



Meeting Agenda – STAMP Committee
 Genesee County Economic Development Center
 Wednesday, May 4, 2022 - 8:00 a.m.
 Location: Innovation Zone Conference Room

Page #’s	Topic	Discussion Leader	Desired Outcome
	1. Call to Order – Enter Public Session Governor Kathy Hochul signed legislation (S.50001 / A.40001) on September 2, 2021 extending virtual access to public meetings under NYS’s Open Meetings Law, which allows virtual participation in local government meetings during the COVID-19 pandemic. This meeting is being held electronically via conference call / video conference instead of a public meeting open for the public to attend in person.	P. Zelif	
	1a. Executive Session Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons: <ol style="list-style-type: none"> 1. Discussions regarding proposed, pending or current litigation. 2. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof. 1b. Enter Public Session	P. Zelif	
2-4	2. Chairman’s Report & Activities 2a. Agenda Additions / Deletions / Other Business 2b. Minutes: March 23, 2022	P. Zelif	Vote
5-6	3. Discussions / Official Recommendations to the Board: 3a. Easement Approval	M. Masse	Disc / Vote
7-15	3b. Revised Land Lease Agreements for STAMP Farming	M. Masse	Disc / Vote
	3c. Draft Land Management Plan	M. Masse	Discussion
16-31	3d. NYISO Facilities Study	M. Masse	Disc / Vote
32-42	3e. Access License Agreement for Plug Power and/or Affiliates for Substation Construction	M. Masse	Disc / Vote
	4. Adjournment	P. Zelif	Vote



GCEDC STAMP Committee Meeting

Wednesday, March 23, 2022

Location: Electronically

8:00 a.m.

MINUTES

ATTENDANCE

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

1. Call to Order / Enter Public Session

C. Yunker called the meeting to order at 8:15 a.m. via conference call / video conference.

Governor Kathy Hochul signed legislation (S.50001 / A.40001) on September 2, 2021 extending virtual access to public meetings under NYS's Open Meetings Law, which allows virtual participation in local government meetings during the COVID-19 pandemic. This meeting is being held electronically via conference call / video conference instead of a public meeting open for the public to attend in person.

1a. Executive Session

M. Clattenburg made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 8:16 a.m., for the following reasons:

1. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.
2. Discussions regarding proposed, pending, or current litigation.
3. 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.

The motion was seconded by C. Kemp and approved by all members present.

P. Zeliff joined at 8:24 a.m.
L. Farrell left the meeting at 8:57 a.m.

1b. Re-Enter Public Session

C. Yunker made a motion to enter back into public session at 9:03 a.m., seconded by M. Clattenburg and approved by all.

2. Chairman's Report & Activities

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

2b. Minutes: March 2, 2022

M. Clattenburg made a motion to approve the March 2, 2022 minutes; the motion was seconded by C. Yunker. Roll call resulted as follows:

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

The item was approved as presented.

3. Discussions / Official Recommendations to the Board:

3a. STAMP Payment for Easement - In conjunction with the installation of the force main from the STAMP site to the direct discharge point at Oak Orchard Creek, there are several easements needed. Based on a compensation model the following payment is needed for Temporary Easement 22:

1. Temporary Easement 22 - \$800

Fund Commitment: \$800 from the \$33 million.

Board Action Request: Approval of payment of \$800 to the holder of the easement number identified above.

C. Yunker made a motion to recommend to the full Board the approval of the ROW Easement Payments not to exceed \$800 as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

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

The item was approved as presented.

3b. Results of Town of Shelby Peer Review of Hydraulic Study – M. Masse stated that he had heard from the Town of Shelby Supervisor who stated that Wendel concurred with the conclusion of the GCEDC's hydraulic study that discharging 6 MGD into Oak Orchard Creek would not cause any significant rise in the water or any other significant impacts, like flooding. The Supervisor questioned if there would be potential for erosion at the discharge point. The GCEDC's engineers are working on a response to this.

4. Adjournment

As there was no further business, C. Yunker made a motion to adjourn at 9:05 a.m., seconded by M. Clattenburg and passed unanimously.

Mark Masse

STAMP Committee

May 4, 2022

STAMP Payment for easement

Discussion: In conjunction with the installation of the force main from the STAMP site to the direct discharge point at Oak Orchard Creek, there are a number of easements needed. Based on a compensation model the following payment is needed for one easement:

1. Temporary Easement 21 - \$500

Fund Commitment: \$500 from the \$33 million.

Board Action Request: Approval of payment of \$500 to the holder of the easement number identified above.



2440 Sheridan Drive, Suite 100
Tonawanda, NY 14150
Ph. 716.685.0500
Fax: 716.558.2825

RECEIVED

APR 13 2022

Email: rowp@rightofwaypros.com
Website: www.rightofwaypros.com

April 11, 2022

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

Re: Genesee County Economic Development Center
Science, Technology and Advanced Manufacturing Park (STAMP) in the Town of Alabama
Force Main Project
Genesee and Orleans Counties
TE-21

Dear Mark,

Enclosed you will find the executed paperwork from Kreher Brothers, LLC. The compensation negotiated for the TE is \$500.

Very Truly Yours,

RIGHT-OF-WAY PROFESSIONALS, LLC

A handwritten signature in black ink, appearing to read "Timothy J. Magyar", is written over the printed name and title.

Timothy J. Magyar, SR/WA, R/W-AC
President
Agent for Genesee County Economic Development Center

Agricultural Farm Land Lease Agreement for 2022 for STAMP property only

Discussion: The GCEDC has previously approved a standard lease agreement for any farming activities on any of our corporate parks. While discussing some options with a farmer at STAMP to assist with our land management plans as well as the potential for a tenant to commit to STAMP and potentially impact the land prior to the crop being harvested, the farmer has made a request for the STAMP Committee to consider in the lease agreement for 2022. Farming the land at the STAMP site helps with overall maintenance of the property as well as preventing any wetlands from expanding or other things which could cause issues for potential development. The farmer at STAMP is concerned that if he is only reimbursed for the cost of the crop, and not the fair market value, if the lease is cancelled early for a project to start construction, he would severely impact his farming operations. His request is to change the reimbursement to be based on the fair market value of the crop that is impacted.

Fund commitment: None.

Committee action request: Recommend approval to the full Board of the revised 2022 agricultural land lease agreement for STAMP property.

FARM LEASE AGREEMENT

THIS FARM LEASE AGREEMENT ("Lease") is made as of this ___ day of May, 2022 by and between Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, a New York public benefit corporation, having an office at 99 MedTech Drive, Batavia, New York 14020-3141 ("Lessor"), and **Norm Geiss** whose address is 739 Ackerson Road, Basom, New York 14013 ("Lessee").

WITNESSETH:

WHEREAS, Lessor is the fee simple owner of a certain parcel of real property commonly known as STAMP Parcels 3, 9 and 11, consisting of approximately 183 acres of land, as more particularly described as S.B.L. No. 10-1-4.112, 10-1-13.1 and 10-1-42 in the Town of Alabama, County of Genesee, and State of New York (the "Property"); and

WHEREAS, Lessor desires to lease to Lessee a portion of the Property being approximately 169 acres of vacant land as shown on Exhibit A attached hereto (the "Premises"), and Lessee desires to lease the Premises from Lessor for the purpose of farming the Premises.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties intending to be legally bound hereby covenant and agree as follows:

1. **Demise.** In consideration of the rents reserved hereunder and the terms and conditions of this Lease, Lessor does hereby demise and let unto Lessee, and Lessee does hereby take and lease from Lessor, the Premises. Lessee agrees to accept the Premises in their "as is" condition and "with all faults" existing as of the date hereof. Lessee agrees that this Lease has been entered into after full investigation of the Premises and without any reliance upon any statement or representation by Lessor or any other person. Nothing in this Lease shall confer upon Lessee any rights to minerals or timber on the Premises.

2. **Term.** The term of this Lease shall be one (1) year, commencing on May 1, 2022 and ending on December 31, 2022 (the "Term"), provided, however, that either party may cancel this Lease effective as of the last day of a Lease Year provided that written notice of termination is given by such party to the other not later than thirty (30) days prior to such effective date of termination. For purposes of this Lease a "Lease Year" shall be defined as the twelve month period between January of a given year and December of the following year. Notwithstanding the foregoing, Lessor may, at any time during the Term, terminate this Lease as to the entire Premises or as to any portion thereof upon two (2) weeks written notice to Lessee. In such event, Lessor shall reimburse Lessee for ~~all documented, out-of-pocket expenses~~ the fair market value of the loss of crop the Lessee has incurred during the Term in connection ~~with~~ with the planting of any crop on the Premises, or on the portion of the Premises with regard to which this Lease is so terminated.

3. **Rent.** As consideration for this Lease, Lessee agrees to pay to Lessor annual rent in the amount of \$70 per acre (or \$10,140 for the entire Premises) for each Lease Year of the Term ("Rent"). Rent shall be due and payable to Lessor in two installments, as follows: Fifty (50%)

percent of the Rent shall be due and payable by June 1 of each Lease Year and the remaining fifty (50%) percent shall be due and payable by December 1 of each Lease Year. The Rent shall be a net rent and Lessor shall not be responsible for all expenses related to the farming of the Premises. Lessee shall be responsible for, and shall pay in a timely manner, any and all costs and expenses related to Lessee's farming of the Premises, including, without limitation, the costs and expenses for any equipment and machinery required to plow, plant, tend to and harvest the Premises, fertilizers, pesticides, and herbicides, water for irrigation, labor, taxes and insurance.

4. Permitted Use. Lessee shall use the Premises only for planting and harvesting of crops, and for no other purpose. The nature of the crops to be grown shall be approved in advance by Lessor, and no further planting may take place on the Premises. Lessee agrees to conduct such farming activities in accordance with good agricultural practices and in accordance with such standards as are generally accepted in the farming industry in Genesee County, New York. Lessee shall not (a) erect any permanent structures or improvements on the Premises, (b) store any equipment, machinery or supplies on the Premises, (c) drill, install or modify any wells, irrigation systems or drainage systems on the Premises, (d) materially alter the grades of the Premises so as to affect the storm water drainage on and off of the Premises, or (e) burn or permit the burning of any items on the Premises. Lessee shall monitor and maintain the Premises so as to prevent the development of any new wetlands. Lessee agrees to preserve established water courses, tile drains, tile outlets, diversion ditches, terraces and grass waterways and to refrain from any operation that will injure them. Lessee shall neither cut live trees nor market timber, fence posts or firewood on the Premises, nor will Lessee have any above or below ground mineral or gas or oil rights on the Premises.

5. Hazardous or Offensive Uses. Lessee may not conduct any dangerous, hazardous, noxious or offensive uses on the Premises and shall obtain, at its sole cost and expense, all governmental permits, licenses and approvals required for Lessee's use and occupancy of the Premises. Lessee shall comply with all environmental laws which include all federal, state, local and municipal laws, statutes, ordinances, rules, regulations, orders, decrees or requirements relating to or imposing liability or standards of conduct concerning the use, storage, treatment, transportation, manufacture, refinement, handling, production and/or disposal of hazardous materials, or otherwise pertaining to environmental protection, as now or at any time hereafter in effect, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, 41 U.S.C. Section 9601; the Super Fund Amendment and Reauthorization Act of 1986; the Emergency Planning and Community Right-to-Know Act, Public Law 99-499, 100 Stat.1613; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901; the Occupational Safety and Health Act, 29, U.S.C. Section 655 and Section 657; the Clean Air Act, 42 U.S.C. Section 7401; the Clean Water Act, 33 U.S.C. Section 1251; and the New York Environmental Conservation Law; together with all amendments thereto, substitutions therefore, rules and regulations promulgated thereunder and all amendments to and substitutions for the rules and regulations.

Lessee shall not store, dump or dispose on the Premises any gasoline, motor oils or other hazardous substances. Lessee shall not at any time cause or permit any contamination of the Premises, including any ponds, stormwater or groundwater. Lessee shall not use any fertilizers (other than as specified on Exhibit B attached hereto), pesticides (other than as specified on Exhibit B attached hereto) or herbicides, and shall use such permitted fertilizers and

pesticides only in strict accordance with the manufacturer's instructions and all applicable laws, rules, regulations and orders. Lessee shall maintain accurate records, including the type, amount, and dates, of all fertilizers, pesticides, and herbicides used on the Premises and shall immediately notify Lessor of any violation, accidental or otherwise, of this provision. Lessee shall be solely responsible, at its sole cost and expense, for the remediation of any contamination caused or permitted by Lessee on the Premises. This provision shall survive the expiration or termination of this Lease.

6. Indemnification and Hold Harmless. Lessee shall defend, indemnify and hold harmless Lessor, its officers, directors, agents, employees and successors and assigns, from and against all liability and claims of liability for injury or damage to person or property from any cause on or about the Premises, including, without limitation, all costs, expenses, claims, fines, penalties, judgments, and/or awards arising out of or related thereto. This provision shall survive the expiration or termination of this Lease.

7. Insurance. Lessee shall maintain at all times during the term of this Lease, a comprehensive policy of general liability insurance naming Lessor and its designated successors and assigns as additional insureds against liability occasioned by any occurrence on or about the Premises or any appurtenances thereto. Such policy shall provide a minimum coverage of \$1,000,000 with respect to any one person or accident. Lessee shall also maintain workmen's compensation insurance and vehicle liability insurance with respect to all personnel and vehicles brought by Lessee on the Premises. Lessee shall provide Lessor with a certificate for each such policy, which shall require that all additional insureds named in such certificate be given thirty (30) days' written notice before any material change to or cancellation of such policy.

8. Assumption of Risk. Lessee agrees that it shall occupy and use the Premises at its own risk and assumes the sole responsibility and liability to all persons and authorities related to Lessee's possession, occupancy and use of the Premises. Lessor shall not have any responsibility or liability for any loss of or damage to any person or personal property of Lessee or any other person whatsoever as a result of Lessee's use or occupancy of the Premises. Lessor shall not have any obligation to make any improvements to the Premises or perform any services with respect to the Premises.

9. Liens. Lessee shall not suffer or permit any mechanic's or materialman's lien to be filed against the Premises (or any part thereof including the crops) or Lessor's interest therein by reason or any work, labor, services, or materials supplied or claimed to have been supplied to Lessee. If any such lien shall at any time be filed against the Premises (or any part thereof including the crops) or Lessor's interest therein, Lessee shall immediately notify Lessor thereof, and Lessee shall cause the same to be discharged of record, bonded or otherwise secured to Lessor's satisfaction within fifteen (15) days after the date of Lessee's knowledge of the same. If Lessee shall fail to discharge such lien within the 15-day period, then, in addition to any other rights or remedies Lessor may have, Lessor may, but shall not be obligated to, discharge such lien, by paying, procuring a discharge by a deposit in court, or by bonding the same. In any such event, Lessor shall be entitled, if Lessor so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor, and to pay the amount of such judgment, if any, in favor of the lienor with interest, costs and allowances. Notwithstanding the above, Lessee shall not be required to pay or discharge any such lien so long as Lessee, in good faith, proceeds to contest

the same by appropriate proceedings and gives Lessor written notice thereof with a surety bond satisfactory to Lessor in an amount sufficient to pay such contested lien, including all interest and costs related thereto.

10. No Representations or Warranties. It is understood and agreed that this Lease contains all of the covenants, agreements, terms, provisions and conditions relating to the leasing of the Premises, and that Lessor has not made and is not making, and Lessee has not relied upon any representations or warranties, except as expressly stated in this Lease.

11. Events of Default. Lessee shall be in default of this Lease if Lessee (a) fails to pay Rent or make any other payment due hereunder within ten (10) days after the date upon which it is due or (b) fails to perform or comply with any of the terms, covenants, agreements or conditions of this Lease, and such failure continues for more than thirty (30) days after written notice thereof from Lessor; provided, however, Lessee shall not be considered to be in default of this Lease if such default cannot be cured within thirty (30) days and Lessee immediately commences and diligently proceeds to cure such default and completes such cure within sixty (60) days after the event of default. Upon Lessee default, Lessor may, in addition to all other remedies available at law, elect to terminate this Lease by written notice to Lessee, in which event Lessee shall immediately surrender the Premises, including all crops thereon, and Lessor shall thereafter have the right to harvest, sell or otherwise dispose of such crops without any obligation to account to Lessee for the value thereof.

12. Assignment. Lessee shall not sublet, assign, pledge or otherwise encumber its interest in the Premises or any part thereof, including the crops, without the prior written consent of Lessor, which consent may be withheld by Lessor in its sole and absolute discretion. Lessor may freely assign this Agreement.

13. Inspection. Lessor reserves the right to enter upon and inspect the Premises in order to determine whether Lessee is in compliance with the terms and conditions of this Lease; provided, however, such entry and inspections do not unreasonably interfere with Lessee's use of the Premises.

14. Interference. Lessee will not interfere with the use, enjoyment and activity on Lessor's adjacent premises, and will not cause or permit any noise, vibration, odor, fumes or nuisance other than those typically related to the permitted use.

15. Surrender of the Premises. Upon the expiration or termination of this Lease, Lessee shall deliver the Premises to Lessor in substantially the same condition as existed at the time of the commencement of this Lease. In addition, upon Lessor's request and notwithstanding the covenant to use good agricultural practices contained in Paragraph 4 herein, Lessee shall, at its sole cost and expense, plow under the Premises and leave the Premises in a reasonably level condition.

16. Warranties. The parties each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Lease and bind itself through the party set forth as signatory for the party below.

17. Severability. Any provision or provisions of this Lease which shall prove to be

invalid, void or illegal, shall in no way affect, impair or invalidate any other provision hereof, and the remaining provisions hereof shall nevertheless remain in full force and effect.

18. Waiver. No waiver of any default hereunder shall be implied from any inaction by either party on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver, and then only for the time and to the extent therein stated. No delay or omission by either party hereto to exercise any right or power accruing upon any noncompliance or default by the other party with respect to any of the terms hereof or otherwise accruing hereunder, shall impair any such right or power or be construed to be a waiver thereof. One or more waivers of any breach of any covenant, term or condition of this Lease shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by a party to or of any act by the other party requiring the former party's consent or approval, shall not be deemed to waive or render unnecessary such former party's consent or approval to or of any subsequent similar acts by the other party.

19. Successors and Assigns. The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of the parties and their respective heirs, successors and permitted assigns.

20. No Partnership. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Lessor and Lessee, and neither the method of computation of rent nor any other provision contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship between Lessor and Lessee other than the relationship of landlord and tenant.

21. Amendments. This Lease contains the entire agreement between the parties and shall not be modified except by a written agreement signed by the parties.

22. Headings. The headings in this instrument are for convenience only and in no way define, limit or describe the scope of this Lease or the intent of the provisions hereof.

23. Notice. All notices, demands and requests required under this Lease shall be in writing, and shall be deemed properly given if served personally, or if sent by the United States registered mail or certified mail, postage prepaid, addressed to the party at the address listed in the first paragraph of this Lease.

24. Right to Defend. Lessor shall have the right, but not the obligation, to prosecute or defend, in its own name or in Lessee's name, any actions or proceedings appropriate to the protection of its title to and Lessee's interest in the Premises. Whenever requested by Lessor, Lessee shall give Lessor all reasonable aid in any such action or proceeding.

25. Confession of Judgment for Possession. Upon the expiration or termination of this Lease, and at any time when an event of default hereunder has occurred, Lessee irrevocably authorizes and empowers the clerk or the attorney of any court of record to appear for and confess judgment against Lessee for possession of the Premises. The authority and power to appear and confess a judgment against Lessee shall not be exhausted by the initial exercise

thereof and may be confessed as often as any event of default hereunder occurs. Such authority may be exercised during or after the expiration of the Term of this Lease. If such proceeding is terminated and the possession of the Premises remains in or is restored to Lessee, Lessor shall have the right for the same default or upon subsequent defaults or upon the termination of this Lease under any of the terms of this Lease to bring one or more further actions as hereinbefore set forth to recover possession of the Premises and confess judgment for the recovery of possession of the Premises as herein provided.

26. Subordination. This Lease shall be subject and subordinate to the lien of any and all mortgages and to any ground leases, and any and all renewals, extensions, modifications, recastings and refinancings thereof. This clause shall be self-operative, without execution of any further instrument, but if requested by Lessor or any mortgagee or any ground lessor, Lessee shall promptly execute a certificate or other document evidencing and providing for such subordination.

27. Governing Law. This Lease and the provisions hereof shall be interpreted under the laws of the State of New York.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the day and year first written above.

LESSOR:

Genesee County Industrial Development
Agency, d/b/a Genesee County Economic
Development Center, a New York public
benefit corporation

By _____
Print Name: _____
Title: _____

LESSEE:

Print Name: _____
Title: _____

EXHIBIT A

PREMISES

EXHIBIT B

PERMITTED FERTILIZERS AND PESTICIDES

NYISO facilities study

Discussion: Upon completion of the SIS study, NYPA is requiring that a Facilities Study be completed on the proposed substation. The New York Independent System Operator, Inc. (NYISO) will complete the study, and is requesting a deposit of \$100,000 for this work. This payment and agreement was approved in February of 2020. The original agreement had a scheduled FS completion date of May Of 2020. The final Q580 FS Report Rev. 6 was issued on April 7, 2022. It took almost 2 years to finalize the FS due to the major change in the configuration of the Q580 STAMP Station and the associated additional studies needed to justify/confirm the reliability and operability of the revised configuration.

Fund commitment: An increase of \$53,000 covered under the existing \$8 million NYESD grant.

Committee action request: Recommend approval to the full Board to pay an additional \$53,000 for the Facilities Study Agreement.



NY Power Authority

KATHY HOCHUL
Governor

JOHN R. KOELMEL
Chairman

JUSTIN DRISCOLL
Interim President and Chief
Executive Officer

April 7, 2022

Attn: Mark Masse, SVP of Operations
Genesee County Economic Development Ctr
Leadership Genesee Class of 2002
99 MedTech Drive, Suite 106
Batavia, NY 14020

Invoice: Q580 Stamp Project-Inv # 1
(WBS # CMC-MAD-11-PABC)

Terms: Payment due within 30 days of receipt

Agreement: Cost Reimbursement Agreement related to Q580 WNY Stamp Load Station Project where GCEDC proposed to interconnect 350/115kv, 500/750/930 MVA to the NYS Transmission Line

Subject: Professional services in accordance with GCEDC and NYPA agreement dated February 7, 2020

Reimbursement costs associated with professional services rendered **January 2020-March 2022:**

NYPA Labor	\$ 132,271.90
NYPA Indirect & OH (15% of Total)	\$ 19,840.79
Total Amount Due	\$ 152,112.69

Remit payment via check to:

New York Power Authority
Department 116048
P.O. Box 5211
Binghamton, NY 13902-5211

Or wire payment to:

New York Power Authority
Operating Fund c/o
J.P. Morgan Chase, N.A.
ABA No. 021000021
Account No. 573-804206

TOTAL Q580 Stamp Project Costs
BILLING PERIOD: JANUARY 2020 - MARCH 2022

NYPA Labor

Energy Cntrl Ctr-S/T	\$ 229.80
Engng Support - O/T	\$ 747.10
Engng Support - S/T	\$ 111,915.75
Licensing S/T	\$ 13,490.13
MRM S/T	\$ 4,980.22
Pgen Admin - S/T	\$ 908.90
Total NYPA Labor	\$ 132,271.90

TOTAL LABOR & MATERIALS **\$ 132,271.90**

Overhead

NYPA Indirect & O/H (15% of Total)	\$ 19,840.79
Total Overhead	\$ 19,840.79

GRAND TOTAL **\$ 152,112.69**

FACILITIES STUDY AGREEMENT
Q#580 WNY STAMP LOAD STATION PROJECT

THIS AGREEMENT is made and entered into this 7th day of February 2020 by and among the Genesee County Economic Development Center ("GCEDC" or "Developer"), and New York Power Authority, a corporate municipal instrumentality organized and existing under the laws of the State of New York, ("Connecting Transmission Owner"). Developer and Connecting Transmission Owner each may be referred to as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, Developer is proposing to develop a 350/115 kV, 500/750/930 MVA Load Station Project ("Load Project") consistent with the Interconnection Application and Study Request submitted by the Developer to the New York Independent System Operator (NYISO) on September 27, 2016.

WHEREAS, Developer desires to interconnect the Load Project with the New York State Transmission System; and

WHEREAS, the NYISO has completed a System Impact Study and provided the results of said study to the Developer; and

WHEREAS, Developer has elected to perform a Facilities Study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to implement the conclusions of the System Impact Study in accordance with Good Utility Practice to physically and electrically connect the Load Project to the New York State Transmission System.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

- 1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated in Section 30.1 of Attachment X to the NYISO Open Access Transmission Tariff ("OATT") or Section 25.1.2 of Attachment S to the NYISO OATT.
- 2.0 Developer elects to perform a Facilities Study consistent with Section 3.9 and 4.5.8 of the NYISO OATT. The terms of Sections 4.5.8.1, 4.5.8.2, 4.5.8.3 and 4.5.8.4 of the NYISO OATT, as applicable, are hereby incorporated by reference herein.
- 3.0 The scope of the Facilities Study shall be subject to the assumptions set forth in Attachment A and the data provided in Attachment B to this Agreement.

- 4.0 The Facilities Study report (i) shall provide a description, estimated cost of (consistent with Attachment A), and schedule for required Network Upgrade Facilities to interconnect the Load Project to the New York State Transmission System, and (ii) shall address the short circuit, instability, and power flow issues identified in the System Impact Study.
- 5.0 The Developer shall provide to the Connecting Transmission Owner a deposit of \$100,000 for the performance of the Facilities Study. The time for completion of the Facilities Study is specified in Attachment A.

Connecting Transmission Owner shall invoice Developer on a monthly basis for the expenses incurred by the Connecting Transmission Owner for the Facilities Study each month as computed on a time and materials basis in accordance with the rates attached hereto (Exhibit 1). Developer shall pay invoiced amounts to Connecting Transmission Owner within thirty (30) Calendar Days of receipt of invoice. Connecting Transmission Owner shall continue to hold the amounts on deposit until settlement of the final invoice.

6.0 Miscellaneous.

- 6.1 Accuracy of Information. Except as Developer or Connecting Transmission Owner may otherwise specify in writing when they provide information under this Agreement, Developer and Connecting Transmission Owner each represent and warrant that the information it provides shall be accurate and complete as of the date the information is provided. Developer and Connecting Transmission Owner shall each promptly provide with any additional information needed to update information previously provided.
- 6.2 Disclaimer of Warranty. In preparing the Facilities Study, the Party preparing such study and any subcontractor consultants employed by it shall have to rely on information provided by the other Parties, and possibly by third parties, and may not have control over the accuracy of such information. Accordingly, neither the Party preparing the Facilities Study nor any subcontractor consultant employed by that Party makes any warranties, express or implied, whether arising by operation of law, course of performance or dealing, custom, usage in the trade or profession, or otherwise, including without limitation implied warranties of merchantability and fitness for a particular purpose, with regard to the accuracy, content, or conclusions of the Facilities Study. Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.
- 6.3 Limitation of Liability. In no event shall any Party or its subcontractor consultants be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, arising under

or in connection with this Agreement or the Facilities Study or any reliance on the Facilities Study by any Party or third parties, even if one or more of the Parties or its subcontractor consultants have been advised of the possibility of such damages. Nor shall any Party or its subcontractor consultants be liable for any delay in delivery or for the non-performance or delay in performance of its obligations under this Agreement.

- 6.4 Third-Party Beneficiaries. Without limitation of Sections 6.2 and 6.3 of this Agreement, Developer and Connecting Transmission Owner further agree that subcontractor consultants hired to conduct or review, or to assist in the conducting or reviewing, a Facilities Study shall be deemed third party beneficiaries of these Sections 6.2 and 6.3.
- 6.5 Term and Termination. This Agreement shall be effective from the date hereof and unless earlier terminated in accordance with this Section 6.5, shall continue in effect until the Facilities Study for Developer's Load Project is completed. Developer may terminate this Agreement upon the withdrawal of Developer's project from the Interconnection Application pursuant to Section 30.3.6 of Attachment X to the NYISO OATT.
- 6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to any choice of law's provisions.
- 6.7 Severability. In the event that any part of this Agreement is deemed as a matter of law to be unenforceable or null and void, such unenforceable or void part shall be deemed severable from this Agreement and the Agreement shall continue in full force and effect as if each part was not contained herein.
- 6.8 Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as the original instrument.
- 6.9 Amendment. No amendment, modification or waiver of any term hereof shall be effective unless set forth in writing signed by the Parties hereto.
- 6.10 Survival. All warranties, limitations of liability and confidentiality provisions provided herein shall survive the expiration or termination hereof.
- 6.11 No Implied Waivers. The failure of a Party to insist upon or enforce strict performance of any of the provisions of this Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to insist or rely on any such provision, rights and remedies in that or any other instances; rather, the same shall be and remain in full force and effect.
- 6.12 Successors and Assigns. This Agreement, and each and every term and condition hereof, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

IN WITNESS THEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written,

New York Power Authority

By: Bruce Fardanesh
Bruce Fardanesh (Feb 11, 2020)

Title: _____

Date: _____

Genesee County Economic Development Center

By: [Signature]

Title: SR VP of Operations

Date: 2/7/2020

ATTACHMENT A
SCHEDULE FOR CONDUCTING THE
FACILITIES STUDY

The Developer and Connecting Transmission Owner shall use reasonable efforts to complete the study and issue a Facilities Study report by the following date: May 30, 2020.

Study work (other than data provision and study review) that may be requested of the Developer by the Connecting Transmission Owner is specified in Exhibit 2.

Pursuant to Section 5.0 of this Agreement, the rates for the study work are attached as Exhibit 1.

ATTACHMENT B
DATA FORM TO BE PROVIDED BY DEVELOPER
WITH THE FACILITIES STUDY AGREEMENT

1. Provide location plan and simplified one-line diagram of the Project including any Network Upgrade Facilities identified in the System Impact Study. For staged projects, please indicate future equipment., etc.
2. One set of metering is required for each Project connection to the new bus or existing Connecting Transmission Owner station. Number of connections: TBD
3. On the one line indicate the required capacity attached at each metering location. (Maximum load on Current Transformer/Power Transformer ("CTS/PT"))
SEEDRAWING 5S1000 SH 1
4. On the one line indicate the location of auxiliary power. (Minimum load on CT/PT)
Amps
SEEDRAWING 5S1000 SH 1
5. Will an alternate source of auxiliary power be available during CT/PT maintenance?
 Yes No
6. Will a transfer bus on the Project side of the metering require that each meter set be designed for the total Transmission Project' capacity?
 Yes No
(Please indicate on one line diagram).
7. What type of control system or PLC will be located at the Developer's Transmission Project?
TBD
8. What protocol does the control system or PLC use?
TBD
9. Please provide a 7.5-minute quadrangle of the site. Sketch the facility, station, transmission line, and property line.
SEE DRAWING 4M1000 SH 1
10. Physical dimensions of the proposed interconnection station:
955' X 400'
11. Bus length from facility to interconnection station: N/A

12. Line length from interconnection station to Connecting Transmission Owner's transmission APPROXIMATELY 500'

13. Tower number observed in the Field. (Painted on tower leg)*: TBD

14. Number of third-party easements required for transmission lines*: TBD

* To be completed in coordination with Connecting Transmission Owner.

Is the Transmission Project in the Transmission Owner's service area?

Yes No Local provider: National Grid

Please provide proposed schedule dates:

Begin Construction Date: TBD

In-Service Date: October 2022

Testing/Trial Operation Date: TBD

Commercial Operation Date: TBD

EXHIBIT 1

STUDY COSTS

Consistent with Section 30.8.1 of Attachment X to the NYISO OATT, the Developer and the Connecting Transmission Owner estimate in good faith that the Facilities Study contemplated herein will not exceed \$100,000.00. All the rates specified below are subject to adjustment. Developer shall be responsible for study costs for the Facilities Study as specified by Section 30.8.1 of Attachment X to the OATT.

The following are the estimated rate for services and related charges to be provided by Connecting Transmission Owner under this Agreement:

Technical and/or Management Services \$80.00./hr. - \$ 135.00/hr.

Developer understands that (a) the above rates for labor services are estimates, (b) the above charges do not represent an exhaustive list of charges, and (c) Developer shall pay the actual costs incurred by the Connecting Transmission Owner under this Agreement.

EXHIBIT 2

Scope of Work for Q580 WNY STAMP Load Project Facilities Studies

The purpose of the Facilities Study (FS) is to specify and estimate the cost of the equipment, engineering, procurement, construction, installation, testing and commissioning work needed to implement the conclusions of the "System Impact Study for WNY STAMP Load Station Project, Interconnection Queue #580" ("Q580 SIS Report"), prepared by the New York Independent System Operator (NYISO), dated 10/11/2018, to reliably interconnect the proposed load project with the New York State Transmission System.

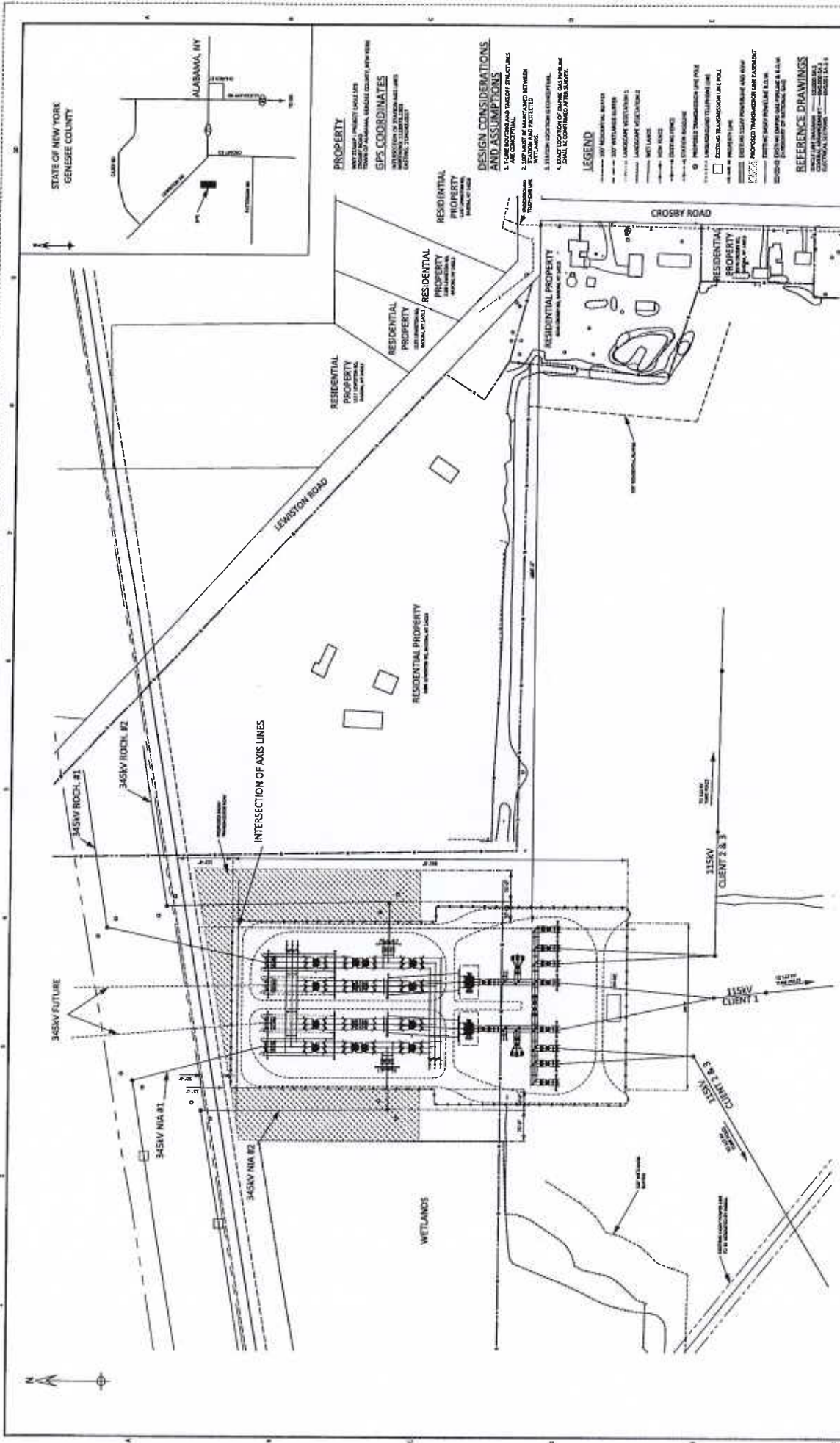
The FS is performed in accordance with Good Utility Practice and under the applicable requirements of the NYISO Open Access Transmission Tariff (OATT) Sections 3.9 and 4.5.8.

To accomplish the above, the following tasks will be performed:

1. Perform power system simulation studies (thermal, voltage, stability, and short circuit type assessments) to implement the following recommendations from the Q#580 SIS Report:
 - The Q580 SIS Report "*recommends to add a reactive power compensation of 260 MVar at the Developer's 115 kV STAMP station as a mitigation solution for voltage violations. The cost estimate of a capacitor bank(s) of 260 MVar is approximately \$2.4 M. The type and size of this compensation might be revisited at the Project facility studies*".
 - "*In sensitivity case 2, the results show that the existing 2021 system allows the Project loading to go up to 230 MW potentially without any network upgrades facilities required. If Q580 project goes in-service at the full 500 MW load level prior to the Q545A project going in-service, further evaluation will be required to clarify whether additional upgrades are needed to mitigate Q580 project's degradation on the interfaces evaluated. This evaluation will take place during a later phase, such as the Facility Studies.*"
2. Additional items to be included in the FS power system simulation scope include:
 - Q545A Empire State Line Alt (Western NY PPTN) project sensitivity: Both Q545A in service and not in service should be studied, unless the developer committed that the STAMP project will not be in service if Q545A is not in service;
 - Q721 Excelsior Energy Center Project sensitivity: Both Q721 in service and not in service should be studied;
 - Based on NPCC Directory #12 and NERC PRC-006, the STAMP load is subject to the requirement of automatic underfrequency load shedding (UFLS) scheme. Study report and NPCC approval will be required.
 - NYISO manipulated a special generation dispatch in order to minimize/eliminate the adverse impact of the proposed project on several interfaces, e.g. West Central, Volney East and NY-Ontario. The transfer limit analysis will be revisited in the FS stage.
3. Evaluate and provide cost estimates for the Network Upgrade Facility (NUF) necessary for the subject project to reliably interconnect to the Transmission Owner's system. Within the NUF category, identify the Stand Alone NUFs. NUFs include but are not limited to:
 - A new 12 breaker STAMP 345 kV station.
 - Protection relay and communication channel upgrades at Niagara 345 kV, Somerset 345 kV, N. Rochester 345 kV, and Dysinger 345 kV are required.
 - Adding a reactive power compensation of 260 MVar connected to the STAMP 115 kV bus for voltage support.
 - Other Network Upgrade Facilities that may be identified during the Facilities Study.

4. Identify and describe the following, as required to build the Project's NUF:
 - Equipment;
 - Design/engineering work;
 - Procurement;
 - Construction work;
 - Installation work; and
 - Testing and commissioning work,
5. In order to identify and describe the work required, as specified in Task 3 above, include, at a minimum, the following drawings, documents and information in the Facilities Study.
 - A simplified system one-line diagram, based on field site visits, to depict the breaker arrangement, the interconnection of the NUFs for the project, and the location of the Point of Interconnection, the Point of Change of Ownership, and the metering point(s).
 - A detailed electrical one-line diagram of the facilities identified in Task 1, above, based on field site visits, that depicts the ratings of all major equipment, protective device & relay schemes, revenue and other metering, station service and communication schemes for the Project's NUFs;
 - An overall project site plan, based on field site visits, that depicts the existing and new transmission lines and structures, location of the Project's NUF substations, rights of ways, property lines, regulated wetlands, culverts, ditches and other existing utilities in the area;
 - A substation plot plan for the Project's NUF, based on field site visits, that depicts the fenced areas, major structures, equipment, control buildings, property lines and access roads;
 - A bill of material listing major equipment, including quantities and ratings for the NUF; and
 - A description of the work (detailed scoping, design and functional specifications) required for the Project's NUFs, including, but not limited to, site work, foundations, conduit/trench system, grounding, structures, control house, AC/DC system, protective relaying, communication and metering systems, and transmission line modifications.
6. A good faith cost estimate for the Project's NUFs, including the scope of work described under Task 2, above.
 - The cost shall be estimated within (+30%; -15%) range (or if the project is in more advanced development phase, a more narrow range should be defined and used). The cost estimates should include escalation for material and labor rates if the project is anticipated to take longer than one year to construct (Transmission Owner escalation rates for outer years should be used).
 - At a minimum, the cost estimate shall be broken down into the following items for the Project's NUF, with major assumptions specified (e.g., labor rates, overhead rates, commodity costs, etc.):
 - Project Management;
 - Engineering/Design Costs;
 - Labor/Contractor Costs; and
 - Equipment and Materials.
7. Provide an estimate of the time required to complete the interconnection, with major milestone dates.
 - Milestones should include design/ engineering/ procurement/ construction/ installation/ testing/ commissioning/ commercial operation/ close out/turn over to utility of the Project's NUFs.
 - The milestones should provide for long lead items identification for procurement.
 - Provide an estimate of the time required to complete the construction associated with modifications to Transmission Owner facilities.
8. Provide a reference list of all applicable Transmission Owner functional, design and equipment specifications and drawings required to complete the detailed engineering, design, procurement, construction, testing and commissioning the Project's NUFs to include, but not limited to, the items as noted below:

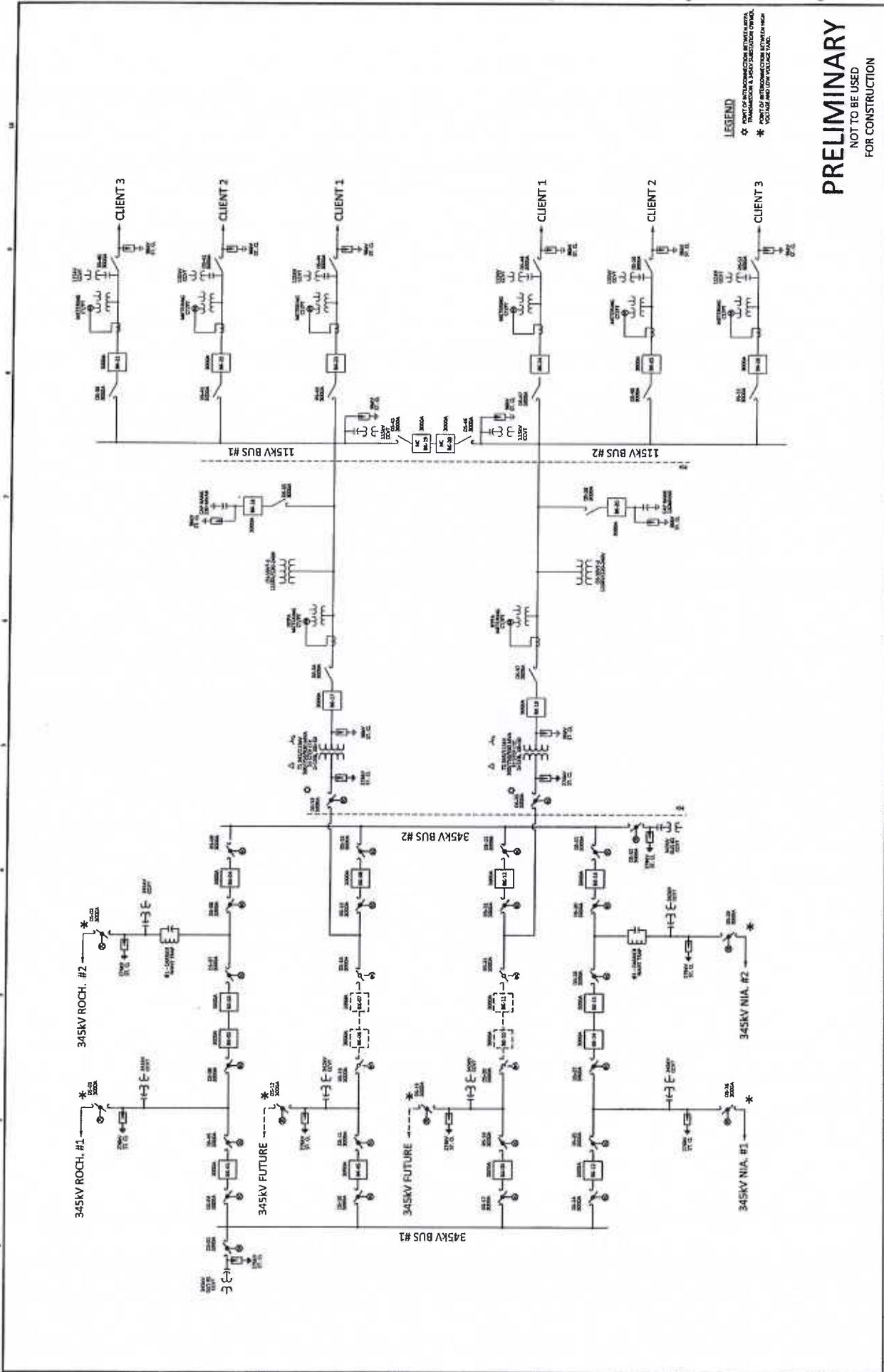
3d



PRELIMINARY
NOT TO BE USED
FOR CONSTRUCTION

		PROJECT NO. 197863 SHEET NO. 4411000 SH1.1 DATE 05/17/20
345/115KV STAMP STATION STATION LAYOUT PLAN		SCALE: 1" = 100'
1. DESIGN BY: [Name] 2. DESIGN CHECKED BY: [Name] 3. DESIGN APPROVED BY: [Name]	4. DATE: [Date] 5. PROJECT AND LOCATION OF SITE: [Location]	6. SHEET NO. [Number] 7. TOTAL SHEETS [Number]

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LEGEND
 ☆ POINT OF INTERFERENCE WITH EXISTING UTILITY
 ☆ POINT OF INTERFERENCE WITH EXISTING UTILITY
 * VOLTAGE AND LOW VOLTAGE TAP

PRELIMINARY
 NOT TO BE USED
 FOR CONSTRUCTION

		345/115KV STAMP STATION SINGLE LINE DIAGRAM		PROJECT NUMBER 197863	SHEET NUMBER 551000 SH-1
SHEET NO. 1	SHEET TITLE 345/115KV STAMP STATION SINGLE LINE DIAGRAM	DATE 11/11/03	DRAWN BY J. J. ...	CHECKED BY ...	APPROVED BY ...

Signature: Bruce Fardanesh

Bruce Fardanesh (Feb 11, 2020)

Email: bruce.fardanesh@nypa.gov

Title: VP System Planning and Analysis

Company: NYPA

Review of Access License Agreement for Plug Power and/or affiliates for substation construction

Discussion: Phillips Lytle has prepared for the GCEDC an Access License Agreement to allow Plug Power, O’Connell Electric and their agents to enable construction of the substation on GCEDC owned property until the transfer of the property to National Grid and NYPA can be completed. Any contractors would be required to sign indemnity agreements, provide proof of insurance and list the GCEDC as an additional insured on their policy with the applicable coverage limits as set forth by the GCEDC.

Fund Commitment: None.

Committee Action Request: Recommend approval of Access License Agreement.

ACCESS LICENSE AGREEMENT

This Access License Agreement (this "Agreement") is made as of the date of the last party to sign (the "Effective Date") by and between Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, a New York public benefit corporation, having an office at 99 MedTech Drive, Batavia, New York 14020-3141 ("GCEDC") and Yellowtail Energy, LLC, a Delaware limited liability company, with an address of 28 Liberty Street, New York, New York 10005 ("Yellowtail"). GCEDC and Yellowtail are collectively referred to herein as, the "Parties".

RECITALS

A. GCEDC is the fee simple owner of certain real property located in the Town of Alabama, County of Genesee and State of New York described on Schedule A attached hereto and as further shown on the map attached hereto as Schedule B (the "STAMP Substation Parcel").

B. The STAMP Substation Parcel is part of the larger site owned by GCEDC and known as the Western New York Science and Technology Advanced Manufacturing Park (the "STAMP Site").

C. Plug Power Inc. ("Plug Power") or an affiliate intends to or has acquired a portion of the STAMP Site to construct and operate a green hydrogen production facility (the "Plug Facility").

D. In addition, Plug Power's affiliate, Yellowtail, intends to construct an electric substation (the "STAMP Substation") on the STAMP Substation Parcel for the benefit of the Plug Facility and the STAMP Site pursuant to the STAMP Substation Development Agreement made by and among Yellowtail, Power Authority of the State of New York ("PASNY"), Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid") and GCEDC (the "Development Agreement"), which is currently being negotiated by the parties.

E. GCEDC desires to grant to Yellowtail a license on, over and through the STAMP Site for vehicular and pedestrian access to and from the STAMP Substation Parcel and a license for the development and construction of the STAMP Substation.

AGREEMENT

Now, therefore, the Parties agree as follows.

1. Grant of Access License. Subject to the terms and conditions of this Agreement, GCEDC hereby declares and establishes that there shall be a non-exclusive and revocable license for the benefit of Yellowtail for access, ingress and egress of pedestrians and vehicles on and over the portions of the STAMP Site identified on Schedule C attached hereto for the purposes of accessing the STAMP Substation Parcel (the "Access License"). This Access License shall remain in full force and effect until the completion of the STAMP Substation or the termination of the Development Agreement, whichever is earlier.

2. Grant of Construction License. Subject to the terms and conditions of this Agreement, GCEDC hereby declares and establishes that there shall be a non-exclusive and revocable license for the benefit of Yellowtail on and over the STAMP Substation Parcel for the purposes of investigating, developing and constructing the STAMP Substation (the "Construction License"). This Construction License shall remain in full force and effect until the completion of the STAMP Substation or the termination of the Development Agreement, whichever is earlier. The Access License and the Construction License are collectively referred to herein as, the "Licenses".

3. Automatic Termination. In the event that the Development Agreement is not entered into and effective within one hundred and twenty (120) days from the Effective Date, the Licenses shall automatically terminate and this Agreement shall be of no further force and effect.

4. Reservation of Fee Simple Interest. The Licenses are created solely for the benefit of Yellowtail and its affiliates [(including, but not limited to, Plug Power)], tenants, occupants, licensees, agents, employees, representatives, contractors, invitees, successors and/or assigns (collectively, the "User Parties"). In addition to the User Parties, Yellowtail may grant to PASNY and National Grid (collectively, the "Utility Parties") a sublicense to access the STAMP Substation Parcel and fulfill their obligations under the Development Agreement. Subject to the Licenses, GCEDC reserves its fee simple interest in the STAMP Site, the STAMP Substation Parcel and all rights appertaining thereto, including without limitation, the right to engage in all acts or uses not prohibited by or inconsistent with this Agreement.

5. Insurance.

(a) At all times throughout the term of this Agreement, Yellowtail shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(i) Builder's risk insurance covering loss caused by weather, fire, vandalism or theft affecting the development or construction of the STAMP Substation.

(ii) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which Yellowtail is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of Yellowtail.

(iii) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence at the STAMP Substation Parcel or STAMP Site, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and not less than \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon Yellowtail by any applicable workmen's compensation law; and a blanket excess liability policy in the amount not less than \$3,000,000, protecting Yellowtail against any loss or liability or damage for personal injury or property damage.

(b) All insurance required by Section 4 and any insurance carried by the User Parties relating to the STAMP Substation shall name GCEDC as a named insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by Yellowtail and authorized to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which Yellowtail is engaged. All policies evidencing such insurance, shall provide for (i) payment of the losses of Yellowtail and GCEDC as their respective interest may appear, and (ii) at least thirty (30) days' written notice of the cancellation thereof to Yellowtail and GCEDC.

(c) All such certificates of insurance of the insurers that such insurance is in force and effect, shall be deposited with GCEDC on or before the commencement of the term of this Agreement. Prior to expiration of the policy evidenced by said certificates, the Yellowtail shall furnish GCEDC evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

(d) Within one hundred twenty (120) days after the end of each of its fiscal years, Yellowtail shall file with GCEDC a certificate of Yellowtail to the effect that the insurance it maintains with respect to this Agreement complies with the provisions of this Section and that duplicate copies of all policies or certificates thereof have been filed with GCEDC and are in full force and effect.

6. Compliance with Laws. Throughout the term of this Agreement, Yellowtail, at its own sole cost and expense, shall promptly comply and cause the User Parties to comply with all present and future laws, ordinances, rules, regulations and requirements of all governmental authorities, which may be applicable to STAMP Site or the construction of the STAMP Substation.

7. Limitation on Recourse. Notwithstanding anything to the contrary provided in this Agreement, it is specifically understood and agreed that there shall be absolutely no personal liability on the part of any of the members, partners, shareholders or owners of the Parties, the User Parties, the Utility Parties, or any of its or their respective directors, officers, partners, managers, employees or agents (each, a "Party Protected Person"), for the payment of any amounts due or the performance of any other obligation of such Parties, User Parties or Utility Parties under this Agreement. In furtherance of the foregoing, the Parties agree that neither shall seek nor obtain, nor be entitled to seek or obtain, any deficiency or other judgment against any Party Protected Person for any action or inaction under or in connection with this Agreement, and each party hereby releases any Party Protected Person from any such claims.

8. Indemnification. The Parties, the User Parties and the Utility Parties shall keep, save and hold harmless one another, respectively, from any and all claims, damages and liability arising from or out of their use of the STAMP Site or STAMP Substation Parcel; or arising from the acts or omissions of the Parties, the User Parties or the Utility Parties; or from any loss or damage arising from any negligence or willful misconduct by the Parties, the User Parties or the Utility Parties.

9. Environmental Condition. GCEDC represents and warrants to Yellowtail that, to GCEDC's knowledge and without any duty of inquiry or investigation, (a) GCEDC has not received any notice of any violation of any environmental laws or regulations related to the STAMP Substation Parcel (or any portion thereof) and (b) GCDEEC is not aware of the existence of any hazardous materials or other environmental conditions at the STAMP Substation Parcel (or any portion thereof), except as disclosed in the (i) Phase I Environmental Site Assessment of the Wyder Estate Properties (Parcel No. 10.-1-3, 10.-1-13, and 10.-1-42) dated March 2013 and prepared by Watts Architecture & Engineering, (ii) Phase II Environmental Site Investigation for the Wyder Parcel 10.-1-42 dated December 11, 2013 and prepared by Watts Architecture & Engineering and (iii) Phase I Environmental Site Assessment for Del Mar Farms (Parcel No. 6.-1-72.111) dated November 2019 and prepared by CPL Architecture Engineering and Planning.

10. Subsequent Owners Bound; Agreement Runs with Land. The provisions of this Agreement shall run with the land and shall bind and inure to the benefit of and be

enforceable by the Parties and any future owners of all or any portion of the land, and their respective successors and assigns.

11. No Dedication to Public. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the properties subject to this Agreement to the general public for any public use or purpose whatsoever, it being GCEDC's intention that this Agreement is only for the benefit of Yellowtail, the User Parties and the Utility Parties.

12. Amendment, Modification or Termination. This Agreement may be amended, modified or terminated only in a writing mutually agreed to, executed and acknowledged by the Parties.

13. Invalidity. The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provisions hereof.

14. Governing Law. This Agreement shall be construed in accordance with the laws of the State of New York, without regard to any conflict of law provision. Any disputes arising hereunder shall be settled in the state courts sitting in the County of Genesee, State of New York or the federal courts in the Western District of New York, and both Parties consent to the personal jurisdiction of said courts and agree not to challenge or assert any defense to the jurisdiction of said courts.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be executed by their respective duly authorized representatives, with the intention that it be effective as of the Effective Date.

Genesee County Industrial Development
Agency d/b/a Genesee County Economic
Development Center

Date: _____

By: _____
Name: _____
Its: _____

Yellowtail Energy, LLC

Date: _____

By: _____
Name: _____
Its: _____

ACKNOWLEDGEMENT

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

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

Notary Public

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

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

Notary Public

SCHEDULE A
(Legal Description)

[to be inserted]

SCHEDULE B
(Map of STAMP Substation Parcel)

[to be inserted]

SCHEDULE C
(Map of Access to STAMP Site)

[to be inserted]