Commitment: None.

Committee Action Request: Recommend approval of Yellowtail Energy, LLC Substation Project.

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AUTHORIZING RESOLUTION
(Yellowtail Energy, LLC - Substation Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, October 6, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. 10/2022 - ____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) APPOINTING THE COMPANY (AS DEFINED HEREIN) AS AGENT OF THE AGENCY, (ii) MAKING A DETERMINATION WITH RESPECT TO THE SUBSTATION PROJECT (DEFINED HEREIN) PURSUANT TO SEQRA (AS DEFINED BELOW), (iii) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY (AS DEFINED HEREIN) IN THE FORM OF A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT (AS DEFINED HEREIN), (iv) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT AND RELATED DOCUMENTS, AND (v) RATIFYING AND CONFIRMING THE FINDINGS OF THE AGENCY MADE IN THE RESOLUTIONS PREVIOUSLY ADOPTED BY THE AGENCY ON MARCH 4, 2021, MARCH 25, 2021, AND JUNE 3, 2021

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, pursuant to resolutions adopted on March 4, 2021 (the "Initial Resolution") and March 25, 2021 (the "Final Resolution"), the Agency authorized certain Financial Assistance (as defined in the Final Resolution) with respect to a certain project (the "Hydrogen Project") to be undertaken by **PLUG POWER INC.** (the "PPI"), as agent of the Agency, consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain real property located at 6840 Crosby Road in the Town of Alabama, New York (the "Hydrogen Land", being more particularly described as all or a portion of tax parcel Nos. 10.-1-41 and 10.-1-42); (ii) the planning, design, construction and operation of a green hydrogen production and distribution facility (collectively, the "Hydrogen Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and

other items of tangible personal property (the "Hydrogen Equipment" and, collectively with, the Hydrogen Land and the Hydrogen Improvements, the "Hydrogen Facility"); and

WHEREAS, pursuant to Section 859-a of the Act, on Monday, March 22, 2021, at 6:30 p.m., local time, at the Town of Alabama Fire Department (Fire Hall) at 2230 Judge Road, Basom, New York 14125, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Initial Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

WHEREAS, following the Initial Public Hearing and the adoption by the Agency of the Final Resolution, PPI informed the Agency that the scope of the Hydrogen Project had changed by the addition of the Substation Project (defined herein); and

WHEREAS, in addition to the change in scope, the Agency was informed that the value of goods and services relating to the Substation Project (defined herein) that will be subject to New York State and local sales and use tax will be in an amount of up to \$35,000,000.00, which will result in New York State and local sales and use tax exemption benefits not to exceed \$2,800,000.00 (the "Substation Financial Assistance"); and

WHEREAS, pursuant to Section 859-a of the Act, on Thursday, June 3, 2021, at 10:00 a.m., local time, at the Alabama Town Hall, 2218 Judge Road, Oakfield, New York 14125, the Agency held a supplemental public hearing with respect to the Substation Project and the proposed financial assistance being contemplated by the Agency (the "Supplemental Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Minutes of said Supplemental Public Hearing along with the Notice of Supplemental Public Hearing published and forwarded to the affected taxing jurisdictions ten (10) days prior to said Supplemental Public Hearing are attached hereto as Exhibit A; and

WHEREAS, pursuant to correspondence from counsel to PPI and related affiliates, PPI and affiliates requested the Hydrogen Project and Substation Project be separated into separate projects; and

WHEREAS, as such, **YELLOWTAIL ENERGY, LLC**, an affiliate of PPI, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has requested the Agency's assistance with respect to a certain project (the "Substation Project") consisting of: (i) the planning, design, construction and operation on certain real property located on Lewiston Road in the Town of Alabama, New York (being more particularly described as all or a portion of tax parcel Nos. 6-1-84 and 10-1-4.112) of an approximately 345kV to 115kV main substation (the "Substation Improvements"); and (ii) the acquisition of and installation in and around the Substation Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Substation Equipment" and, collectively with Substation Improvements, the "Substation Facility"); and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Substation Project; and

WHEREAS, the Agency desires to adopt a resolution (i) approving the Substation Project and the Substation Financial Assistance, (ii) appointing the Company as agent of the Agency, and (iii) ratifying and confirming the findings made by the Agency in the Initial Resolution and Final Resolution adopted; and

WHEREAS, in connection with the Substation Project, the Project Agreement and related documents will be negotiated and presented to the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency for approval and execution subject to adoption of the resolutions contained herein; and

WHEREAS, pursuant to a certain internal memo of the Agency, dated June 23, 2021, the Agency origination fee of 1.25% will not be charged in connection with the undertaking of the Substation Project.

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

Section 1. Based upon the representations made by the Company to the Agency, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Substation Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Substation Project, thereby increasing employment opportunities in Genesee County, New York and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Substation Project will not result in the removal of a facility or commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Substation Project from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, to the extent occupants

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are relocated from one plant or facility to another, the Substation Project is reasonably necessary to discourage the Substation Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Substation Project occupants in their respective industries; and

(F) The Agency has conducted a coordinated review of the Substation Project pursuant to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"). In addition to classifying the Substation Project as a "Type I" action pursuant to SEQRA, the Agency issued a Negative Declaration on August 4, 2022 (the "Negative Declaration"), determining that the Substation Project does not pose a potential significant adverse environmental impact. A copy of the Negative Declaration issued by the Agency is attached hereto as Exhibit A.

Section 2. The Agency is hereby authorized to provide to the Company the Substation Financial Assistance in the form of a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Substation Project.

Section 3. Based upon representations and warranties made by the Company, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Substation Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$35,000,000.00**, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$2,800,000.00**. The Agency agrees to consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Substation Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Substation Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Substation Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Substation Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Substation Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Substation Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Substation Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 4. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Substation Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Substation Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Substation Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 5. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Substation Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Substation Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, reconstruct, renovate and equip the Substation Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Substation Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Project Agreement shall expire on **March 31, 2023** (unless extended for good cause by the President/CEO of the Agency).

Section 6. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into the Project Agreement.

Section 7. Unless amended by the terms hereof, Agency hereby ratifies, confirms and reaffirms the findings made in the Initial Resolution, Final Resolution, and Supplemental Resolution, adopted on June 3, 2021.

Section 8. 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 9. These Resolutions shall take effect immediately upon adoption.

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 Zelifff	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION
(Yellowtail Energy, LLC – Substation Project)

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

I, the undersigned Secretary 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 in the offices of the Agency, 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 ___ day of _____, 2022.

Secretary

EXHIBIT A

NEGATIVE DECLARATION

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 following:

- a) Construction of a wastewater treatment facility ("**WWTF**") on the STAMP Site within the utility infrastructure area to treat the sanitary wastewater generated by STAMP's manufacturing and other tenants. The WWTF will not treat the manufacturing tenants' process wastewater, rather, the tenants will treat their own process wastewaters directly before discharging to the main pump station wet well. The main pump station will then pump the combined flows through a proposed force main ("**Force Main**") to a new discharge point to be located on Oak Orchard Creek in the Town of Shelby, Orleans County, New York. While the design of the WWTF was updated, the GEIS included an analysis of the impacts for a previous design of a WWTF on the STAMP Site.
- b) Construction of the Force Main which involves the installation of approximately 44,750 linear feet of sanitary force main, metering vaults, and maintenance manholes along the same route as the previously analyzed Medina Force Main. The vast majority of installation of sewer related infrastructure will be along public roads via a combination of open cut method and directional drill methods. The Force Main will convey up to six (6) million gallons per day ("**MGD**") of treated wastewater from the STAMP Site to a new discharge in Oak Orchard Creek. In connection with the Agency's review of the prior WWTF design, the construction of a force main was also considered and analyzed in the STAMP Environmental Record.
- c) A new water main ("**Water Main**") of approximately 23,000 linear feet to be installed along the Lewiston Road right of way between the Genesee County line with Niagara County and the STAMP Site. The new water main will bring up to six (6) MGD of water from the

Niagara County Water District (“NCWD”) to the STAMP Site. The layout of the water main system has been extended, however, the STAMP Environmental Record includes an analysis of the impacts for the construction of the previously constructed municipal water system to serve the residents of the Town of Alabama as well the general plan to provide greater water service to the STAMP Site.

- d) The development of an approximate 20 acre parcel located immediately north of STAMP for the siting of a new substation to service the STAMP Site (“Substation”). The landlocked parcel lies between the STAMP Site and a utility corridor which houses the Empire Pipeline and a 345 KV Power Line which will ultimately supply power to STAMP tenants. This parcel is located to the west of the intersection of Lewiston Road (NYS Route 77) and Crosby Road in the Town of Alabama and is bounded by the Empire Pipeline/345 KV Power Line utility corridor to the north, hedgerows to the east and south, and woods and brush to the west. The STAMP Environmental Record includes an analysis of the impacts of minor expansions of the STAMP Site as well as the impacts for the demand for energy for the Project, and potential infrastructure improvements relating to the same.

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, the 2020 Amended Findings included, among other things, amendments to the water, sewer, and electrical thresholds set forth in the GEIS; 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, in June of 2021 the Tonawanda Seneca Nation (“Nation”) commenced a lawsuit against the Agency with respect to the Agency’s 2021 SEQR Determination that was ultimately dismissed by the Genesee County Supreme Court (“Gateway Litigation”); and

WHEREAS, the Nation and Agency entered into a Stipulation of Settlement (“Plug Power Settlement Agreement”) which provided, among other things, that the

Powerline Reroute would be located within a future easement to National Grid located within the Restricted Protected Property Area set forth therein; and

WHEREAS, GCEDC has signed on to a 2018 Programmatic Agreement ("**Programmatic Agreement**") between the United States Army Corps of Engineers ("**USACE**") and the New York State Office of Parks, Recreation and Historic Preservation State Historic Preservation Office ("**SHPO**"), SHPO, the New York State Department of Environmental Conservation ("**NYSDEC**") as an Invited Signatory; and

WHEREAS, the Nation was invited to sign the Programmatic Agreement as an Invited Signatory but has declined to do so; and

WHEREAS, the Programmatic Agreement governs USACE's compliance with Section 106 of the National Historic Preservation Act and, at the request of the Nation, sets forth that the Nation shall undertake an investigation of the Nation's Territory as a Traditional Cultural Property ("**TCP**") to evaluate the eligibility of the Nation's Territory for listing on the National Register as a property of religious and cultural significance and to guide evaluation of potential adverse effects to the Nation's Territory as a TCP; and

WHEREAS, to date, the Nation has declined to share any results from the TCP investigation with the USACE, SHPO, NYSDEC, GCEDC, or any other party to the Programmatic Agreement other than such information as was disclosed by the Nation's members in certain affidavits submitted in connection with the Gateway Litigation; and

WHEREAS, the Programmatic Agreement also details the extensive archaeological investigation undertaken for the STAMP Site, including a detailed and comprehensive plan for those areas of the STAMP Site requiring further investigation; and

WHEREAS, because the Programmatic Agreement's provisions governing the evaluation of potential impacts to the Nation as a TCP only apply to those STAMP-related projects which are subject to USACE permitting authority, NYSDEC, SHPO, and GCEDC have entered into a 2021 Letter of Resolution ("**LOR**") which governs how SHPO and NYSDEC consider impacts of the Project on the Nation's Territory as a TCP; and

WHEREAS, the LOR requires the Agency to prepare an initial assessment of each project at STAMP that requires any permitting from NYSDEC for potential impacts to the Tonawanda Seneca Nation's ("**Nation**") Territory as a potential property of religious and cultural significance based on the National Register Criteria for eligibility; and

WHEREAS, the LOR further provides that such initial assessment is provided to the Nation for a 30 day review and comment period, after which NYSDEC and SHPO must then make a determination of whether there are adverse impacts to the Nation's Territory as a potential property of religious and cultural significance based on the National Register Criteria for eligibility from the undertaking described in such initial assessment; and

WHEREAS, notwithstanding the fact that the Nation has declined to share any results from the TCP investigation other than such information as was disclosed during the Gateway Litigation, for the purpose of analyzing impacts on the Nation as a TCP in accordance with SEQR, the Agency assumes that the Nation's Territory would be eligible for the National Register; and

WHEREAS, the Agency provides the Nation with weekly written email updates on the status of development at STAMP and participates in monthly calls with the Nation and NYSDEC to help keep the Nation fully informed on development of the STAMP Site; and

WHEREAS, NYSDEC, as required by the LOR and its consultation obligations, has undertaken extensive outreach and consultation to the Nation and does so for each permit issued by NYSDEC; and

WHEREAS, together, the GEIS, the 2012 GCEDC Findings, the SGIS, the 2016 Amended Findings, the 2020 Amended Findings, and the 2021 SEQR Determination constitute the prior environmental reviews for STAMP (collectively, these documents are referred to as the "**STAMP Environmental Record**"); and

WHEREAS, since the issuance of the 2020 Amended Findings, the Agency has completed significant additional environmental analysis with respect to portions of the 2016 Project Modifications and 2020 Project Modifications in conjunction with the permitting processes for the same; and

WHEREAS, in comment letters received by the Agency, the Nation has called upon the Agency to prepare a supplemental GEIS and NYSDEC has suggested that a supplemental GEIS may need to be prepared; and

WHEREAS, the Agency has elected to undertake an updated review of the WWTF, Force Main, Substation, and Powerline Reroute ("**Project Infrastructure**") 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, pursuant to the STAMP GEIS, final designs for less-defined Project components, as well as any proposed changes to the more well-defined elements (defined in the STAMP GEIS as "Future Project Use(s)"), may require further evaluation pursuant to SEQR; and

WHEREAS, the STAMP GEIS further provides that GCEDC, as lead agency, will be responsible for performing an environmental determination on Future Project Uses pursuant to SEQRA, and will consider Future Project Uses proposals in relation to the STAMP GEIS, as amended; and

WHEREAS, the STAMP GEIS further provides that the GCEDC must determine if the environmental impacts associated with Future Project Uses have been adequately addressed in the STAMP GEIS DGEIS, taking into account whether the Future Project Uses exceed any of the thresholds set forth in the STAMP GEIS and

WHEREAS the STAMP GEIS further provides that in the event that GCEDC determines that: (i) Future Project Uses would be carried out in conformance with the conditions and thresholds set forth in the STAMP GEIS, then no further SEQRA compliance will be required; (ii) Future Project Uses would be carried out in conformance with the conditions and thresholds set forth in the STAMP GEIS, but are not addressed or are not adequately addressed in the STAMP GEIS, then an amended Findings Statement will be prepared; (iii) the Future Project Uses are not addressed or are not adequately addressed in the STAMP GEIS, but the proposal does not exceed any of the conditions or thresholds set forth in the STAMP GEIS, or the proposal does exceed a threshold set forth in the STAMP GEIS, but would not result in any potential significant adverse environmental impacts, then a Negative Declaration will be prepared pursuant to 6 N.Y.C.R.R. § 617.10(d)(3); or (iv) the Future Project Uses are not addressed or are not adequately addressed in the STAMP GEIS, and/or the proposed use would exceed the conditions or thresholds set forth in the STAMP GEIS, and may have one or more potential significant adverse environmental impacts, then a supplement to the STAMP GEIS will be prepared; and

WHEREAS, on June 30, 2022, the Agency provided to the Nation a draft SEQR determination for the 2022 SEQR Update for the Nation's review and comment; and

WHEREAS, at the Nation's request, on July 7, 2022, the Agency elected to table a vote on the SEQR determination to afford the Nation more time to comment on the draft SEQR determination; 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, on July 22, 2022, the Agency provided a copy of the 2022 Negative Declaration to the Nation, as well as all Interested and Involved Agencies;

WHEREAS, on July 22, 2022, the Nation informed the Agency that the Nation had provided correspondence on the 2022 Negative Declaration via email to an Agency Board Member who was travelling and not present during the July 21, 2022, Agency meeting; and

WHEREAS, the Agency has also been provided with copies of correspondence relative to the Project Infrastructure sent from the Nation to NYSDEC; 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, the Agency and the STAMP Technical Team ("**STAMP Tech Team**") have carefully evaluated the new information provided by the Nation and determined, that in the interest of having a full and complete record, it is appropriate to amend the 2022 Negative Declaration to include the Nation's substantive comments, to provide further clarification, and to document the Agency's hard look at the issues raised by the Nation; and

WHEREAS, to aid the Agency in evaluating what actions are required relative to the Project Infrastructure and all of the additional environmental analysis regarding

same work to comply with SEQRA pursuant to the STAMP GEIS, the Agency has completed, received and/or reviewed:

- (1) the STAMP Environmental Record;
- (2) Part 1 of a Full Environmental Assessment Form for the WWTF, Force Main, Substation, and Powerline Reroute ("**EAF**");
- (3) a Settlement Agreement between the Tonawanda Seneca Nation and the Agency ("**Plug Power Settlement Agreement**");
- (4) a revised Joint Permit Application and draft Pre-Construction Notification for Offsite Wastewater prepared by CC Environment & Planning and revised in February 2021 ("**Wastewater PCN**");
- (5) a 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 STAMP executed by the parties in March 2022 ("**Letter of Resolution**");
- (6) an Enhanced Public Participation Plan dated July 2021 ("**EPPP**");
- (7) minutes from a meeting between the Nation, NYSDEC and Agency leadership on September 9, 2021 ("**EPPP Leadership Meeting Minutes**");
- (8) a transcript from an EPPP public informational meeting ("**EPPP Transcript**");
- (9) a final summary report and certification completed by the Agency ("**EPPP Certification**");
- (10) a STAMP Onsite Wastewater Treatment Facility Basis of Design Report ("**WWTF BODR**") prepared by CPL dated January 2022;
- (11) an updated STAMP Force Main, Main Pump Station Basis of Design Report ("**Force Main BODR**") prepared by CPL dated April 2022;
- (12) a revised Cultural Resource Screening and Initial Assessment for the WWTF dated October 2021 ("**WWTF IA**");
- (13) a Letter from the Nation commenting on the WWTF IA ("**Nation WWTF IA Letter**");
- (14) a Response to the Nation WWTF IA Letter from the Agency ("**GCEDC WWTF IA Response Letter**");
- (15) a comment letter from NYSDEC on the WWTF IA ("**NYSDEC WWTF IA Letter**");
- (16) a letter from the Office of Parks, Recreation and Historic Preservation's Division of Historic Preservation regarding the WWTF ("**WWTF SHPO Letter**");
- (17) a letter from the Agency in response to the WWTF SHPO Letter ("**GCEDC SHPO Response Letter**");
- (18) a Cultural Resource Screening and Initial Assessment for the Powerline Reroute ("**Powerline IA**")
- (19) a Letter from the Nation commenting on the Powerline IA ("**Nation Powerline IA Letter**")
- (20) a Response to the Nation Powerline IA Letter from the Agency ("**GCEDC Powerline IA Response Letter**")

- (21) a Cultural Resource Screening and Initial Assessment for the Substation
("**Substation IA**")
- (22) a Letter from the Nation commenting on the Substation IA ("**Nation Substation IA Letter**")
- (23) a revised State Pollutant Discharge Permit Application dated March 5, 2021
("**WWTF SPDES Permit Application**");
- (24) an Application for Permit Transfer and Application for Transfer of Pending Application form dated January 21, 2021 ("**Permit Application Transfer Form**");
- (25) a Notice of Complete Application from NYSDEC dated July 30, 2021 ("**Complete Application Notice**");
- (26) a letter from the Nation to Kimberly Merchant, NYSDEC regarding phosphorus discharge from the SPDES permit dated October 22, 2021 ("**Nation Phosphorus Letter**");
- (27) a joint letter from Jeff Smith, Supervisor of the Town of Shelby, and Michael Sidari, Mayor of the Village of Medina concerning the WWTF SPDES Permit Application dated September 2, 2021 ("**Shelby/Medina Joint SPDES Letter**");
- (28) a letter from the Agency responding to the Shelby/Medina Joint SPDES Letter dated September 17, 2021 ("**GCEDC Shelby/Medina Response Letter**");
- (29) a letter from NYSDEC allowing the Nation's additional time to comment on the WWTF SPDES Permit Application dated December 23, 2021 ("**NYSDEC Comment Extension Letter**");
- (30) a letter from Joshua Kogan, Acting Chief of the United States Environmental Protection Agency Region 2 NPDES Section, to Kimberly Merchant, NYSDEC concerning the WWTF dated January 11, 2022 ("**USEPA WWTF Letter**");
- (31) a letter from the Nation to NYSDEC opposing the WWTF SPDES Permit Application dated January 13, 2022 ("**Nation SPDES Letter**");
- (32) a memorandum prepared by CPL analyzing the technical feasibility of treating wastewater prior to discharge to meet the mercury limit proposal of the WWTF ("**Mercury Memo**");
- (33) a STAMP Discharge Analysis to Oak Orchard Creek prepared by JM Davidson Engineering dated May 22, 2020 ("**Hydraulics Report**");
- (34) Maps prepared by NYSDEC relative to the status of occupied habitat on the STAMP Site ("**NYSDEC Preliminary Maps**");
- (35) a STAMP Mussel Survey of Oak Orchard Creek prepared in October 2020 ("**Mussel Survey**");
- (36) a letter from the Agency to NYSDEC requesting clearance under Part 182 for minor infrastructure at STAMP ("**Part 182 Clearance Request for Minor Infrastructure**");
- (37) a letter from NYSDEC in response to the Part 182 Clearance Request for Minor Infrastructure ("**NYSDEC Part 182 Response on Minor Infrastructure**");
- (38) a letter from the Agency to NYSDEC requesting clearance under Part 182 for electrical infrastructure at STAMP ("**Part 182 Clearance Request for Electrical Infrastructure**");

- (39) a letter from NYSDEC in response to the Part 182 Clearance Request for Electrical Infrastructure ("**NYSDEC Part 182 Response on Electrical Infrastructure**");
- (40) a letter from the Agency to NYSDEC in response to the NYSDE Part 182 Response on Electrical Infrastructure ("**GCEDC Part 182 Response on Electrical Infrastructure**");
- (41) an Incidental Take Permit Application submitted to NYSDEC (together with all studies undertaken to date, the "**Take Permit Application**");
- (42) a supplement to the Take Permit Application;
- (43) a letter from O'Connell Electric Company, Inc. in response to public comments with respect to the Substation ("**Substation Letter**");
- (44) United States Fish and Wildlife Services ("**USFWS**") Environmental Permitting Documentation ("**Refuge NEPA Record**");
- (45) Draft Land Management Plan for the STAMP Site ("**LMP**");
- (46) an updated USACE jurisdictional determination ("**USACE JD**");
- (47) an acknowledgement letter from the USACE confirming the completion of archaeological work relating to the Programmatic Agreement;
- (48) all documentation filed in connection with the Gateway Litigation, including but not limited to affidavits, the complaint, answering papers, and related items ("**Gateway Litigation Record**");
- (49) an email dated July 22, 2022, from Alex Page, the Nation's counsel to Mark Masse, titled "Re: TSN Letter" with attached correspondence from the Nation dated July 15, 2022 regarding the 2022 Negative Declaration;
- (50) an email dated July 25, 2022, from Mark Masse, Senior Vice President of Operations of the Agency;
- (51) Correspondence from the Nation to NYSDEC dated June 24, 2022, July 6, 2022, and July 21, 2022 received by GCEDC on July 26, 2022 regarding the STAMP WWTF Permit application, the Part 182 Permit application and the 2022 SEQR Update (these letters, together with the July 15th letter are referred to hereinafter "**Nation Correspondence**");
- (52) STAMP Site Part 182 survey data collected by CC Environmental ("**Part 182 Surveys**");
- (53) a memorandum prepared by the STAMP Tech Team dated July 29, 2022 ("**Tech Team Memo**") analyzing the comments and concerns expressed by the Nation in the Nation Correspondence; and
- (54) other relevant environmental information (collectively, 1-54, 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 associated with the Project Infrastructure reveals that, while the Project Infrastructure is 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 this, pursuant

to the STAMP GEIS, a Negative Declaration should be prepared pursuant to 6 N.Y.C.R.R. § 617.10(d)(3);

WHEREAS, 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 Project Infrastructure.

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 Project Infrastructure and the Environmental Information, and upon the Agency's knowledge of the area surrounding the STAMP Site and such further investigation of the Project Infrastructure and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project Infrastructure:

- (A) The Project Infrastructure remains a Type I Action;
- (B) The Agency, as Lead Agency for the Project, has undertaken a coordinated review of the Project Infrastructure 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 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 has determined that, while the Project Infrastructure is 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 this, pursuant to the STAMP GEIS, an Amended Negative Declaration is hereby issued pursuant to 6 N.Y.C.R.R. § 617.10(d)(3) and 6 N.Y.C.R.R. § 617.7(e)(1). Reasons supporting this determination are provided below:

1. Project Infrastructure. The Project Infrastructure includes:
 - a) Construction of the WWTF on the STAMP Site within the utility infrastructure area to treat the sanitary wastewater generated by STAMP's manufacturing and other tenants. The WWTF will not treat the manufacturing tenants' process wastewater; rather, the tenants will

treat their own process wastewaters directly before discharging to the main pump station wet well. The main pump station will then pump the combined flows through the proposed Force Main to a new discharge point to be located in Oak Orchard Creek in the Town of Shelby, Orleans County, New York. The 2020 Amended Findings included a detailed analysis of the WWTF. While the design remains largely unchanged, the Take Permit Application and various correspondence relating to the SPDES permit for the WWTF (including extensive consultation with the Nation) post-date the 2020 Amended Findings and are analyzed below.

- b) Construction of the Force Main involves the installation of approximately 47,000 linear feet of sanitary force main, metering vaults, and maintenance manholes along the same route as was analyzed in the 2020 Amended Findings. The vast majority of installation of sewer related infrastructure will be along public roads via a combination of open cut method and directional drill methods. The Force Main will continue to have the capacity to convey up to six (6) MGD of treated wastewater from the STAMP Site to the discharge in Oak Orchard Creek. While the design of the Force Main remains largely unchanged, certain additional analysis regarding potential impacts to Oak Orchard Creek (including modification to the outfall location to prevent erosion) are analyzed below.
- c) The development of an approximate 20 acre parcel located immediately north of STAMP for the siting of the Substation. The landlocked parcel lies between the STAMP Site and a utility corridor which houses the Empire Pipeline and a 345 KV Power Line which will ultimately supply power to STAMP tenants. This parcel is located to the west of the intersection of Lewiston Road (NYS Route 77) and Crosby Road in the Town of Alabama and is bounded by the Empire Pipeline/345 KV Power Line utility corridor to the north, hedgerows to the east and south, and woods and brush to the west. While the design of the Substation remains largely unchanged, the Take Permit Application and various correspondence relating to the Substation (including extensive consultation with the Nation) post-date the 2020 Amended Findings and are analyzed below.

2. Impact on Land.

WWTF

The WWTF does not include any new potentially significant adverse impacts to land resources or land use that were not analyzed in the STAMP GEIS, as amended. The DGEIS proposed an on-site WWTF and the WWTF footprint and design remain largely unchanged from what was previously reviewed in 2020. Further, the WWTF remains consistent with current uses of the STAMP Site, which are commercial and industrial in nature.

The Shelby/Medina Joint SPDES Letter raises concerns about the impact of the discharge from the WWTF through the Force Main on erosion. However, as noted in the GCEDC Shelby/Medina Response Letter and Force Main BODR, the outfall has been designed to minimize soil erosion. Further, the outfall discharge includes grouted heavy stone rip rap to dissipate the anticipated flow and reduce velocity, as well as heavy stone rip rap along the entire stream bank to reduce erosion and stabilize the creek banks.

Additionally, as noted in the EPPP, the WWTF will include a screw press to dewater solids for final landfill disposal. As discussed in the EPPP Leadership Meeting Minutes, any hazardous materials stored at the WWTF will be stored in accordance with DEC bulk storage requirements, including secondary containment measures such as loading areas for trucks, designed to mitigate risks in the event of a spill.

As part of the Plug Power Settlement Agreement (and as detailed extensively below) STAMP Infrastructure, including the WWTF, was specifically designed to avoid potential adverse impacts to the Nation and a buffer was agreed to in order to minimize impacts to surrounding land. In fact, the WWTF (and associated Force Main) are designed to reduce impacts on the Nation's Territory by carrying treated effluent miles away from the Nation's Territory rather than to Whitney Creek (as originally proposed and analyzed in the STAMP GEIS).

Force Main

As noted in the Wastewater PCN, the Force Main involves the physical disturbance of approximately eight acres of land and is anticipated to take approximately 8 months to construct. Approximately 1.02 acres of land will be temporarily disturbed for staging. A SWPPP for the Force Main has been developed under the requirements of the SPDES GP-0-10-001, and stormwater will be managed in accordance with the SWPPP.

The Wastewater PCN notes that approximately 50% of the local watersheds are dominated by agriculture interspersed with forest and forested/non-forested wetlands. There will be a temporary disturbance during

construction of the Force Main but any impacts will be mitigated by horizontal direction drilling (“HDD”) installation methods through all wetland and stream crossings.

The Shelby/Medina Joint SPDES Letter raises concerns about the impact of the discharge on erosion. However, as noted in the GCEDC Shelby/Medina Response Letter and FM & MPS BODR, the outfall has been designed to minimize soil erosion. Further, as mentioned above, the outfall discharge includes grouted heavy stone rip rap to dissipate the anticipated flow and reduce velocity, as well as heavy stone rip rap along the entire stream bank to reduce erosion and stabilize the creek banks.

The NEPA Refuge Record included an extensive analysis of the Force Main’s compatibility crossing through the Iroquois National Wildlife Refuge (“Refuge”). As detailed therein, the Force Main has been extensively reviewed, with substantial mitigation proposed.

Substation

As detailed in the Substation Letter, the Substation is a permitted use in the underlying zoning districts and has been sited and designed to minimize impacts to adjacent land uses. While the Substation will be visible to adjacent property owners, the Substation is located in the vicinity of existing transmission infrastructure and is consistent with the same in terms of scale and design. The Substation is located far from the Nation’s Territory, and will not be appreciably visible or audible from the same, such that no impacts to land use on the Nation’s Territory are anticipated.

Powerline Reroute

The Powerline Reroute will enable more efficient usage of the STAMP Site by moving the existing powerlines on the Site into an area agreed-upon pursuant to the Plug Power Settlement Agreement. As detailed therein, the Powerline Reroute will create 100 feet of additional buffer space between future tenants at the STAMP Site and the Nation’s Territory, on top of the existing 400’ buffer present along the majority of the western edge of the STAMP Site. Further, the Powerline Reroute (as detailed in the Powerline IA) has been carefully sited to avoid impacts to trees and wetlands.

Accordingly, the Project Infrastructure are not anticipated to create any potentially significant adverse impacts to land that were not analyzed in the STAMP Environmental Record.

3. Impact on Geological Features. The Site does not contain, and is not adjacent to, any unique geologic features or National Natural Landmarks, nor will the Force Main pass through or near any unique geologic features or National Natural Landmarks off-Site. Accordingly, the Project Infrastructure are not anticipated to create any potentially significant adverse impacts to geological features that were not analyzed in the STAMP Environmental Record.
4. Impact on Surface Water.

WWTF/Force Main

As noted in the 2020 Amended Findings, the Project Infrastructure WWTF will enable an increase in the sewer discharge threshold capacity of the STAMP Site. As detailed in the Environmental Information, the WWTF (along with the Force Main) allows for an increase in the STAMP sewer capacity threshold set forth in the GEIS from 3 MGD up to 6 MGD, including 1 MGD of sanitary wastewater and 5 MGD of treated process wastewater (the 2020 Amended Findings similarly increased the water capacity threshold from 3 MGD up to 6 MGD in connection with the Water Main). As observed in the WWTF BODR, by utilizing onsite recycling for the industrial process water, the overall potential total volume of wastewater decreased significantly from 12 MGD to 6 MGD. Based on this, the WWTF was designed to have an average daily flow of 1.0 MGD with a peak design flow capacity of 2.0 MGD for system redundancy purposes.

The WWTF will not create a new body of water, result in an increase or decrease of the surface area of a waterbody, and does not involve the dredging of a wetland or waterbody. The 2020 Amended Findings extensively detail that, as noted in the Environmental Information, the WWTF will involve construction well-outside of the 100-foot zone of an existing surface water feature, namely Whitney Creek, a Class C stream.

Per the LOR, and as discussed in greater detail below, the Agency has engaged with, and taken the input of the Nation, regarding SPDES permitting at STAMP. Further, as reflected in the EPPP Leadership Meeting Minutes, sewage will be screened and will undergo a three-step sanitation process. According to the EPPP Leadership Meeting Minutes, the WWTF will not be served by an existing sewer line, as none presently exists; however, 100,000 GPD have been reserved for the Town of Alabama in the event the Town decides to create a sewer district in the future and send wastewater to the WWTF.

The SPDES permit effluent limitations have been specifically drafted, with feedback from the Nation and USEPA, to ensure that a discharge does not adversely impact surface waters, and the WWTF will comply with the requirements of the SPDES permit. Similarly, as noted in the Permit Application Transfer Form, STAMP Sewer Works, Inc. (the eventual owner of the Force Main and WWTF) will comply with all conditions of the SPDES Permit. In addition, the Force Main (and associated discharge) has been extensively peer-reviewed by the Town of Shelby, which has consented to the route and design of the Force Main.

As thoroughly outlined in the Environmental Information, the construction of the Force Main will be done primarily through HDD methods in order to minimize impacts to wetlands, which total only temporary impacts to approximately 0.11 acres of wetland and stream crossings regulated by NYSDEC or the USACE and approximately 0.28 acres of land located within the NYSDEC-regulated 100' wetland-adjacent buffer area. The Force Main BODR was supplemented by a frac out plan reviewed and approved by NYSDEC which provides assurance of adequate monitoring, detection, containment, and cleanup for any potential discharge of drilling fluid or other materials resulting from the HDD. The impacted areas will be returned to existing conditions when construction is complete, and all applicable permits will be secured prior to the construction of the Project Infrastructure. As the Hydraulics Report details and EPPP Transcript further describes, the proposed discharge from the Force Main to the Oak Orchard Creek (a Class C stream) is a very small quantity compared to the overall statistical peak discharges and will result in no significant changes in the elevation of Oak Orchard Creek. The outflow from the WWTF will be sanitary wastewater and will not have an adverse impact on the quality of the water in Oak Orchard Creek. A stormwater retention pond is proposed in order to mitigate any potential adverse impacts due to the increase in impermeable surfaces associated with the Project Infrastructure.

In the Nation Phosphorus Letter and Nation Correspondence, the Nation raises various concerns relating to the discharge limits set forth in the SPDES Permit for the WWTF. As detailed in the Tech Team Memo, relative to surface waters, the Nation alleges potential impacts to Oak Orchard Creek due to phosphorus, and discharge during low flow periods. The Tech Team Memo addresses each of the Nation's concerns in extensive detail, and documents that modifications to the phosphorus levels set forth in the SPDES permit, as well as the nature of the WWTF discharge (treated sanitary process water rather than industrial process water) have resolved those concerns.

The Nation Correspondence raises questions as to the SPDES permit limit for phosphorus (set at 0.5 mg/L). As detailed in the Tech Team Memo, following extensive consultation with CPL and USEPA, NYSDEC has adjusted the discharge limit for phosphorus from 0.5 mg/L down to 0.2 mg/L, the strictest available water quality based limit to ensure that the discharge from the WWTF could only result in a dilution of phosphorus levels going forward. As such, the proposed discharge limit of 0.2 mg/L will not result in growth of algae, weeds, or other slimes and will not otherwise impair the waters for their best usages.

The Nation Correspondence recites that Oak Orchard Creek could be adversely impacted during low flow periods. The Tech Team Memo confirms, however, that most of the year, Oak Orchard Creek's flow is at or above the proposed discharge rate of the force main. While the low flow condition of Oak Orchard Creek could result in an "effluent dominated" classification of Oak Orchard Creek during such low flow condition, the SPDES permit limits are calibrated to ensure no decrease in the water quality standards. In addition, the force main discharge location includes extensive riprap and outflow mitigation to ensure that the discharge is appropriately channeled without impacting existing wildlife or recreational uses. Further, the WWTF will discharge only treated sanitary water, which will not result in discharges exceeding 5 degrees above Oak Orchard Creek. As noted in the CPL SPDES Memo, sanitary wastewater does not create temperature concerns due to its naturally low temperature. To the extent a future industrial user seeks to discharge through the force main, such discharge will be subject to an independent SPDES permit with its own temperature analysis in order to ensure that no discharge exceeds 5 degrees above Oak Orchard Creek. Similarly, NYSDEC has concluded, and the Agency along with the Tech Team agrees, that there is no reasonable potential that the WWTF effluent flow will contain dioxin, PCBs, PFOA or PFOS in any meaningful amounts. As noted above, future industrial dischargers will be subject to their own SPDES permits, with appropriate mitigation and limitations set forth at the time of such permitting.

As noted in the Force Main BODR and analyzed in the Hydraulics Report, the Agency will comply with its SPDES permit regulations which requires that a discharge complies with applicable water quality standards and does not adversely impact surface waters. Per the Letter of Resolution, GCEDC has engaged with, and taken the input of the Nation, regarding SPDES permitting at STAMP. Moreover, the Wastewater PCN confirms that the WWTF and

Force Main have been designed to minimize all impacts to the "greatest extent practicable."

Powerline Reroute/Substation

While the Powerline Reroute will include development adjacent to existing wetland resources, no permanent impacts to the wetlands are proposed. Instead, the access drive servicing the Powerline Reroute will end at the edge of the wetland, and access across the same will be accomplished by placing temporary mats across the wetland when access is needed.

Substation

The Substation will include development far away from Whitney Creek and has been carefully sited to avoid impacts to adjacent wetlands, as detailed in the Substation Letter.

Accordingly, the Project Infrastructure do not pose any risk of significant adverse impacts on water that were not analyzed in the STAMP Environmental Record.

5. Impact on Groundwater.

WWTF

As analyzed in the 2020 Amended Findings, while the WWTF will include the storage of aluminum sulfate, the BODR details that the chemical will be stored in a chemical bulk storage area located in the headworks and control building of the WWTF. As described in the EPPP, the WWTF "will utilize a sequencing batch reactor process, as well as disc filters, and a UV Disinfection system to treat sanitary wastewater." Such process is "suited to accept sanitary wastewater and biological waste streams such as from food processing plants." Spill prevention measures, including double containment per NYSDEC bulk storage requirements, will be included to mitigate any risk to groundwater.

Further, the SPDES permit effluent limitations will ensure that a discharge does not adversely impact groundwater, and the WWTF will comply with the requirements of the SPDES permit. Similarly, as noted in the Permit Application Transfer Form, STAMP Sewer Works, Inc. will comply with all conditions of the SPDES Permit.

Force Main

As mentioned in the EPPP Leadership Meeting Minutes, under the Right of Way permit from the USFWS, GCEDC is required to monitor the flow rates at the points entering and existing the wildlife refuge to ensure no leaks or other issues with the Force Main. Additionally, as described in the FM & MPS BODR, the Force Main will be marked by pipeline markers to help identify the location of the underground pipe.

As noted in the EPPP Transcript, the Force Main will be monitored 24-hours a day, utilizing failure and high water alarm systems, and if needed, the maintenance manholes with metering and valve control installed along the Force Main.

Powerline Reroute/Substation

Neither the Powerline Reroute nor the Substation entails the types of activities or operations that would be associated with any risks to groundwater, such as the storage or handling of hazardous materials.

Accordingly, the Project Infrastructure are not anticipated to create any potentially significant adverse impacts to groundwater that were not analyzed in the STAMP Environmental Record.

6. Impact on Flooding.

WWTF/Force Main

While the WWTF is not in a designated Floodway, as noted in the 2020 Amended Findings, the Force Main discharge location is in the 100-year and 500-year Floodplains. The discharge area itself will not be a significantly large impervious surface. The Hydraulics Report directly addresses the discharge from the Force Main and concludes that the increased discharge from the Force Main will have a negligible effect on the flood elevations in Oak Orchard Creek, without significant observable changes to the anticipated water surface elevations.

As noted in the Shelby/Medina Joint SPDES Letter, Orleans County "has an extremely flat topography" and "[d]rainage and flooding concerns are . . . main issues." However, as noted in the GCEDC Shelby/Medina Response Letter and demonstrated in the Hydraulics Report, the discharge was shown to have an unappreciable increase in water surface elevations downstream, even during a 100-year flood event.

In addition, in response to the Shelby/Medina Joint SPDES Letter, the GCEDC Shelby/Medina Response Letter further details that the discharge into Oak Orchard Creek was carefully analyzed by a NYSDEC-reviewed and approved Hydraulics Report. Accordingly, the Project Infrastructure are not anticipated to create any potentially significant adverse impacts to flooding that were not analyzed in the STAMP Environmental Record.

Powerline Reroute/Substation

Neither the Powerline Reroute nor the Substation entails the types of activities or operations that would be associated with any risks to flooding. While the Substation and Powerline Reroute will result in the creation of impervious surfaces, all stormwater discharge associated with these projects will be managed in accordance with NYSDEC requirements pursuant to a SWPPP.

Accordingly, the Project Infrastructure are not anticipated to create any potentially significant adverse impacts to flooding that were not analyzed in the STAMP Environmental Record.

7. Impact on Air. The Project Infrastructure will not be a significant source of air emissions. The Project Infrastructure do not entail the types of activities or operations that require the Applicant to acquire an Air Facility Permit or that are associated with a significant potential for air emissions. Any impacts to air quality from construction activities will be minor, and temporary in nature. Accordingly, the Project Infrastructure are not anticipated to create any significant adverse impacts to air resources that were not analyzed in the STAMP Environmental Record.
8. Impact on Plants and Animals. As detailed in the 2020 Amended Findings, the Force Main will take place in habitat for various plants and animals noted in the EAF, Iroquois EA, Mussel Survey, and Wastewater PCN including several species listed as threatened or endangered. Pied-Billed Grebe, Sedge Wren, Henslow's Sparrow, Bald Eagle, Northern Harrier, Upland Sandpiper, Least Bittern, Short-eared Owl, Bog Turtle, Eastern Massasauga, and Mussels were all independently analyzed and evaluated in the context of the Force Main. The Iroquois EA and Wastewater PCN lays out the potential impacts to such species as well as the mitigation that is proposed in order to reduce impacts to the same. As detailed in the Iroquois EA and Wastewater PCN, the mitigation measures reduce the potential impact of the Force Main such that they are not likely to adversely affect the species noted in the Environmental Information.

In addition, following the submission of the Part 182 Clearance Request for Electrical Infrastructure, NYSDEC has determined that a Part 182 Incidental Take Permit will be required for the development of the Substation and WWTF in order to address the presence of the Short-Eared Owl and Northern Harrier (together, the "**Winter Raptors**") on the northwestern portion of the STAMP Site. Notably, NYSDEC 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 those projects. While the GEIS previously noted the presence of Winter Raptors on the STAMP Site, and the Agency disagreed that a Part 182 Incidental Take Permit was required for any of the Project Infrastructure (for the reasons detailed in the Agency's Part 182 correspondence with NYSDEC), the Agency nevertheless conducted extensive additional monitoring of Winter Raptor activity on the STAMP Site as detailed in the Take Permit Application at the request of NYSDEC. The Substation and WWTF will permanently impact approximately 11.5 acres of NYSDEC-designated "occupied habitat" for the Winter Raptors. Notably, as detailed in the Take Permit Application, the Project Infrastructure has been designed with the smallest permanent and temporary footprints possible to minimize disturbance to the occupied habitat, including locating roughly one-third of the Substation in forest/shrub land that does not serve as occupied habitat.

Accordingly, pursuant to Part 182, the Agency has proposed to mitigate any potentially adverse impacts associated with the loss of such habitat by establishing and maintaining new and improved habitat to replace the lost habitat. 11.5 acres of land that has transition into an old field/shrubland matrix will be mowed/brush-hogged, with treatment and successional mowing thereafter as needed to allow grass and forb species to be established. The proposed 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 proposed mitigation plan confers a net conservation benefit to the Winter Raptors, as required by Part 182. As the Tech Team Memo recites, the Winter Raptors prefer open fields of 25 or more acres, and the mitigation plan includes provisions for creating the appropriate conditions for the species on the mitigation parcel and maintaining the mitigation parcel as suitable habitat. The Agency is also in the process of evaluating pursuing a Part 182 Permit application for the remainder of the STAMP Site, however, the Tech Team Memo confirms that no environmental harm caused by the approach rejected by the Nation in the Nation Correspondence - establishing appropriate mitigation on a project-by-project basis may be less efficient from a permit processing perspective (meaning the

DEC has to process more than one permit), however, any future Part 182 Permit applications that involve the development of occupied habitat will be subject to the same stringent "Net Conservation Benefit" standard as the current application.

It is also worth noting that the LMP (a mitigation document pursuant to the GEIS) provides for the management of STAMP land and environmental resources (including species). Pursuant to the GEIS, the LMP is updated every five years, and is currently in the process of being updated. As noted in the LMP, extensive mitigation has been proposed to ensure that threatened and endangered species are not adversely impacted by the development of STAMP generally, as well as the Project Infrastructure specifically.

The Nation Correspondence expresses concern that there is an absence of survey information relating to the presence of the Winter Raptors during the breeding season, however, as the Tech Team Memo notes, breeding season surveys were undertaken by CC from May 18, 2022, through July 19, 2022, in accordance with a NYSDEC-approved survey plan consistent with the NYSDEC Survey Protocol for State-listed Breeding Grassland Bird Species (August 2021). No breeding behavior by the Winter Raptors has ever been documented on the STAMP Site.

Accordingly, the Project Infrastructure are not anticipated to 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 Take Permit Application will confer a net conservation benefit to the Winter Raptors.

9. Impact on Agricultural Land Resources. The STAMP Environmental Record includes an analysis of the impacts of minor expansions of the STAMP Site and potential infrastructure improvements relating to the same. As described in the Environmental Information, the Force Main will be constructed within existing rights of way to avoid impacts to agricultural resources. The WWTF will be constructed on the STAMP Site, within the existing utility infrastructure area. The Substation will remain constructed partially within the STAMP Site and partially within a parcel immediately north of the STAMP Site, as detailed in the 2020 Amended Findings. Therefore, the Project Infrastructure are not anticipated to create any significant adverse impacts to agricultural land resources that were not analyzed in the STAMP Environmental Record.

10. Impact on Aesthetic Resources. The Project Infrastructure will not be visible from any officially designated federal, state or local scenic or aesthetic resource. As detailed in the 2020 Amended Findings, the Force Main and Water Main will be buried underground, and the remainder of the Project Infrastructure are situated adjacent to the STAMP Site, which is anticipated to be a well-developed commercial and industrial area. In addition, the photo simulations prepared in connection with the Substation IA and Powerline IA demonstrate that the Project Infrastructure are substantially screened by existing vegetation as well as the significant buffers between the Project Infrastructure and surrounding properties. Accordingly, the Project Infrastructure are not anticipated to create any significant adverse impacts to aesthetic resources that were not analyzed in the STAMP Environmental Record.

11. Impact on Historic and Archeological Resources. The Project Infrastructure do not contain, nor are they adjacent to, a building, or district which is listed on, or that has been nominated to the State or National Register of Historic Places. The Project Infrastructure include an area designated as sensitive for archeological sites by the NYS Historic Preservation Office, however, the Agency has historically coordinated with the NYS Historic Preservation Office on the development of the STAMP Site, with such coordination continuing for the Project Infrastructure. Impacts to historic and archaeological resources are analyzed extensively in the STAMP Environmental Record, and the Programmatic Agreement comprehensively cleared the STAMP Site of Archaeological resources.

The Agency has engaged in extensive consultation with the Nation with respect to the Project Infrastructure, including weekly written updates to the Nation and monthly consultation conference calls. Further, as required by the LOR that was negotiated between NYSDEC, GCEDC, SHPO, and the Nation, the Agency has prepared the WWTF IA, Substation IA, and Powerline IA in order to evaluate whether the Project Infrastructure will have any adverse impact upon the Nation's Territory as a potential property of religious and cultural significance based on the National Register Criteria for eligibility. Each of the IA's analysis and findings (including subsequent correspondence from the Agency to the Nation, SHPO, and NYSDEC) are incorporated herein by reference. The IAs provide an extensive analysis of the Nation's history, including a detailed understanding of the Nation's usage of the Nation's Territory as explained by the Nation. The IAs have historically been updated whenever specific feedback is provided by the Nation. To the extent the Nation believes that information or perspective is missing from the Initial Assessments, the LOR process provides the Nation

the opportunity to comment substantively on each Initial Assessment, and the Nation's input is a valued part of the review process for the Agency. While the Nation has provided comments letters voicing generalized opposition the Project Infrastructure, none of the Nation's letters have alleged any specific, substantiated significant adverse environmental impacts resulting from the Project Infrastructure.

Substation

As detailed in the Substation IA, the Substation will be located approximately 3,800 feet, or 3/4ths of a mile, from the Nation's Territory at its closest point. The visual assessment provided therein further demonstrates that the Substation will not be substantially visible above the significant intervening vegetation. Further, as the buffer areas provided for in the Plug Power Settlement Agreement are allowed to continue to grow in their natural state, additional screening will naturally be provided. As detailed below, noise levels from the Substation fall well below ambient noise levels at the border of the Nation's Territory.

WWTF / Force Main

The GEIS originally included an on-site wastewater treatment plant to treat wastewater generated at STAMP, before it would discharge to Whitney Creek. After the Nation expressed concerns about the original discharge location, which would be upstream from the Nation's Territory, GCEDC addressed this concern by negotiating a pathway for review and approval of the installation of a new force main sewer line from STAMP to Medina, New York as detailed in the 2016 Project Modifications. In the 2020 Project Modifications, GCEDC reviewed and approved changes to the proposed force main sewer line, with a proposed discharge location in Oak Orchard Creek just upstream from Medina and an on-Site WWTF.

In addition to the WWTF IA that was prepared for the WWTF and Force Main, the Agency prepared and executed an Enhanced Public Participation Plan consistent with NYSDEC's Commissioner Policy 29 ("CP 29"). CP 29 was issued by NYSDEC to promote the fair involvement of all people in the environmental permitting process and to ensure that NYSDEC's environmental permitting processes promote environmental justice. Accordingly, as detailed in the EPPP Certification, the Agency held information meetings with both Nation leadership and citizens of the Nation. The Agency also maintained a document repository to make information about the WWTF readily available to the Nation and its citizens. Throughout the EPPP process, the Agency addressed all comments, questions, and concerns raised by the Nation with respect to the WWTF.

As detailed in the WWTF IA and as noted below, given the distance between the proposed WWTF and the Nation's boundary the WWTF will not be substantially visible, audible, or emanate odors which would impact the Nation's Territory. The WWTF and Force Main now proposed represent a substantial investment by the Agency to mitigate any potential impacts of the development of STAMP on the Nation, as detailed in the Tech Team Memo and above under the discussion of Surface Waters. While the Nation has also expressed concern that the WWTF wet well is insufficiently sized, the relevant BODR clearly details that the wet well is appropriately sized and has numerous safety systems in place to prevent backflow. As the NYSDEC Comment Letter concisely summarizes, "unlike the other wastewater treatment configurations GCEDC considered prior to the final version of the SPDES permit application, no wastewater from the proposed WWTF would enter the TSN reservation watershed under the SPDES permit. Rather, the force main/effluent pipe from the WWTF would run for nine miles to an Oak Orchard Creek discharge point well away from that watershed."

Powerline Reroute

As detailed in the GCEDC Powerline IA Response Letter, the Agency and the Nation's discussion of the Powerline Reroute dates back to at least 2018. At the recommendation of NYSDEC, the Agency began conducting direct consultation with the Nation with respect to the Project. Over the course of approximately 18 months, the Agency provided the Nation with information relating to the Project including design plans, and conducted site visits with representatives of the Nation in order to assist the Nation in better understanding any potential impacts of the Project on the Nation's Territory.

In the Plug Power Settlement Agreement, the Agency and Nation agreed not only to the relocation of the power lines, but also the exact location of the 100' wide area in which the power lines would be placed. The Plug Power Settlement Agreement clearly states that "the future easement to National Grid associated with the power line reroute on the STAMP Site" will be located partially "within the Restricted Protected Property Area." The Settlement Agreement went so far as to acknowledge the terms and conditions of pesticide usage in connection with the Project. Moreover, by placing the powerlines along the course of the proposed reroute, there has been a significant expansion of the buffer area between the Nation and STAMP - in essence, everything west of the Powerline Reroute has now been designated as protected buffer area.

The Agency then prepared the Powerline IA to evaluate potential impacts to the Nation's Territory as a TCP. As detailed therein (including the detailed visual analysis performed at the recommendation of NYSDEC), the Powerline Reroute will not result in any adverse impacts to hunting, fishing, or ceremonial activities conducted in the Big Woods, as no significant visual, audible, or water-related impacts will result from the Powerline Reroute. While the Nation has expressed its objection generally to the Powerline Reroute, the Nation has not alleged any specific adverse impacts that the Powerline Reroute could have on the Nation's Territory, and the extensive Environmental Record demonstrates that the Powerline Reroute will not have any such adverse impacts. While the Nation Correspondence recites that the Nation was not consulted with respect to the visual simulations that were prepared, as the Tech Team Memo notes, when Saratoga Associates was preparing its first visual impact assessment pursuant to the LOR, the Agency informed the Nation that the Agency had retained Saratoga Associates to conduct field work to gather background visual data to be utilized in future impact assessments for the benefit of the Nation. The Agency requested permission from the Nation to allow Saratoga Associates to enter the Nation's Territory to gather visual data, however, the Nation declined to respond to this offer.

Accordingly, it is not anticipated that the Project Infrastructure will create any significant adverse impacts to historical or archaeological resources that were not analyzed in the STAMP Environmental Record.

12. Impact on Open Space and Recreation. The Site does not comprise public open space nor is the Site or surrounding area currently used for public recreation. While the WWTF IA, Powerline IA, and Substation IA acknowledge that the Nation utilizes the Big Woods located to the west of the STAMP Site for certain hunting and cultural activities, the Project Infrastructure is not anticipated to have any impact on such activities for the reasons detailed above. Accordingly, the Project Infrastructure are not anticipated to create any significant impacts to open space or recreational resources that were not analyzed in the STAMP Environmental Record.
13. Impact on Critical Environmental Areas. The Project Infrastructure are not located in or substantially contiguous to any Critical Environmental Areas, including the off-Site component of the Force Main. As such, the Project Infrastructure are not anticipated to create any significant adverse impacts to Critical Environmental Areas that were not analyzed in the STAMP Environmental Record.

14. Impact on Transportation. In accordance with the GEIS and SEQR, as new projects are proposed at the Site, the traffic impacts of such projects are analyzed against the thresholds set forth in the GEIS. The Project Infrastructure do not involve any of the activities which would be associated with an increased demand for transportation, and the minor additional vehicle trips associated with construction and maintenance of the Project Infrastructure were previously analyzed in the GEIS. Accordingly, the Project Infrastructure are not anticipated to create any significant adverse impacts to transportation that were not analyzed in the STAMP Environmental Record.
15. Impact on Energy. As noted in the 2020 Amended Findings, the Project Infrastructure (specifically, the Substation) will enable an increase in the electrical capacity of the STAMP Site. As detailed in the Environmental Information, the Substation (together with associated improvements to existing powerlines) allows for an increase in the STAMP electrical demand threshold from 185MW to 535MW. The STAMP Environmental Record includes an analysis of the impacts of minor expansions of the STAMP Site as well as the impacts for the demand for energy for the Project, and potential infrastructure improvements relating to the same. As such, the Substation increases the energy capacity threshold for STAMP, and the Project Infrastructure will not create any significant adverse impacts to energy resources that were not analyzed in the STAMP Environmental Record.
16. Impact on Noise, Odor and Light. The Project Infrastructure are not expected to appreciably increase ambient noise or lighting levels or to create odors.

Substation

The EAF explains that lighting fixtures servicing the Project Infrastructure will be limited to the vicinity of the Site for maintenance and emergency purposes, and that such lights will be Dark Sky Compliant.

The Substation Letter details that any noise associated with the Substation will fall well below the threshold set forth in the GEIS of 45 decibels. In fact, the Substation letter details that, at the point of the closest structure to the Substation's nearest transformer (a distance of approximately 715 feet), the sound pressure level will be only 28.914 decibels - well below existing ambient noise levels as detailed in the Environmental Record.

The Substation does not involve the types of activities that create significant noise. Any impacts to noise and/or odor from construction activities will be minor, and temporary in nature.

WWTF

The EAF explains that lighting fixtures servicing the Project Infrastructure will be limited to the vicinity of the Site for maintenance and emergency purposes, and that such lights will be Dark Sky Compliant.

As detailed in the WWTF BODR, the Force Main will contain only treated effluent and treated process water. The treatment processes where odors are a concern are contained within buildings to mitigate odors. No odors are expected to be experienced outside of such structures as a part of the operations of the WWTF.

Similarly, as all treatment processes are contained within structures, the WWTF is not anticipated to appreciably increase noise levels. Further, the WWTF will be centrally located on the STAMP Site, immediately north of the location of Project Gateway.

Force Main

The Force Main will be buried below ground and accordingly does not involve the types of activities that create significant noise, odors, or lighting. As detailed in the WWTF BODR, the Force Main will contain only treated effluent and treated process water. The treatment processes where odors are a concern are contained within buildings to mitigate odors. Any impacts to noise and/or odor from construction activities will be minor, and temporary in nature.

Powerline Reroute

The Powerline Reroute does not involve the types of activities that create significant noise, odors, or lighting. Any impacts to noise and/or odor from construction activities will be minor, and temporary in nature.

Accordingly, the Project Infrastructure are not anticipated to create any significant adverse impacts to noise, odors or light that were not analyzed in the STAMP Environmental Record.

17. Impact on Public Health. The Project Infrastructure do not entail the types of activities or operations that are associated with a significant potential for affecting public health, such as storing large amounts of hazardous or toxic materials. As detailed in the 2020 Amended Findings, a portion of the Site is listed in the NYSDEC Spills Incidents Database (DEC ID 9607396), however,

that incident was listed as "Closed" due to the successful remediation of soils in 2004.

Substation

As detailed in the Substation Letter, the Substation will follow all the safety parameters set forth by the New York State Public Service Commission, the New York Power Authority, and National Grid. The Substation itself will include a ground grid system that includes grounding of the fencing surrounding the Substation in order to ensure safety to those in the vicinity of the Substation, while those outside of the Substation perimeter will not be affected.

WWTF

The WWTF's design and operation are laid out extensively in the BODR, and will be necessary to service the STAMP Site in a safe, environmentally friendly manner. The WWTF BODR provides that local emergency management services will be trained for emergency safety and response at the WWTF. Emergency management services will further be taught the hazards of any chemicals stored onsite.

Chemicals stored on-Site will include alum for phosphorus precipitation and polymer for screw press dewatering. The alum will be stored in a chemical bulk storage area located in the headworks and control building. The polymer will be stored in a chemical bulk storage area in the dewatering building. The chemical bulk storage areas will include spill prevention measures including double containment equal to the largest storage volume per NYSDEC bulk storage requirements.

Force Main

The Force Main itself does not entail the types of activities or operations that are associated with a significant potential for affecting public health. As detailed in the Force Main BODR, the Force Main will only carry flows of combined sanitary treated effluent and treated process water. No untreated effluent or process water will enter the Force Main at any point. Further, main line valves will be installed approximately every 1,000' along the Force Main to provide a means to isolate sections of the Force Main for testing and maintenance purposes. Flow rates will be monitored 24/7 south of and immediately north of the US Fish and Wildlife Refuge, and the SPDES Permit sets forth a rigid sampling regime to ensure compliance with all applicable discharge limits.

Powerline Reroute

The Powerline Reroute itself does not entail the types of activities or operations that are associated with a significant potential for affecting public health. The Powerline Reroute is located within a portion of the STAMP Site's western buffer area, the 100' wide "Restricted Property Area", as provided for in the Plug Power Settlement Agreement. The Powerline Reroute is buffered to the west by an additional 400' of STAMP Site designated as Permanently Protected Property pursuant to the Plug Power Settlement Agreement, and to the east by the remainder of the STAMP Site.

Accordingly, the Project Infrastructure are not anticipated to create any significant adverse impact to public health that were not analyzed in the STAMP Environmental Record.

18. Impact on Character of the Community, and Community Plans. The Project Infrastructure is in character with adjacent development and surrounding uses, including the industrial development of Plug Power. The Project Infrastructure itself does not include the type of development that would result in significant population growth or other typical drivers of impacts to Community Character and Community Plans. The 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, whereas the Project Infrastructure are minor infrastructure projects. Accordingly, the Project Infrastructure are not anticipated to create any significant adverse impacts to the growth or character of the community that were not analyzed in the STAMP Environmental Record.

Section 3. Having considered the Environmental Information, STAMP Environmental Record, and having considered the relevant environmental impacts, facts and conclusions relied upon to meet the requirements of 6 N.Y.C.R.R. § 617.11, 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 the Amended Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)) for the Project Infrastructure, and is issued by the Agency pursuant to and in accordance with SEQRA, shall take effect immediately.

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

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

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

	<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 Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

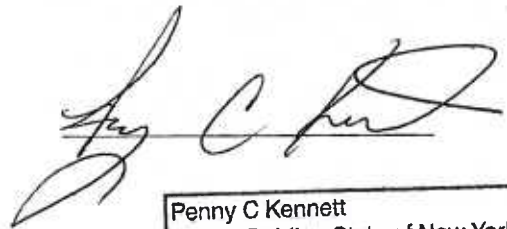
That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on August 4, 2022, with the original thereof on file at the Agency's 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 5th day of August, 2022.



Penny C Kennett Notary Public - State of New York Qualified In Genesee County Reg #01KE6134587 My Commission Expires <u>10/3/25</u>

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GLOW WITH YOUR HANDS 2022

- **1000+** Students from **30** School Districts in GLOW Counties
- **65+** Business Exhibitors and Hands-on Career Experiences

NYS Department of Labor Commissioner Roberta Reardon:

“We need these kinds of career fairs so these young people can make a really smart choice for a career path.”



Liberty Pumps



GV BOCES Mechatronics



O-AT-KA Milk Products



LandPro Equipment

Logan Stoick, GLOW With Your Hands Participant (9th Grade):

“I think the welding is pretty cool ... it’s a tough job but you make good money for it.”

**Genesee County Economic Development Center
August 2022 Dashboard
Balance Sheet - Accrual Basis**

DRAFT

[Per Audit]
12/31/21

	8/31/22	7/31/22	12/31/21
ASSETS:			
Cash - Unrestricted	\$ 7,228,687	\$ 7,481,622	\$ 7,339,508
Cash - Restricted (A)(1)	9,619,579	8,399,853	11,674,315
Cash - Reserved (B)	793,788	793,620	792,739
Cash - Subtotal	17,642,054	16,675,095	19,806,562
Grants Receivable (2)	59,468	58,968	65,327
Accounts Receivable (3)	64,962	32,879	337,456
Deposits	2,832	2,832	2,832
Prepaid Expense(s) (4)	16,317	19,349	42,651
Loans Receivable - Current	55,739	57,209	52,489
Total Current Assets	17,841,372	16,846,332	20,307,317
Land Held for Dev. & Resale (5)	21,291,950	20,494,870	19,467,282
Furniture, Fixtures & Equipment	71,257	71,257	71,257
Total Property, Plant & Equip.	21,363,207	20,566,127	19,538,539
Less Accumulated Depreciation	(68,965)	(68,910)	(68,528)
Net Property, Plant & Equip.	21,294,242	20,497,217	19,470,011
Loans Receivable- Non-current (Net of \$47,429 Allow. for Bad Debt)	157,408	162,232	195,885
Other Assets	157,408	162,232	195,885
TOTAL ASSETS	39,293,022	37,505,781	39,973,213
DEFERRED OUTFLOWS OF RESOURCES			
Deferred Pension Outflows (10)	597,836	597,836	597,836
Deferred Outflows of Resources	597,836	597,836	597,836
LIABILITIES:			
Accounts Payable (6)	4,240	4,381	548,813
Loan Payable - Genesee County - Current (7)	305,000	305,000	295,000
Accrued Expenses	50,366	42,735	29,545
Unearned Revenue (8)	9,400,208	8,189,014	10,993,355
Total Current Liabilities	9,759,814	8,541,130	11,866,713
Loans Payable - ESD (9)	5,196,487	5,196,487	5,196,487
Loan Payable - Genesee County - Noncurrent (7)	2,825,000	2,825,000	3,130,000
Aggregate Net Pension Liability (10)	2,612	2,612	2,612
Total Noncurrent Liabilities	8,024,099	8,024,099	8,329,099
TOTAL LIABILITIES	17,783,913	16,565,229	20,195,812
DEFERRED INFLOWS OF RESOURCES			
Deferred Pension Inflows (10)	791,742	791,742	791,742
Deferred Inflows of Resources	791,742	791,742	791,742
NET ASSETS	\$ 21,315,203	\$ 20,746,646	\$ 19,583,495

Significant Events:

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1. Restricted Cash - Includes cash deposited by ESD into imprest accounts related to the \$8M and \$33M STAMP grants. Expenditures out of these accounts are pre-authorized by ESD. ESD deposited an additional \$1.8M into the imprest account for the \$8M grant in August. Also included are funds received from the County per a Water Supply Agreement, to be put towards water improvements located in the Town of Alabama and the Town of Pembroke and other Phase II improvements as identified by the County. These funds are being used to pay for qualifying expenditures.
2. Grants Receivable - National Grid grants support marketing and development activities for STAMP and the LeRoy Food & Tech Park.
3. Accounts Receivable - Econ. Dev. Program Support Grant, MedTech Centre Property Management, etc.
4. Prepaid Expense(s) - General Liability, Cyber, D&O, Life, long-term and short-term disability insurance, and property insurance.
5. Land Held for Dev. & Resale - Additions are related to STAMP development costs.
6. Accounts Payable - e3communications expenses, dental insurance and interest earned on imprest accounts that will be remitted to ESD.
7. Loan Payable - Genesee County (Current & Noncurrent) - Per a Water Supply Agreement with Genesee County, the County remitted \$4M to the GCEDC to put towards water improvements located in the Town of Alabama and the Town of Pembroke and other Phase II improvements as identified by the County. GCEDC started making annual payments to the County of \$448,500 beginning in January 2020.
8. Unearned Revenue - Interest received in advance; Genesee County contribution received in advance; Funds received from municipalities to support park development; Funds received to support workforce development; ESD Grant funds to support STAMP development, not actually earned until eligible expenditures are incurred. ESD deposited an additional \$1.8M into the imprest account related to the \$8M grant in August.
9. Loans Payable - ESD - Loans from ESD to support STAMP land acquisition and related soft costs.
10. Deferred Pension Outflows / Aggregate Net Pension Liability / Deferred Pension Inflows - Accounts related to implementation of GASB 68.

(A) Restricted Cash = Municipal Funds, RLF #2 Funds, Grant Funds Received in Advance.

(B) Reserved Cash = RLF #1 Funds (defederalized).

**Genesee County Economic Development Center
August 2022 Dashboard
Profit & Loss - Accrual Basis**

DRAFT

	Month to Date		YTD		2022	2022
	8/31/22	8/31/21	2022	2021	Board Appr. Budget	YTD % of Budget
Operating Revenues:						
Genesee County	\$ 19,459	\$ 19,459	\$ 155,674	\$ 155,673	\$ 233,513	67%
Genesee County - WFD	2,083	-	16,666	-	-	N/A
Fees - Projects	38,750	116,250	381,593	424,000	411,500	93%
Fees - Services	7,099	6,961	56,793	55,689	85,192	67%
Interest Income on Loans	223	270	1,895	2,271	2,744	69%
Rent	-	-	16,393	12,906	21,071	78%
Common Area Fees - Parks	-	-	373	355	360	104%
Grants (1)	589,370	912,627	3,895,475	5,125,498	8,891,710	44%
GGLDC Grant- Econ. Dev. Program Support	25,000	25,000	200,000	200,000	300,000	67%
GCFC Grant - Econ. Dev. Program Support	-	-	328,388	-	-	N/A
Land Sale Proceeds	-	-	67,500	-	-	N/A
BP ² Revenue	5,065	-	8,597	701	27,454	31%
Other Revenue	137	-	1,262	1,907	5,000	25%
Total Operating Revenues	687,186	1,080,567	5,130,609	5,979,000	9,978,544	51%
Operating Expenses						
General & Admin	107,181	114,494	928,036	850,270	1,506,112	62%
Professional Services	8,210	2,964	49,726	28,119	108,500	46%
Site Maintenance/Repairs	894	473	3,577	3,154	39,500	9%
Property Taxes/Special District Fees	-	-	3,518	4,597	2,690	131%
BP ² Expense	-	-	-	-	-	N/A
PIF Expense	-	-	43,296	35,042	143,157	30%
CBA Pass Through	-	-	-	-	-	N/A
Site Development Expense (2)	4,097	7,550	2,375,234	3,948,570	2,375,344	100%
Cost of Land Sales	-	-	5,775	-	-	N/A
Real Estate Development (3)	797,080	910,627	1,824,668	1,597,214	6,078,156	30%
Balance Sheet Absorption	(797,080)	(910,627)	(1,824,668)	(1,597,214)	-	N/A
Total Operating Expenses	120,382	125,481	3,409,162	4,869,752	10,253,459	33%
Operating Revenue (Expense)	566,804	955,086	1,721,447	1,109,248	(274,915)	
Non-Operating Revenue (Expense)						
Other Interest Income	1,753	586	10,261	5,624	5,500	187%
Total Non-Operating Revenue (Expense)	1,753	586	10,261	5,624	5,500	187%
Change in Net Assets	568,557	955,672	1,731,708	1,114,872	\$ (269,415)	
Net Assets - Beginning	20,746,646	12,034,955	19,583,495	11,875,755		
Net Assets - Ending	\$ 21,315,203	\$ 12,990,627	\$ 21,315,203	\$ 12,990,627		

Significant Events:

1. Grants - YTD includes \$448K Community Benefit Agreement payment dedicated to STAMP by sourcing debt service payments to the County; PIF from RJ Properties (Liberty Pumps) supports Apple Tree Acres Infrastructure improvements; PIF from Yancey's Fancy supports Infrastructure Fund Agreement with the Town of Pembroke; National Grid grant supports marketing and development activities for STAMP; ESD \$33M & \$8M Grants support STAMP engineering, environmental, legal, infrastructure, etc.
2. Site Development Expense - Installation of, or improvements to, infrastructure that is not owned by the GCEDC, or will be dedicated to a municipality in the foreseeable future, is recorded as site development expense when costs are incurred.
3. Real Estate Development Costs - Includes STAMP development costs.

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**Genesee County Economic Development Center
August 2022 Dashboard
Statement of Cash Flows**

DRAFT

	August 2022	YTD
CASH FLOWS PROVIDED (USED) BY OPERATING ACTIVITIES:		
Genesee County	\$ 21,542	\$ 193,883
Fees - Projects	38,750	697,993
Fees - Services	-	42,595
Interest Income on Loans	287	1,713
Rent	-	18,802
Common Area Fees - Parks	-	373
Grants	1,800,000	2,306,326
BP ² Revenue	5,065	8,597
GGLDC Grant - Economic Development Program Support	-	150,000
GCFC Grant - Economic Development Program Support	-	328,388
Land Sale Proceeds - Net	-	61,725
Other Revenue	137	1,262
Repayment of Loans	6,294	35,227
General & Admin Expense	(96,447)	(900,091)
Professional Services	(8,210)	(60,543)
Site Maintenance/Repairs	(894)	(3,577)
Site Development	(4,097)	(2,514,159)
Property Taxes/Special District Fees	-	(3,518)
PIF Expense	-	(43,296)
Improv/Additions/Adj to Land Held for Development & Resale	(797,080)	(2,201,308)
Net Cash Provided (Used) By Operating Activities	965,347	(1,879,608)
CASH FLOWS USED BY NONCAPITAL FINANCING ACTIVITIES:		
Principal Payments on Loan	-	(295,000)
Net Cash Used By Noncapital Financing Activities	-	(295,000)
CASH FLOWS PROVIDED BY INVESTING ACTIVITIES:		
Interest Income (Net of Remittance to ESD)	1,612	10,100
Net Change in Cash	966,959	(2,164,508)
Cash - Beginning of Period	16,675,095	19,806,562
Cash - End of Period	\$ 17,642,054	\$ 17,642,054
RECONCILIATION OF NET OPERATING REVENUE TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES:		
Operating Revenue	\$ 566,804	\$ 1,721,447
Depreciation Expense	55	437
(Increase) Decrease in Operating Accounts/Grants Receivable	(32,583)	278,353
Decrease in Prepaid Expenses	3,032	26,334
Decrease in Loans Receivable	6,294	35,227
Increase in Land Held for Development & Resale	(797,080)	(1,824,668)
Decrease in Operating Accounts Payable	-	(544,412)
Increase in Accrued Expenses	7,631	20,821
Increase (Decrease) in Unearned Revenue	1,211,194	(1,593,147)
Total Adjustments	398,543	(3,601,055)
Net Cash Provided (Used) By Operating Activities	\$ 965,347	\$ (1,879,608)

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4 Year Budget 2023 - 2026

GCEDC Consolidated

Board Approved:



	2022 Projection	2023 Budget	2024 Budget	2025 Budget	2026 Budget
1 Revenues					
2 Genesee County Contributions	\$258,513	\$258,513	\$258,513	\$258,513	\$258,513
3 Fees - Project Origination	\$701,468	\$487,000	\$500,560	\$514,527	\$528,913
4 Fees - Service	\$85,192	\$87,146	\$89,760	\$92,453	\$95,227
5 Bank Interest Income	\$9,736	\$5,900	\$6,077	\$6,259	\$6,447
6 Interest Income on Loans	\$2,744	\$2,170	\$2,235	\$2,302	\$2,371
7 Rent Income	\$32,910	\$32,910	\$33,897	\$34,914	\$35,962
8 CAM Income	\$373	\$380	\$391	\$403	\$415
9 Miscellaneous	\$557	\$5,000	\$5,150	\$5,305	\$5,464
10 Economic Development Grant (GGLDC / GCFC)	\$628,388	\$300,000	\$300,000	\$300,000	\$300,000
11 PIF Grant Income	\$126,729	\$151,906	\$169,905	\$195,075	\$185,925
12 CBA	\$448,553	\$448,553	\$448,553	\$448,553	\$448,553
13 BP2 Income	\$23,447	\$52,819	\$73,900	\$81,780	\$88,900
14 Grants	\$14,036,309	\$4,000,000	\$0	\$0	\$0
15 Land Sales	\$67,500	\$0	\$0	\$0	\$0
17 Total Revenues	\$16,422,419	\$5,832,297	\$1,888,942	\$1,940,084	\$1,956,689
19 Expenses					
20 Payroll	\$802,293	\$868,250	\$894,298	\$921,126	\$948,760
21 Benefits	\$287,762	\$307,143	\$315,475	\$324,058	\$332,897
22 Insurance	\$30,387	\$27,355	\$28,176	\$29,021	\$29,892
23 Utilities	\$9,400	\$10,000	\$10,300	\$10,609	\$10,927
24 Depreciation	\$655	\$655	\$655	\$655	\$655
25 Telecom / Internet / Phone	\$7,696	\$8,000	\$8,240	\$8,487	\$8,742
26 Rent	\$20,956	\$19,400	\$19,982	\$20,581	\$21,199
27 Postage	\$1,500	\$1,500	\$1,545	\$1,591	\$1,639
28 Dues & Subscriptions	\$97,000	\$96,000	\$98,880	\$101,846	\$104,902
29 Conferences & Meetings	\$16,000	\$34,000	\$35,020	\$36,071	\$37,153
30 Professional Services	\$110,885	\$206,620	\$100,425	\$103,438	\$106,541
31 Travel	\$38,643	\$35,000	\$36,050	\$37,132	\$38,245
32 Marketing	\$88,350	\$90,000	\$92,700	\$95,481	\$98,345
33 Supplies	\$4,000	\$4,000	\$4,120	\$4,244	\$4,371
34 Maintenance & Repair	\$36,810	\$38,000	\$39,140	\$40,314	\$41,524
35 Site Development	\$2,406,861	\$0	\$0	\$0	\$0
36 Miscellaneous	\$482	\$0	\$0	\$0	\$0
37 Furniture & Equipment	\$15,000	\$15,000	\$15,450	\$15,914	\$16,391
38 CEO's Discretionary Fund	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000
39 Fees	\$980	\$0	\$0	\$0	\$0
40 Special District Fees	\$3,518	\$3,030	\$3,121	\$3,215	\$3,311
41 Interest Expense / Unused Fee	\$153,500	\$143,500	\$133,500	\$123,500	\$113,500
42 Closing Costs / Cost of Sales	\$5,775	\$0	\$0	\$0	\$0
43 Sales Partner Fees	\$1,125	\$0	\$0	\$0	\$0
44 Development Costs STAMP	\$0	\$0	\$0	\$0	\$0
45 BP2 Expense	\$0	\$17,244	\$31,435	\$13,435	\$13,435
46 Grant Expense	\$0	\$4,000,000	\$0	\$0	\$0
47 PIF Expense	\$126,729	\$151,906	\$169,905	\$195,075	\$185,925
48 Total Expenses	\$4,269,307	\$6,079,603	\$2,041,416	\$2,088,792	\$2,121,354
50 Net Profit / Loss	\$12,153,112	(\$247,306)	(\$152,474)	(\$148,708)	(\$164,665)
52 Cash from Prev. Yr Rev. Collected in Current Yr	\$0	\$0	\$0	\$0	\$0
53 Appropriated Fund Balance	\$0	\$433,119	\$0	\$0	\$0
54 J Rental Land Sale - Cash Carry Over Allocation	\$0	\$139,945	\$0	\$0	\$0
55 NET Profit / LOSS w/ Cash Adjustments	\$12,153,112	\$325,758	(\$152,474)	(\$148,708)	(\$164,665)

Notes:

* 3% increase for most line items 2024-2026, unless shaded.

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GCEDC

Lezlie Farrell – Finance & Operations
Audit & Finance Committee Report
October 4, 2022

Cleaning Services

Discussion: During 2022, staff reached out to four cleaning companies to obtain quotes for 2023 cleaning services. Commercial Cleaning Services of Western New York, Inc., the current company being used, has been offering a competitive price and we are satisfied with the services.

Fund Commitment: Up to \$6,000; included in the 2023 GCEDC Budget.

Action Requested: Staff is requesting recommendation from the Committee to continue this contract for 2023 cleaning services at a cost not to exceed \$6,000 for the year, plus reimbursement for supplies.

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Cleaning Quotes for 2023 Services

	Quote for Office Space (GCEDC)	Quote for Common Area (GGLDC)	Other Notes:
Pro-Kleen	\$1800.00 Per Month	\$3600.00 Per Month	Auto-Scrubber
**Commercial Cleaning Services of Western NY, Inc. (current rates; not anticipated to increase for 2023)	\$450.00 Per Month	\$1134.00 Per Month	Auto-Scrubber
Top Choice Cleaning Services	\$738.71 Per Month	\$1551.91 Per Month	Floor Machine
WNY Regional Cleaning Company	Not bidding on temporary accounts that take bids regularly.		

GCEDC Approval:

****Staff recommends Commercial Cleaning Services of Western NY, Inc. to continue services in 2023, not to exceed \$6,000.**

GGLDC Approval:

****Staff recommends Commercial Cleaning Services of Western NY, Inc. to continue services in 2023, not to exceed \$14,500.**

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Mark Masse

GCEDC Audit & Finance Committee

Agricultural Farm Land Lease Agreement for 2023

Discussion: See attached lease agreement and lessors.

Fund commitment: None.

Committee action request: Recommend approval to the full Board of the 2023 agricultural land lease agreement.

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2023 Land Lease Rates
Agricultural leases

Genesee County Economic Development Center

Location	Term	Rate / acre
AppleTree Acres	One year	\$ 70.00
Oatka Hills	One year	\$ 70.00
Leroy	One year	\$ 70.00
STAMP	One year	\$ 70.00
STAMP	One year	\$ 70.00
STAMP	One year	\$ 75.00
STAMP	One year	\$ 3.98
STAMP	One year	\$ 3.35

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

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

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

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

**SECOND AMENDMENT
TO AGREEMENT**

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

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

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

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

NOW THEREFORE,

The parties hereby agree as follows:

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

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

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

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

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

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

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

Genesee County Economic Development Center

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

Niagara County Water District

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

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

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

Seaman Norris LLP

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

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September 13, 2022

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

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

Dear Mrs. Bieber:

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

A. SCOPE OF WORK

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

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

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

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

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

B. DELIVERABLES

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

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

C. ASSUMPTIONS

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

D. PROPOSAL FEE:

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

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

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

Fee Notes:

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

E. TERMS:

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

Thank you for considering Wendel!

Respectfully Submitted,



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



Amanda L. Lingle, RMP
Sr. Project Manager

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

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

ACCEPTANCE / AUTHORIZATION:

Accepted this _____ day of _____, 20____

Print Name: _____

Signature: _____

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Title: _____

RETURN TO:

Wendel

Attn: Amanda Lingle

375 Essjay Road, Suite 200

Williamsville, NY 14221

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Consultant for evaluation of Traditional Cultural Property (TCP) issues

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

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

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

kta preservation specialists

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

September 1, 2022

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

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

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

Dear Mr. Masse,

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

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

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

Report Work Scope

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

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

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

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

Project Tasks

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

Total Hours: 12

Deliverables

- Submission electronic copy of Report to GCEDC

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

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

Sincerely yours,



Kerry L. Traynor
Preservation Specialist

Cost and Work Scope Approved:

Signed _____

Title _____

Dated _____

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Mark Masse

STAMP Committee
October 5, 2022

Genesee County Water Supply Agreement Assignment

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

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

Fund Commitment: None.

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

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WATER SUPPLY AGREEMENT

County of Genesee and Genesee County Economic Development Center

This Agreement made this 3rd day of March, 2017, by and between the County of Genesee, with offices at 7 Main Street, Batavia, New York 14020 (hereinafter referred to as "County"), and the Genesee County Industrial Development Agency, doing business as the Genesee County Economic Development Center, with offices at 99 Medtech Drive, Suite 106, Batavia, New York 14020 (hereinafter referred to as the "GCEDC").

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Remainder of page left blank intentionally

STAMP Payment for storage yard

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

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

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

CONSTRUCTION STORAGE LOT AGREEMENT

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

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

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

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

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

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

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

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

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GRANTOR:

By: _____

Name: Erik Aquina

STATE OF NEW YORK)

COUNTY OF GENESEE) ss:

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

Notary Public

GRANTEE:

By: _____

Genesee County Economic Development Center

Name: Mark A. Masse

SR VP of Operations

STATE OF NEW YORK)

COUNTY OF GENESEE) ss:

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

Notary Public

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

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

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

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

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HARRIS BEACH PLLC

ATTORNEYS AT LAW

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

John Crane, Title Manager

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

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

Underwriter Compensation: \$ 3,586.80

Title Agent Compensation: \$ 22,033.20

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\$8 million approval:

Phillips Lytle 2022 additional contract for STAMP related work

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

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

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



Phillips Lytle LLP

VIA EMAIL - PRIVILEGED & CONFIDENTIAL

September 30, 2022

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

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

Dear Mark:

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

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

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

Sincerely,

Phillips Lytle LLP

By */s/ Douglas W. Dimitroff*

Douglas W. Dimitroff, Esq.

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

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

Genesee County Economic Development Center

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

Date _____, 2022

ATTORNEYS AT LAW

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

ONE CANALSIDE 125 MAIN STREET BUFFALO, NY 14203-2887 PHONE 716 847 8400 FAX 716 852 6100
NEW YORK: ALBANY, BUFFALO, CHAUTAUQUA, GARDEN CITY, NEW YORK, ROCHESTER | OHIO: CLEVELAND | WASHINGTON, DC
CANADA: WATERLOO REGION | PHILLIPSLYTLE.COM

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

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

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

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

Doc #10700417.1

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Amended SEQR for STAMP for Modified Part 182 Permit

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

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

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

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

Fund commitment: None.

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

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

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

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

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

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

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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

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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

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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;

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- (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

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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

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

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

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

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

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

The foregoing Resolution was thereupon declared duly adopted.