



Meeting Agenda – STAMP Committee
 Genesee County Economic Development Center
 Wednesday, February 3, 2021
 Location: Electronically
 8:30 a.m.

| Page #’s | Topic | Discussion Leader | Desired Outcome |
|----------|---|-------------------|-----------------|
| | 1. Call to Order – Enter Public Session Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo’s Executive Order 202.1 issued on March 12, 2020 suspending the Open Meetings Law, 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. Zeliff | |
| | 2a. Executive Session 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. 2b. Enter Public Session | P. Zeliff | |
| 2-3 | 3. Chairman’s Report & Activities 3a. Agenda Additions / Deletions / Other Business 3b. Minutes: January 5, 2021 | P. Zeliff | Vote |
| 4-6 | 4. Discussions / Official Recommendations to the Board: 4a. Phillips Lytle Proposal – STAMP Main Substation | S. Hyde | Disc / Vote |
| 7-19 | 4b. Project Gateway SEQR review | M. Masse | Disc / Vote |
| | 5. Adjournment | P. Zeliff | Vote |



GCEDC STAMP Committee Meeting

Tuesday, January 5, 2021

Location: Electronically

10:30 a.m.

MINUTES

ATTENDANCE

Committee Members: C. Klotzbach, C. Yunker, P. Zeliff
 Staff: M. Masse, L. Casey, J. Krencik, C. Suozzi, S. Hyde, P. Kennett
 Guests:
 Absent: A. Vanderhoof

1. Call to Order / Enter Public Session

P. Zeliff called the meeting to order at 10:32 a.m. via conference call / video conference.

Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo’s Executive Order 202.1 issued on March 12, 2020 suspending the Open Meetings Law, this Meeting is being held electronically via conference call instead of a public meeting open for the public to attend in person.

2a. Executive Session

C. Klotzbach made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 10:33 a.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.

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

2b. Re-Enter Public Session

C. Yunker made a motion to enter back into public session at 11:23 a.m., seconded by C. Klotzbach and approved by all.

3. Chairman’s Report & Activities

3a. Agenda Additions / Other Business – Nothing at this time.

3b. Minutes: December 2, 2020

C. Yunker made a motion to approve the December 2, 2020 minutes; the motion was seconded by C. Klotzbach. Roll call resulted as follows:

P. Zeliff - Yes

- C. Klotzbach - Yes
- C. Yunker - Yes
- A. Vanderhoof- Absent

The item was approved as presented.

4. Discussions / Official Recommendations to the Board:

4a. Proposals for survey of ROW for USFWS force main – The GCEDC asked four companies for bids to survey the ROW for the force main through the wildlife refuge. The survey needs to be completed to the standards set for by US Fish and Wildlife. The results of the bids are as follows:

1. \$13,070 – Frandina Engineering and Land Surveying
2. \$23,900 – Kheops Architecture, Engineering and Surveying
3. Declined to bid – Welch & O'Donoghue
4. Declined to bid – Ravi Engineering and Surveying

Fund commitment: Not to exceed \$13,070 to Frandina Engineering and Land Surveying for STAMP survey work to be covered under the \$33M.

C. Klotzbach made a motion to recommend to the full Board approval of the survey contract with Frandina Engineering and Land Surveying not to exceed \$13,070; the motion was seconded by C. Yunker. Roll call resulted as follows:

- P. Zelif - Yes
- C. Klotzbach - Yes
- C. Yunker - Yes
- A. Vanderhoof- Absent

The item was approved as presented.

4b. Barn Lease – One of the local farmers rented the barn at the STAMP site to store some farm equipment over the winter. The current lease agreement expired on December 31, 2020. Attached is a proposed lease agreement for the property through May 31, 2021.

C. Yunker made a motion to recommend to the full Board the execution of the Barn Lease Agreement through May 31, 2021; the motion was seconded by C. Klotzbach. Roll call resulted as follows:

- P. Zelif - Yes
- C. Klotzbach - Yes
- C. Yunker - Yes
- A. Vanderhoof- Absent

The item was approved as presented.

5. Adjournment

As there was no further business, C. Yunker made a motion to adjourn at 11:30 a.m., seconded by C. Klotzbach and passed unanimously.

GCEDC STAMP Project

Memo to the GCEDC STAMP Committee / GCEDC Board of Directors

S. G. Hyde, President and CEO

February 2, 2021 / February 4, 2021

6.1 STAMP Main Substation – Phillips Lytle proposal (professional services – see attached): This proposal from Phillips Lytle is to provide legal, regulatory, and overall planning support from their energy law and consulting practice at Phillips Lytle. This is to foster completion of the design and engineering of the STAMP Main substation and related interconnection studies as well as to advance necessary ownership, operations and maintenance, regulatory and pricing models to enable the bidding, construction and operations of the 345kV to 115kV main substation at STAMP.

Cost: Not to exceed \$40,000

Source of Funding: Empire State Development's GCEDC STAMP Capital (Project #132,367) – Upstate Revitalization Initiative (Capital Grant - \$8M)

CEO Recommendation: Approval



Phillips Lytle LLP

**VIA EMAIL
PRIVILEGED & CONFIDENTIAL**

January 28, 2021

Steven G. Hyde
President & CEO
Genesee County Economic Development Center
99 MedTech Drive, Suite 106
Batavia, NY 14020

Re: Proposed Supplement to Engagement Letter for STAMP Project - Additional Scope of Work for Electric Substation Support

Dear Steve:

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 letters (collectively, the "Engagement Letter") relating to STAMP. In addition to the remaining scope of work described in the Engagement Letter, we propose to perform the additional scope of work for legal support relating to an electric substation, as more fully described on the attached "Scope of Work". We will bill you on a monthly basis for such work as fees are incurred.

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 
Douglas W. Dimitroff

cc: Adam S. Walters, Esq. (via email)
Mark Masse (via email)

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 _____

Name _____

Title _____

Date _____, 2021

ATTORNEYS AT LAW

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

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**STAMP Project - 1/27/2021 Supplement to Phillips Lytle Engagement Letter
Additional "Scope of Work"
Electric Substation Support**

1. Additional Legal Support for Electric Substation: Phillips Lytle will represent and assist GCEDC in connection with the planning, structuring and negotiation of agreements for the development, operation and financing for an electric substation for STAMP to support the proposed Project Gateway project and potentially other projects at STAMP. Tasks include determining an appropriate legal structure for ownership and operation of the substation and, if necessary, pursuing PSC approvals for same.

Legal Fees:

\$25,000* (if current substation proposal is accepted by the utilities and no PSC filing/approval required)

\$40,000* (if current proposal is not accepted by the utilities and PSC filing/approval is required)

* - since we do not currently know the final legal structure that will be used nor the final arrangements among the parties to be involved, the foregoing amounts may need to be increased. In the event PL anticipates that the fees will be greater than the foregoing amounts, PL will work with GCEDC to update the fees estimate promptly. It is expected that GCEDC will arrange to have the project developer reimburse GCEDC for all or a portion of the legal fees once the developer commits to proceeding with the project. The foregoing scope does not include assistance with any formal challenges to or litigation regarding the proposed deal structure, and the stated legal fees presume our work will be completed within calendar year 2021.

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT
AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER
PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT
CONCERNING PROJECT GATEWAY - PROPOSED FUTURE USE OF A PORTION OF
THE WESTERN NEW YORK SCIENCE & TECHNOLOGY ADVANCED
MANUFACTURING PARK

Project Name: Project Gateway - Proposed Future Use of a Portion of the Western New York Science & Technology Advanced Manufacturing Park
Location: 6840 Crosby Road, Town of Alabama, NY 14013 (“**Site**”)

WHEREAS, the Genesee County Industrial Development Agency d/b/a the Genesee County Economic Development Center (“**GCEDC**”), in conjunction with the Genesee Gateway Local Development Corporation (“**GGLDC**”), the non-profit real estate affiliate of the GCEDC (collectively, “**Agency**”), 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, in connection with the Project, on January 4, 2021, the Agency circulated a notice of intent to re-establish itself as lead agency pursuant to the State Environmental Quality Review Act (“**SEQR**”) for purposes of reviewing a certain proposed use of a portion of the Stamp Site for a hydro-powered electrolysis hydrogen production facility (“**Project Gateway**”). 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 Project Gateway.

WHEREAS, the Agency is authorized and empowered by the provisions of the 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 commenced preparation of a generic environmental impact statement consisting of the Draft Generic Environmental Impact Statement ("DGEIS") accepted by the Agency on April 14, 2011, the Final Generic Environmental Impact Statement ("FGEIS") accepted by the Agency on January 19, 2012, as well as the public comments on the DGEIS received at the May 12, 2011, public hearing and during the public comment period which was conducted from April 21, 2011, through June 23, 2011. (Collectively, the DGEIS and the FGEIS 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 GCEDC, as lead agency, issued a written Findings Statement based on the STAMP GEIS on March 12, 2012 ("**2012 GCEDC Findings**") approving the Project and committing to undertake it; and

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

WHEREAS, in 2016 and 2020, a number of changes were made to the Project which necessitated further environmental review and such review was undertaken by the Agency; and

WHEREAS, Amended Findings Statements were issued by the Agency in 2016 and 2020 (the 2012 GCEDC Findings and the Amended Findings issued in 2016 and 2020 are, collectively, the "**STAMP Findings**"); and

WHEREAS, the Agency is now reviewing whether to undertake or approve the current Project Gateway in accordance with the requirements of SEQR, the STAMP GEIS and the STAMP Findings and must determine whether Project Gateway has the potential to have any significant adverse environmental impacts that were not previously analyzed and addressed in the STAMP GEIS and the STAMP Findings; and

WHEREAS, to aid the Agency in determining whether Project Gateway has the potential to have any significant adverse environmental impacts that were not addressed in the STAMP GEIS and the STAMP Findings, the Agency has completed, received and/or reviewed (1) Part 1 of a Full Environmental Assessment Form (“**EAF**”), dated December 30, 2020; (2) a Project Summary Narrative (“**Project Narrative**”); (3) a Hazardous Materials Business Plan (“**HazMat Plan**”); (4) an Emergency Response Plan (“**Emergency Plan**”); (5) a conceptual Stormwater Pollution Prevention Plan (“**Conceptual SWPPP**”); (6) an addendum to the EAF regarding odors (“**Odors Addendum**”); (7) an addendum to the EAF regarding lighting (“**Lighting Addendum**”); (8) an addendum to the EAF regarding noise (“**Noise Addendum**”); and (9) other relevant environmental information (collectively, 1-9 shall be referred to as the “**Environmental Information**”); and

WHEREAS, a thorough analysis of the Environmental Information and potential environmental impacts associated with Project Gateway reveals that Project Gateway is a Future Project Use that will be carried out in conformance with the conditions and thresholds set forth in the STAMP Findings and that all potential impacts associated with Project Gateway are adequately addressed in the STAMP GEIS and the STAMP Findings, and, accordingly, that no further SEQR compliance is required.

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 Project Gateway and the Environmental Information, and upon the Agency’s knowledge of the STAMP GEIS and the STAMP Findings and the STAMP Site and such further investigation of Project Gateway and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to Project Gateway:

(A) Project Gateway is a Type I Action;

(B) The Agency, as Lead Agency for the Project, has undertaken a coordinated review of Project Gateway in accordance with SEQR and the STAMP GEIS and STAMP Findings; and

Section 2. Based upon the Agency’s review of the Environmental Information and investigations of the potential environmental impacts associated with Project Gateway, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency’s knowledge of the STAMP GEIS and the STAMP Findings as well as the STAMP Site and surrounding area and such further investigations of the Project Gateway and its environmental effects as the

Agency has deemed appropriate, the Agency finds that Project will be carried out in conformance with the conditions on future development set forth in the STAMP Findings. Reasons supporting this finding are set forth below:

1. Project Gateway. Project Gateway involves the construction and operation of a hydrogen production facility powered by renewable hydropower in two phases located in the Technology District 1 (“TD1”) portion of the STAMP Site. Project Gateway includes a single story, sloped roof, hydrogen production building, approximately six horizontally mounted gas storage tanks, a water pre-treatment plant, hydrogen liquefaction equipment, a small office building, and related appurtenances. The hydrogen will be produced by an electrolysis process where electricity is used to split water into its constituent elements hydrogen and oxygen. Initially, it is anticipated that the delivery trucks may be diesel powered, but as hydrogen powered class-8 trucks become available, delivery of hydrogen fuel will be one of the first uses of these trucks. Project Gateway will include the provision for adding a class-8 truck refueling pump to enable the distribution of zero-emission hydrogen from the facility into the fleet it serves. The facility will produce enough hydrogen to fill approximately 9 to 10 tanker trailers per day (raising to 18 to 20 when phase 2 starts production).
2. Best Management Practices. The Conceptual SWPPP details that soil will be managed consistent with the specific requirements set forth in Section 6.2 of the 2012 GCEDC Findings. Accordingly, Project Gateway is in conformance with the conditions set forth in the STAMP Findings with respect to soil and all potential impacts to soil associated with Project Gateway are adequately analyzed in the STAMP GEIS.
3. Whitney Creek Buffer. Project Gateway does not include any infringement of the buffer established on either side of Whitney Creek. Further The Project Gateway Site is located over 1,000 feet from the closest point of Whitney Creek. Accordingly, Project Gateway is in conformance with the conditions set forth in the STAMP Findings with respect to Whitney Creek and surface waters and all potential impacts to Whitney Creek and surface waters associated with Project Gateway are adequately analyzed in the STAMP GEIS.
4. Stormwater Best Management Practices. The Conceptual SWPPP confirms that stormwater generated by Project Gateway is expected to be managed on-site, and any stormwater which flows to adjacent parcels will be treated in accordance with the Stormwater Best Management Practices detailed in the 2012 GCEDC Findings. Accordingly, Project Gateway is in conformance with the conditions set forth in the STAMP Findings with respect to stormwater

and all potential impacts to stormwater associated with Project Gateway are adequately analyzed in the STAMP GEIS.

5. Air Emissions. Project Gateway will not be a significant source of air emissions. As detailed in the Odors Addendum, the only byproduct of the facility is the generation of excess oxygen. Further, Project Gateway does not entail the types of activities or operations that require Project Gateway 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, Project Gateway is in conformance with the conditions set forth in the STAMP Findings with respect to air and all potential impacts to air associated with Project Gateway are adequately analyzed in the STAMP GEIS.

6. Land Management Plan. Project Gateway is not anticipated to create any potentially significant adverse impacts to land resources or land use that were not adequately addressed in the STAMP GEIS or STAMP Findings. Project Gateway will be conducted in phases to allow for the development of ancillary services to support the full operations of the hydrogen production facility. Project Gateway is consistent with uses of the STAMP Site analyzed in the STAMP GEIS, which are commercial and industrial in nature. While there will be temporary and minor impacts to land use as Project Gateway is developed, Project Gateway will not change the intensity or type of uses authorized at the STAMP Site and will be implemented consistent with the Land Management Plan for STAMP. As detailed in the HazMat Plan, Project Gateway does not utilize hazardous materials in the production process, however, small quantities of lubricating and coolant oil are present in pumps, compressors, and transformers. The HazMat Plan confirms that spill prevention measures, including double containment per New York State Department of Environmental Conservation (“NYSDEC”) bulk storage requirements, will be included to mitigate any risk to groundwater. Accordingly, Project Gateway is in conformance with the conditions set forth in the STAMP Findings with respect to the Land Management Plan and all potential impacts to land associated with Project Gateway are adequately analyzed in the STAMP GEIS.

7. Site Access. The EAF recites that, at peak capacity, Project Gateway will include up to 16 trips per day for tanker trucks. This will be in addition to approximately 20 new parking spaces servicing the Site. Access will be provided from Crosby Road as well as from a new entrance road from Route 77/63, as recommended in the STAMP Findings. The use of Town of Alabama (“Town”) roads to access the Site is not anticipated. The low number of vehicle trips generated from Project Gateway is well below the

traffic levels analyzed in the STAMP GEIS. Accordingly, Project Gateway is in conformance with the conditions set forth in the STAMP Findings with respect to the Site access and all potential impacts to traffic associated with Project Gateway are adequately analyzed in the STAMP GEIS.

8. Land Use/Zoning. The proposed use is consistent with the requirements of the Town zoning laws applicable to the STAMP Site. Project Gateway will be within TD1 which the Town created specifically to authorize establishments engaged in the use, research and development, demonstration, manufacturing and/or distribution of advanced technologies in modern industries such as energy, communications, information and computing technologies, pharmaceuticals and life sciences, including but not limited to semiconductors and semiconductor devices, computing technology and data centers, flat panel display technology and components including light emitting diodes and liquid crystal display, renewable energy, solar photovoltaics, and any related enabler technologies that employ advanced manufacturing techniques and/or resources such as microtechnology or nanotechnology or other manufacturing, industrial or commercial uses appropriate to STAMP. Accordingly, all potential impacts to land use and zoning associated with Project Gateway are adequately analyzed in the STAMP GEIS.
9. Utility Resources. The measures detailed in the STAMP Findings with respect to utility resources are not directly applicable to Project Gateway, and are instead designed to broadly cover the acquisition of utility resources for the STAMP Site as a whole. Nevertheless, the Agency continues to undertake measures consistent with the requirements of the STAMP Findings with respect to utilities and all potential impacts to utilities associated with Project Gateway are adequately analyzed in the STAMP GEIS.
10. Emergency Services. Project Gateway does 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. A small quantity of hazardous materials is included in some of the equipment, as is standard for industrial uses, however, the HazMat Plan details that such materials will be safely contained. A portion of the STAMP Site is listed in the NYSDEC Spills Incidents Database (DEC ID 1505158), however, that incident was listed as "Closed" in 2015 and is not located on the Project Gateway Site. The Emergency Plan lays out detailed policies and procedures to ensure the safe operation of Project Gateway, including the involvement of local emergency responder services. In addition, the Project Narrative details that security personnel will be located onsite at all times. Accordingly, Project Gateway is in conformance with the conditions set forth in the STAMP Findings with respect to emergency services and all potential impacts

to emergency services associated with Project Gateway are adequately analyzed in the STAMP GEIS.

11. Historic/Archaeological Resources. Project Gateway does not contain, nor is it adjacent to, a building, or district which is listed on, or that has been nominated to the State or National Register of Historic Places. Impacts to historic and archaeological resources are analyzed extensively in the STAMP GEIS and resulted in the development and execution of a Programmatic Agreement to ensure appropriate mitigation of impacts to historic and archeological resources. Pursuant to that Programmatic Agreement, the Project Gateway site has been cleared and has no archeological resources present. Accordingly, Project Gateway is in conformance with the conditions set forth in the STAMP Findings with respect to historic and archaeological resources and potential impacts to historic and archaeological resources associated with Project Gateway are adequately analyzed in the STAMP GEIS. It is noted that the Programmatic Agreement also addresses potential impacts of development at the STAMP Site on the adjacent lands of the Tonawanda Seneca Nation. Such potential impacts are addressed in Section 4 below.

Section 3. Based upon the Agency's review of the Environmental Information and investigations of the potential environmental impacts associated with Project Gateway, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency's knowledge of the STAMP GEIS and the STAMP Findings as well as the STAMP Site and surrounding area and such further investigations of the Project Gateway and its environmental effects as the Agency has deemed appropriate, the Agency finds that the following additional potential impacts associated with Project Gateway are adequately addressed in the STAMP GEIS and the STAMP Findings:

1. Impact on Groundwater. As detailed in the HazMat Plan, Project Gateway does not utilize hazardous materials in the production process, however, small quantities of lubricating and coolant oil are present in pumps, compressors, and transformers. The HazMat Plan confirms that spill prevention measures, including double containment per NYSDEC bulk storage requirements, will be included to mitigate any risk to groundwater. Accordingly, Project Gateway is in conformance with the conditions and thresholds set forth in the STAMP Findings with respect to impacts to groundwater, and all potential impacts to groundwater associated with Project Gateway are adequately analyzed in the STAMP GEIS.
2. Impact on Flooding. Project Gateway is not located within the 100-Year Floodplain, and the SWPPP confirms that all stormwater generated by Project

Gateway will be managed on-site rather than flowing to adjacent parcels, in accordance with the specific requirements of the 2012 GCEDC Findings Statement. Accordingly, Project Gateway is in conformance with the conditions and thresholds set forth in the STAMP Findings with respect to impacts to flooding, and all potential impacts to flooding associated with Project Gateway are adequately analyzed in the STAMP GEIS.

3. Impact on Plants and Animals. Project Gateway will take place in habitat for various animals noted in the EAF, however, none of these species are listed as threatened or endangered. As detailed in Section 7.6 of the 2012 GCEDC Findings, the development of STAMP “may result in unavoidable alteration of habitats for some non-endangered plant and animal species” however “habitat alteration resulting from the Project will be offset by protection and restoration of key natural area corridors on the Project site, abundant habitat for these species immediately adjacent to the site and in the immediate vicinity of the Project Site, including over 19,000 acres of currently protected conservations lands.” Accordingly, Project Gateway is in conformance with the conditions and thresholds set forth in the STAMP Findings with respect to impacts to plants and animals and all potential impacts to plants and animals associated with Project Gateway are adequately analyzed in the STAMP GEIS.
4. Impact on Agricultural Land Resources. The portion of the Site which includes Project Gateway is not located within an Agricultural District, and the EAF notes that the Site does not contain highly productive soils. Accordingly, Project Gateway is in conformance with the conditions and thresholds set forth in the STAMP Findings with respect to impacts to agricultural resources and all potential impacts to agricultural resources associated with Project Gateway are adequately analyzed in the STAMP GEIS.
5. Impact on Aesthetic Resources. Project Gateway will generally not be visible from any officially designated federal, state or local scenic or aesthetic resource. Project Gateway is located within the STAMP Site, which is anticipated to be a well-developed commercial and industrial area. Accordingly, Project Gateway is in conformance with the conditions and thresholds set forth in the STAMP Findings with respect to impacts to aesthetic resources and all potential impacts to aesthetic resources associated with Project Gateway are adequately analyzed in the STAMP GEIS.
6. Impact on Energy. Project Gateway will result in a large increase in the use of energy, however, a proposed substation is included in Project Gateway to ensure that there are no adverse impacts to the local grid. In addition, the

energy to be utilized by Project Gateway will be clean, renewable energy from the Robert Moses Power Project in Niagara Falls, New York. Accordingly, Project Gateway is in conformance with the conditions and thresholds set forth in the STAMP Findings with respect to impacts to energy and all potential impacts to energy associated with Project Gateway are adequately analyzed in the STAMP GEIS.

7. Impacts on Noise, Odor and Light. As detailed in the Noise Addendum, Project Gateway is anticipated to result in a minor increase in ambient noise levels on the Site. The Noise Addendum includes calculations of the “worst case” scenario for such noise levels. These calculations fall well below the noise levels anticipated in the STAMP GEIS. The Odors Addendum confirms that Project Gateway is not expected to result in any odors as the only emission from the commercial activities on the Site will be pure oxygen. Further, the Lighting Addendum details that that lighting fixtures servicing Project Gateway will be limited to the vicinity of Project Gateway for maintenance and emergency purposes, and that such lights will be Dark Sky Compliant consistent with mitigation requirements in the STAMP Findings. Moreover, any impacts to noise and/or odor from construction activities will be minor, and temporary in nature and have been thoroughly analyzed in the STAMP GEIS. Accordingly, Project Gateway is in conformance with the conditions and thresholds set forth in the STAMP Findings with respect to impacts to noise, odor, and light, and all potential impacts to noise, odor, and light associated with Project Gateway are adequately analyzed in the STAMP GEIS.

Section 4. The STAMP Site is within the ancestral territory of the Tonawanda Seneca Nation (“**Nation**”) and is adjacent to its treaty-confirmed, federally-recognized Reservation (“**Nation’s Territory**”). The Nation is in the process of conducting a Traditional Cultural Property investigation intended to evaluate the eligibility of the Nation’s Territory for listing on the Nation Register of Historic Places (“**National Register**”) as a property of religious and cultural significance. While the results of the TCP Investigation are not yet available, for purposes of GCEDC’s assessment of the Gateway potential impacts on the Nation’s Territory, it is assumed that the Nation’s Territory would be eligible for the National Register. Nonetheless, for the reasons cited below, the Agency finds that the Gateway Project will not have an adverse impact upon the Nation’s Territory, as a property of religious and cultural significance.

1. Land Use. From a land use perspective, Project Gateway is located towards the center of the STAMP Site, well away from the Nation’s boundary. In fact, the STAMP Findings include a substantial buffer along the western edge of the STAMP Site in order to minimize impacts to the Nation and Project Gateway will have no impact upon the buffer.

2. Wastewater. Any wastewater generated by Project Gateway will be treated at the STAMP Site and transported for discharge away from the Nation's Territory. In fact, the Agency is in the final stages of designing and constructing a new Force Main sewer which will discharge wastewater from the STAMP Site approximately 10 miles to the north in Oak Orchard Creek which, ultimately discharges to Lake Ontario. This was done, in large part, to resolve the Nation's concerns that wastewater from the STAMP Site would be discharged upstream from the Nation's Territory or to Tonawanda Creek.
3. Stormwater Discharge. As noted above, the Conceptual SWPPP confirms that stormwater generated by Project Gateway will be managed on-site, and any stormwater which flows to adjacent parcels will be treated in accordance with all regulatory requirements and consistent with the Stormwater Best Management Practices specified in the STAMP Findings.
4. Air Emissions. Project Gateway will not be a significant source of air emissions. As detailed in the Odors Addendum, the only byproduct of the facility is the generation of excess oxygen. Further, Project Gateway will not require an Air Facility Permit or involve activities 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.
5. Health and Safety. Project Gateway does 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 HazMat Plan, Project Gateway does not utilize hazardous materials in the production process, however, small quantities of lubricating and coolant oil are present in pumps, compressors, and transformers. The HazMat Plan confirms that spill prevention measures, including double containment per NYSDEC bulk storage requirements, will be included to mitigate any risk to groundwater. The Emergency Plan lays out detailed policies and procedures to ensure the safe operation of Project Gateway, including the involvement of local emergency responder services. In addition, the Project Narrative details that security personnel will be located onsite at all times.
6. Lighting. The Lighting Addendum details that that lighting fixtures servicing Project Gateway will be limited to the vicinity of Project Gateway for maintenance and emergency purposes, and that such lights will be Dark Sky Compliant consistent with mitigation requirements in the STAMP GEIS and STAMP Findings.

7. Noise. The Noise Addendum includes calculations of the “worst case” scenario for such noise levels at the Nation’s boundary. These calculations fall well below the noise levels analyzed in the STAMP GEIS, and are well below the average baseline for noise levels documented within the vicinity of Project Gateway as detailed in the STAMP Findings.
8. Archaeological Resources. As noted above, pursuant to that Programmatic Agreement, the Project Gateway Site has been cleared and has no archeological resources present. It is also noted that all archeological work at the STAMP Site has been conducted with participation from the Nation.
9. Traffic. The EAF recites that, at peak capacity, Project Gateway will include up to 16 trips per day for tanker trucks. This will be in addition to approximately 20 new parking spaces servicing the site. Access will be provided from Crosby Road as well as from a new entrance road from Route 77/63, as recommended in the STAMP Findings. The use of Town roads to access the Site is not anticipated. Trucks will not travel through the Nation’s Territory.

Section 5. In summary, as detailed above, based upon the Agency’s review of the Environmental Information and investigations of the potential environmental impacts associated with Project Gateway, considering both the magnitude and importance of each potential environmental impact indicated, and upon the Agency’s knowledge of the STAMP GEIS and the STAMP Findings as well as the STAMP Site and surrounding area and such further investigations of the Project Gateway and its environmental effects as the Agency has deemed appropriate, the Agency finds that all potential environmental impacts associated with Project Gateway are adequately addressed in the STAMP GEIS and the STAMP Findings and that no further SEQR compliance relative to Project Gateway is required.

Section 6. Having considered the Environmental Information, STAMP GEIS and STAMP Findings, 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 mitigation measures which were identified as practicable.

Section 7. 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 8. This Resolution 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:

| | <u>Yea</u> | <u>Nay</u> | <u>Absent</u> | <u>Abstain</u> |
|----------------|------------|------------|---------------|----------------|
| Peter Zeliff | [] | [] | [] | [] |
| Matthew Gray | [] | [] | [] | [] |
| Paul Battaglia | [] | [] | [] | [] |
| Craig Yunker | [] | [] | [] | [] |
| Todd Bender | [] | [] | [] | [] |
| Amy Vanderhoof | [] | [] | [] | [] |
| Chad Klotzbach | [] | [] | [] | [] |

The foregoing Resolution was thereupon declared duly adopted.