

**STAMP Sewer Works, Inc.**  
Meeting Agenda  
Friday, October 6, 2023  
Location: 99 MedTech Drive, Innovation Zone  
8:00 a.m.

|           | <b>Topic</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Page #s</b>    | <b>Discussion Leader</b>         | <b>Desired Outcome</b>                    |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------------|-------------------------------------------|
| <b>1.</b> | Call To Order – Enter Public Session                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                   | P. Zeliff                        |                                           |
|           | 1a. Executive Session<br>Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons:<br>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.<br>2. Discussions regarding proposed, pending or current litigation.<br>1b. Enter Public Session |                   |                                  |                                           |
| <b>2.</b> | <b>Chairman’s Report &amp; Activities:</b><br>2a. Agenda Additions / Other Business<br>2b. Minutes: August 3, 2023                                                                                                                                                                                                                                                                                                                                                                                                           | 2-3               | P. Zeliff                        | Vote                                      |
| <b>3.</b> | <b>Discussions:</b><br>3a. Phillips Lytle Additional Legal Work<br>3b. Determination and Findings of STAMP Sewer Works, Inc. Resolution<br>3c. Appoint DMR Permittee Signer                                                                                                                                                                                                                                                                                                                                                  | 4-6<br>7-37<br>38 | M. Masse<br>M. Masse<br>M. Masse | Disc / Vote<br>Disc / Vote<br>Disc / Vote |
| <b>4.</b> | Adjournment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                   | P. Zeliff                        | Vote                                      |

**STAMP Sewer Works, Inc. Meeting  
Thursday, August 3, 2023  
Location: 99 MedTech Drive, Innovation Room  
2:00 PM**

**STAMP SEWER WORKS, INC. MINUTES**

**Attendance**

Board Members: P. Battaglia, P. Zelif, T. Hens, R. Crossen, S. Mountain  
Staff: L. Farrell, M. Masse, S. Hyde, J. Krencik, P. Kennett, C. Suozzi  
Guests: M. Fitzgerald (Phillips Lytle), Karen Jones (Resident on Rt. 63), Alecia Kaus  
(Video News Service)  
Absent: C. Yunker, M. Clattenburg,

**1.0 Call to Order**

P. Zelif called the meeting to order at 2:03 p.m. in the Innovation Zone.

**1a. Enter Executive Session**

T. Hens made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 2:04 p.m. for the following reasons:

- 1. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

The motion was seconded by R. Crossen and approved by all members present.

**1b. Enter Public Session**

P. Battaglia made a motion to enter back into public session at 2:38 p.m., seconded by T. Hens and approved by all members present.

Karen Jones (Resident on Rt. 63) and Alecia Kaus joined the meeting at 2:39 p.m.

**2.0 Chairman's Report & Activities:**

**2a. Agenda Additions / Other Business –**

**P. Battaglia made a motion to table agenda item 3a – Eminent Domain Resolution from Public Hearing; the motion was seconded by T. Hens. Roll call resulted as follows:**

|                  |        |              |        |
|------------------|--------|--------------|--------|
| P. Battaglia -   | Yes    | C. Yunker -  | Absent |
| T. Hens -        | Yes    | P. Zelif -   | Yes    |
| S. Mountain -    | Yes    | R. Crossen - | Yes    |
| M. Clattenburg - | Absent |              |        |

**The item was approved as presented.**

**2b. Minutes: April 24, 2023**

**R. Crossen made a motion to accept the April 24, 2023 minutes as presented; the motion was seconded by T. Hens. Roll call resulted as follows:**

|                  |        |              |        |
|------------------|--------|--------------|--------|
| P. Battaglia -   | Yes    | C. Yunker -  | Absent |
| T. Hens -        | Yes    | P. Zelif -   | Yes    |
| S. Mountain -    | Yes    | R. Crossen - | Yes    |
| M. Clattenburg - | Absent |              |        |

**The item was approved as presented.**

**3.0 Discussions:**

**3a. Eminent Domain Resolution from Public Hearing** – This agenda item was tabled.

**3b. WWTF Operator Selection Process** – An operator will be needed to run the wastewater treatment facility at the STAMP site. M. Masse asked the Committee to provide input on how they would like to proceed. M. Masse proposed that 1) Clark Patterson Lee could prepare an RFP or 2) operators could come to a meeting for discussion. M. Masse stated that he knew that Camden (formerly VRI) would be interested but asked the Committee to provide other known operators.

The Committee agreed that they would be agreeable to Clark Patterson Lee preparing the RFP. The Committee will review the RFP via email before the notice goes out. M. Masse also requested input from the Committee for establishing a rating system for the responses received from the RFP.

**4.0 Adjournment**

As there was no further business, P. Battaglia made a motion to adjourn at 2:41 p.m., which was seconded by S. Mountain and passed unanimously.

**Phillips Lytle 2023 proposed supplement to engagement letter for STAMP**

**Discussion:** Phillips Lytle has prepared a proposed supplement to their original engagement letter related to assistance in obtaining up to three easements for the force main installation.

**Fund Commitment:** Not to exceed \$135,000.

**Board Action Request:** Recommend approval of the Phillips Lytle supplement to the engagement letter related to assistance in obtaining up to three easements not to exceed \$135,000.



# Phillips Lytle LLP

VIA EMAIL  
PRIVILEGED & CONFIDENTIAL

September 29, 2023

Pete Zeliff  
Chairman  
STAMP Sewer Works Corp.  
99 MedTech Drive, Suite 106  
Batavia, NY 14020

Re: Proposed Supplement to Engagement Letter for STAMP Project -  
Scope of Work for STAMP Sewer Works Corp. Eminent Domain Matter

Dear Pete:

Thank you very much for the opportunity to continue to assist with the STAMP Project. The purpose of this letter is to supplement our existing engagement letter, as amended and supplemented from time to time, for the STAMP Project (collectively, the "Engagement Letter"). This supplement describes additional work to be performed by Phillips Lytle related to the STAMP Sewer Works Corp. Eminent Domain matter. Estimated legal fees for same are set forth on the attached "Updated Scope of Work". We will bill STAMP Sewer Works Corp. on a monthly basis for such work as fees are incurred, consistent with the existing Engagement Letter.

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

Sincerely,

Phillips Lytle LLP

By */s/ Douglas W. Dimitroff*

Douglas W. Dimitroff, Esq.

cc: Adam S. Walters, Esq.  
Craig A. Leslie, Esq.  
Steve Hyde  
Mark Masse  
Lezlie Farrell

STAMP Sewer Works Corp. 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.

STAMP Sewer Works Corp.

By \_\_\_\_\_  
Pete Zeliff, Chairman

Date October \_\_, 2023

ATTORNEYS AT LAW

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

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**STAMP Project - 09/29/2023 Supplement to Phillips Lytle Engagement Letter  
Additional "Updated Scope of Work"  
STAMP Eminent Domain Matter**

1. Eminent Domain Matter:

STAMP Sewer Works Corp. ("STAMP Sewer") is continuing with its eminent domain taking of certain easements for the construction of the STAMP force main. Following the public hearing held on July 27, 2023, additional legal work is required to complete the Determinations and Findings, given the organized opposition to the eminent domain proceeding. Further, it is now expected that Orleans County and/or the impacted landowners will file challenges in the Appellate Division after STAMP Sewer adopts its Determination and Findings. In order to complete the taking process, STAMP Sewer will need to defend that/those challenge(s). Once the challenge(s) is/are disposed of, a Taking Order will need to be obtained from the Supreme Court. Phillips Lytle will represent and assist STAMP Sewer relative to the foregoing on an as needed basis. The foregoing work covers the period starting August 1, 2023, and is expected to be completed on or before July 31, 2024.

**Est. Legal Fees: \$135,000.00\***

\* The foregoing scope of work and fees does not include any work performed in connection with the collateral litigation (i.e., the Article 78 proceeding filed by Orleans County on September 11, 2023); it is our understanding that there may be insurance coverage for these legal fees, but that the applicable insurer will not pay for legal services performed prior to its receipt of the claim. Nor does it include any potential motion for leave to appeal to the Court of Appeals after the Appellate Division decides any challenge(s) to the Determination and Findings (which may be likely since Orleans County is creating issues of apparent first impression in New York).

**Determination and Findings of STAMP SEWER WORKS, INC.**

**Discussion:** Attached is a resolution that lays out the STAMP Sewer Works, Corp. determination and findings pursuant to eminent domain proceedings on any outstanding easements that are needed for the force main project.

**Fund Commitment:** None.

**Board Action Request:** Recommend approval of the determination and findings of STAMP Sewer Works Corp.

**DETERMINATION AND FINDINGS OF STAMP SEWER WORKS, INC.  
PURSUANT TO NEW YORK EMINENT DOMAIN PROCEDURE LAW § 204  
FOR THE ACQUISITION OF REAL PROPERTY LOCATED IN THE  
TOWN OF SHELBY, ORLEANS COUNTY, NEW YORK, AND  
TOWN OF ALABAMA, GENESEE COUNTY, NEW YORK  
BY THE EXERCISE OF EMINENT DOMAIN**

Pursuant to the New York Transportation Corporations Law (the "TCL"), STAMP Sewer Works, Inc. (the "Corporation") seeks to exercise its powers of eminent domain to acquire:

Three temporary construction easements, over certain parcels of real property, together with the improvements thereon and appurtenances thereto, (the "Acquisition") one of which is situated within the Town of Alabama, County of Genesee, New York and two of which are situated within the Town of Shelby, County of Orleans, New York, respectively, and all of which are adjacent to New York State Route 63, and which are more specifically described as SBL Nos. 6.-1-29 (Genesee County) and 90.16-2-26 (Orleans County) and 90.16-2-23.1 (Orleans County) (collectively, the "Properties"), for the purpose of: (a) constructing, installing, laying, maintaining, inspecting, operating, extending, replacing, repairing, servicing, upgrading, modifying, and/or removing a pipe/conduit, commonly called a "force main," and other equipment and appurtenances over, through, across, above, and under the easements, together with the right of unimpaired access to said forced main and equipment, and the right of ingress and egress on, over, and through the Properties, for any and all purposes necessary and incident to the exercise of all rights thereunder, which shall ultimately facilitate the sanitary disposal of treated sanitary wastewater and treated process wastewater in accordance with all local, state, and federal requirements through an established system of pipe lines, treatment plants and other means of disposal, pursuant to Sections 115 and 122 of the Transportation Corporations Act, and which shall service the Western New York Science and Technology Advanced Manufacturing Park ("STAMP") located in the Town of Alabama, County of Genesee, New York; (b) providing critical infrastructure to STAMP, which is a 1,250-acre mega site designed to power advanced manufacturing in upstate New York; and (c) ensuring that STAMP is equipped with an adequate sewage disposal system, thereby facilitating the creation of jobs and economic revenue at STAMP (together, the "Project"). The record owners of the Properties include David F. Schloss and Allison H. Adkison, Donald C. Quackenbush and Dana M. Quackenbush, and Brennen O'Connor and Valerie O'Connor.

The location of the Acquisition by the Corporation is more particularly described within the descriptions appended hereto as "Schedule A".



As detailed below, the Corporation duly noticed and held a public hearing regarding the same and now makes its Determination and Findings based upon the record of that public hearing.

Any person may obtain a copy of these Determination and Findings, which will be forwarded without charge, by requesting the same from Counsel for the Corporation, Phillips Lytle LLP, Attention: James O'Connor, Esq., One Canalside, 125 Main Street, Buffalo, New York 14203.

A copy of the record of the public hearing can be obtained by requesting the same from Counsel for the Corporation, Phillips Lytle LLP, Attention: James O'Connor, Esq., One Canalside, 125 Main Street, Buffalo, New York 14203. In addition, a copy of the record of the public hearing is available to the public for examination, without cost, during normal business hours at: (1) the Corporation's principle office, located at 99 MedTech Drive, Suite 106, Batavia, NY 14020; (2) the office of the Genesee County Clerk, located at County Building 1, 15 Main Street, Batavia, New York 14020; and, (3) the office of the Orleans County Clerk, located at 3 South Main Street, Suite 1, Courthouse Square, Albion, New York 14411.

**A. PUBLIC PROCESS**

Pursuant to Section 202 of the EDPL, the Corporation duly published a Notice of Public Hearing in: The Lake County Pennysaver on July 9, 2023, and July 16, 2023; The Daily News on July 11, 12, 13, 14, and 15, 2023; The Daily Record on July 11, 12, 13, 14, and 17, 2023, and the Democrat and Chronicle on July 12, 13, 14, 15, and 16, 2023. On July 11, 2023, the Corporation duly served the Notice of Public Hearing, via personal service, on Donald Quakenbush and Dana Quakenbush, assessment record billing owners of 4636 South Gravel Road, Town of Shelby. On July 11, 2023, the Corporation duly served Notice of Public Hearing on

Brennan O'Connor, the assessment record billing owner of 11316 Oak Street, Town of Shelby. On July 14, 2023, the Corporation duly served Notice of Public Hearing on Valerie O'Connor, the assessment record billing owner of 11316 Oak Street, Town of Shelby, by affixing a copy of the Notice of Public Hearing to the door of her place of residence and by mailing a copy to her place of residence. On July 14, 2023, the Corporation duly served the Notice of Public Hearing, via personal service, on David Schloss and Allison Adkison, assessment record billing owners of 6436 Alleghany Road, Town of Alabama. On July 14, 2023, the Corporation served, via personal service, the New York State Electric and Gas Corporation and Genesee County, as holders of a purported interest relative to 6436 Alleghany Road, Town of Alabama. On July 10, 11, 12, and 14, 2023, the Corporation also sent a further copy of the Notice of Public Hearing to each assessment record billing owner and purported interest holder by certified mail, return receipt requested. On July 24, 2023, the Corporation also sent a further copy of the Notice of Public Hearing to Donald Quackenbush, Dana Quackenbush, Brennan O'Connor, Valerie O'Connor, and the Genesee County Office of the County Clerk, by United States Postal Service Priority Mail Express.

On July 27, 2023, at 10:00 o'clock in the morning, the Corporation held the duly noticed public hearing at the Town of Alabama Volunteer Fire Department, located at 2230 Judge Road, Oakfield, New York 14125, also commonly known as 2230 Judge Road, Basom, New York 14013 (the "Hearing Room"), in accordance with Article 2 of the EDPL (the "Public Hearing"). The Public Hearing was held to, among other reasons: outline the purpose and proposed location of the Acquisition; inform the public about the proposed Acquisition, including by presenting maps and descriptions of the Properties to be acquired; review the public use, benefit, and purpose to be served by the proposed Acquisition; and, review the general effect of the proposed Acquisition

upon the environment, residents, and businesses of the locality where the proposed Acquisition would occur. Testimony was taken in writing and orally from those in attendance, and documents were marked as exhibits and incorporated into the record of the Public Hearing (the “Public Hearing Record”). The Public Hearing Record was held open until August 1, 2023, at 5:00 p.m. for further submission of written comments. All written comments received prior to August 1, 2023, at 5:00 p.m. were entered into the Public Hearing Record.

The Public Hearing provided an opportunity for the public to comment on the Acquisition, including the public use, benefits, and purposes to be served by the Acquisition. All oral and written evidence received at the Public Hearing (as well as a transcript of the testimony of said hearing) or submitted prior to August 1, 2023, at 5:00 p.m., has been reviewed, made a part of the Public Hearing Record, and accorded full consideration.

Having now considered all of the evidence and testimony entered into the Public Hearing Record, the Corporation hereby makes its Determination and Findings pursuant to EDPL Section 204.

**B. FINDINGS**

Pursuant to EDPL Section 204, and having given due consideration to the complete Public Hearing Record, the Corporation makes the following findings concerning the Acquisition:

**I. The STAMP Project**

- The project involves the development of the Western New York Science and Technology Advanced Manufacturing Park (“STAMP” or the “STAMP 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.
- The STAMP Project is intended to attract large-scale advanced manufacturing companies such as semiconductor manufacturers and computer chip manufacturers, who require unique facilities to produce their products.

- The STAMP Generic Environmental Impact Statement (“STAMP GEIS”) that was completed in 2012 has shown that STAMP can accommodate up to 6,130,000 square feet of advanced technology manufacturing, office, and retail space, providing direct employment to over 9,000 people.
- Edwards Vacuum selected STAMP for the location of its “Factory of the Future,” a semiconductor dry pump manufacturing facility. Edwards plans to employ 600 highly-skilled professionals at its facility.
- Additionally, Plug Power is currently constructing a 45 ton per day green hydrogen project facility at STAMP, which will be the largest in North America. Plug Power has pledged to create 68 jobs as a part of their project.
- The location of the STAMP Site is essential to the realization of the STAMP Project and the many public uses, benefits, and purposes associated with the STAMP Project. In the STAMP GEIS, specific requirements for a candidate project site were considered. As outlined in the GEIS, GCEDC considered alternative sites for the STAMP Site, including: (1) a site located in the Town of Alabama; (2) a site located in Batavia, New York; and, (3) a site located in Elba, New York. Additionally, a “no-build” alternative was considered, in which the STAMP Project was not pursued and, instead, agricultural and residential use was made of the site.
- As detailed in the STAMP GEIS, each of the STAMP Project site alternatives failed to achieve the socio-economic uses, benefits, and purposes of the STAMP Project, and was, accordingly, ruled out.
- The STAMP Site was chosen specifically for its many assets critical to the STAMP Project’s successful completion. These assets include:
  - (a) Access to low-cost hydropower. A 600-mw electric substation is currently under construction immediately adjacent to the STAMP Site that will enable a connection to 100% hydropower that can be available to projects at delivered rates well below national averages;
  - (b) Infrastructure. Access to key brand new infrastructure, including expansive water, wastewater, and natural gas capabilities supplied by reliable high-capacity sources;
  - (c) Land availability. The STAMP Site has over 665 developable acres available nearby, including a 310+ acre continuous parcel for a large scale project of up to 4,000,000 square feet of manufacturing space;

- (d) Site readiness. There are approximately 1,262 acres zoned for Advanced Manufacturing & Support Operations. The Town of Alabama unanimously approved the zoning change in 2012 after the completion of the STAMP GEIS. All environmental, archeological, federal, and state pre-permitting field work has been completed and reviewed by the appropriate regulatory agencies. Full campus utility capacities can be constructed within any project's timelines;
  - (e) Local talent. 2 million people live, work, and play in STAMP's 50-minute commute-shed, with 1 million people in STAMP's 30-minute commute-shed. The STAMP Site is located near 57 colleges and universities and 9 major training centers, which produce 11,000+ science and engineering graduates annually;
  - (f) Access to and from the location. The STAMP Site is conveniently located near N.Y.S. Thruway I-90, in close proximity to 3 major international airports, with easy access to rail and the East Coast's largest capacity port;
  - (g) Financial environment of NY. The financial environment of New York is ideal for the STAMP Project, with 0% corporate income tax, 0% personal property tax, 0% inventory tax, and with utility and workforce programs and credits to support manufacturing.
- The STAMP Project will directly result in many public uses, benefits, and purposes, including boosts to the economy and local tax bases, and the creation of thousands of jobs.
  - Upon full completion and occupancy, the STAMP Project is projected to:
    - (a) Create approximately 9,330 full-time-equivalent jobs, with approximately 1,400 to 2,900 direct and indirect full-time equivalent jobs during the construction phase (total earnings ranging from \$40.8 million to \$83.8 million);
    - (b) Generate approximately \$531.9 million in direct annual wages;
    - (c) Generate approximately \$761.3 million in indirect wages;
    - (d) Generate approximately \$4.6 billion in economic output, including secondary economic impacts;
    - (e) Decrease property tax rates due to the STAMP Project's significant contribution to the tax base. Areas impacted include the Town of

Alabama, Genesee County, and the Oakfield-Alabama School District;

(f) Increase the annual state income taxes to approximately \$33.6 million; and,

(g) Generate \$2.3 million in annual sales taxes from retail sales.

- The STAMP Project requires the construction of a water management and treatment system in order to facilitate the sanitary disposal of treated, sanitary wastewater and treated process waste water from the STAMP Site. The force main (the “Force Main”) was ultimately chosen as the best and most practical option. However, several alternatives were considered, but were ultimately rejected. These alternatives included:

(a) Constructing a new wastewater treatment facility within the STAMP Site and discharging the same to Tonawanda Creek west of Indian Falls.

(b) Constructing a new wastewater treatment facility within the STAMP Site and discharging the same to Whitney Creek on the STAMP Site.

(c) Constructing a new wastewater treatment facility within the STAMP Site and discharging the same to Tonawanda Creek west of Judge Road.

(d) Constructing a new wastewater treatment facility to the west of the Hamlet of Indian Falls and discharging the same to Tonawanda Creek.

(e) Pumping 3 million gallons per day of combined pre-treated process effluent and sanitary sewer to the Town of Oakfield Wastewater Treatment Plan, in Oakfield, NY.

(f) Pumping 3 million gallons per day of combined pre-treated process effluent and sanitary sewer to the Village of Corfu Treatment Plan, in Corfu, NY.

(g) Pumping 12 million gallons per day of combined pre-treated process effluent and sanitary sewer to the Bird Island Wastewater Treatment Plant in Buffalo, NY, owned by the Buffalo Sewer Authority;

(h) Pumping 12 million gallons per day of combined pre-treated process effluent and sanitary sewer to the Van Lare Wastewater

Treatment Plant in Rochester, NY, owned by Pure Waters/Monroe County;

- (i) Pumping 11 million gallons per day of pre-treated process effluent to Lake Ontario, and pumping 1 million gallons per day of sanitary sewer to the Village of Medina Wastewater Treatment Plant; and,
- (j) Pumping 4.5 million gallons per day of combined sanitary and pre-treated process effluent to the Village of Medina Wastewater Treatment Plant in a first phase. For subsequent phases, segregate the pre-treated process and sanitary effluents and send up to 11 million gallons per day of process effluent to Lake Ontario and 1 million gallons per day of sanitary effluent to the Village of Medina Wastewater Treatment Plant.

## **II. The Force Main**

- The Force Main was determined to be necessary to facilitate the sanitary disposal of treated, sanitary wastewater and treated process wastewater from STAMP in the Town of Alabama to the discharge point at Oak Orchard Creek in the Town of Shelby. All required permits and approvals for construction and use of the Force Main have been obtained, including from the New York State Department of Environmental Conservation, Town of Shelby, Town of Alabama, Orleans County Department of Health, Genesee County Department of Health, United States Army Corps of Engineers, State Historic Preservation Office, New York State Department of Transportation, and the United States Fish and Wildlife Service.
- In general, a force main is an established system of pipes, pump stations and appurtenances that transport and deposit treated sanitary wastewater and treated process wastewater.
- There are only a few options for the transportation and disposal of wastewater. A force main is the preferred option to use when treated wastewater and process wastewater cannot be conveyed via gravity through regular piping and manhole structures. Typically, force mains may need minor maintenance or repairs, but the service life is generally 50 to 100 years.
- At the STAMP Site, wastewater will be collected onsite and then sent to an onsite wastewater treatment facility. The facility will use sequential batch reactor (SBR) technology to treat the wastewater.
- Treated wastewater will then be pumped from a main pump station through the Force Main to the discharge point in Oak Orchard Creek. The water running through the Force Main will already be treated.

- The Force Main will run approximately 9 miles and pump the sanitary wastewater and treated process wastewater from STAMP north to the discharge point at Oak Orchard Creek, approximately 0.5 miles north of Shelby Center. The water will be discharged where Oak Orchard Creek widens and deepens. The Force Main has capacity to handle six (6) million gallons of treated wastewater per day.
- The Force Main pipe will be 20 inches in diameter in the directional drill area and will be made of high-density polyethylene pipe (“HDPE”). It will be installed in several phases.
- The depth of the pipe varies from six (6) feet to twenty-three (23) feet. Once it is installed, The Force Main will not be visible or accessible to the public.
- The Oak Orchard Creek discharge location was identified based on the engineering analysis completed by JM Davison Engineering and peer reviewed by the Town of Shelby’s engineering firm, Wendel Engineering.
- The capacity of the Oak Orchard Creek discharge location was determined based on a hydrology report prepared by JM Davison Engineering and peer reviewed by the Town of Shelby’s engineering firm, Wendel Engineering. The hydrology report stated that, at full discharge, the level of the creek will rise by .2 inches, at the most.
- The Force Main will directly result in many public uses, benefits, and purposes, including facilitating the discharge of treated sanitary wastewater and treated process wastewater from STAMP. Other public uses, benefits, and purposes associated with the Force Main include, *inter alia*:
  - (a) Capacity to handle six (6) million gallons of treated wastewater per day, allowing for the full realization of manufacturing capacity at the STAMP Site;
  - (b) Facilitating the best and most practical discharge of wastewater for the STAMP Site, including appropriate management of discharge water levels and flow;
  - (c) Allowing for the most practical lifespan of the wastewater system, with minor maintenance and repairs as necessary;
  - (d) Providing tenants of the STAMP Site full wastewater capacity for other non-manufacturing related water usage, including, *inter alia*, employee related water usage;
  - (e) Allowing for a less intrusive, and most practical, water discharge route.



- The Corporation has been able to secure temporary and permanent easements on approximately twenty seven (27) properties required to construct, maintain, and repair the Force Main.
- However, despite diligent and reasonable efforts to negotiate the remaining easements, the Corporation has been unable to secure temporary easements needed for construction of the Force Main on the Properties. As stated above, the Properties are: (a) 6436 Alleghany Road, Alabama, in Genesee County, NY, 14013, SBL No. 6.-1-29; (b) 4636 South Gravel Road, Shelby, Orleans County, NY, 14103, SBL No. 90.16-2-26; and, (c) 11316 Oak Street, Shelby, Orleans County, NY 14103, SBL No. 90.16-2-23.1.
- The Acquisition is required for temporary access to the Properties in order to stage and place directional drilling equipment temporarily during construction. It is estimated that construction crews and equipment will be accessing the Properties for approximately two (2) to three (3) weeks during the initial construction period. After that, the equipment will be removed, and it will be highly unlikely that any crew members will need to re-enter the Properties until restoration efforts begin.
- Equipment expected to enter the Properties will include, *inter alia*, a drilling machine, excavators, dump truck, or similar construction equipment.
- There will be approximately ten (10) to fifteen (15) construction personnel present on the Properties during construction.
- The Properties will be restored after conclusion of the construction period, which will require equipment access to the Properties for approximately one (1) to two (2) weeks. Restoration will primarily take place during seed germination time frames, generally from mid-April until mid-September. Restoration will include backfilling all trenches and pits used for drilling or boring, rock hounding, placing topsoil, and hydroseeding or applying grass seed. After restoration is complete, the temporary easements will expire.
- The Corporation's use of the temporary easements on the Properties will have minimal impact on the environment (if any at all), and will result in minimal disruption to the community and/or to the respective landowners.
- The location of the Force Main is essential to the realization of the STAMP Project and will maximize the public uses, benefits, and purposes associated with the STAMP Project. The Acquisition is essential to the construction/installation of the Force Main. Without the temporary construction easements, development of the Force Main, and the STAMP Project as a whole, would be jeopardized.
- Several alternative routes for the Force Main itself were examined, including different routes transporting wastewater to the Village of Medina Wastewater Treatment Plant and other points along Oak Orchard Creek. Other alternatives

examined (and ultimately rejected) included discharge into Tonawanda Creek or Whitney Creek. These alternatives were rejected out of respect of the request of the Tonawanda Seneca Nation. Discharge into the Iroquois National Wildlife Refuge, Oak Orchard Wildlife Refuge, and the Tonawanda Wildlife Refuge were all considered, but management of the discharge water levels and flow were found to be unmanageable.

- Additionally, many of the alternative routes were longer and were more intrusive to natural resources and Wildlife Management Areas, and would have been disruptive to the environment and the community. Given the above, the alternative routes were ultimately rejected.
- For many reasons, including, *inter alia*, New York State Department of Transportation (“NYDOT”) permit requirements, actual construction impacts and construction methods, the Corporation determined that the proposed location of the Force Main is the best and most practical location.
- Other reasons for the proposed location of the Force Main include, *inter alia*, that: (1) it minimizes the need for permanent easements in this area; (2) it leaves the Force Main within the road right-of-way; (3) it minimizes the total area disturbed on the Properties and is, thus, actually less intrusive to owners of the Properties; (4) importantly, it also allows for proper maneuvering of construction equipment and the drilling machine, minimizing the disruption to owners of the Properties and the public during the construction stage.
- The Corporation’s Acquisition is necessary for the development of the Force Main and the STAMP Project, and for the realization of the previously mentioned public uses, benefits, and purposes of both the Force Main itself and the STAMP Project as a whole.

## **II. The Public Use, Benefit, and Purpose to be Served by the Acquisition**

The Corporation finds and determines that the Acquisition will serve many public uses, benefits, and purposes. As demonstrated by the testimony and exhibits introduced into the Public Hearing Record and the findings set forth above, the Acquisition is necessary for construction of the Force Main. The Force Main will directly result in many public uses, benefits, and purposes, including facilitating the discharge of treated sanitary wastewater and treated process wastewater from STAMP. Other public uses, benefits, and purposes associated with the Force Main include, *inter alia*: (a) Capacity to handle six (6) million gallons of treated wastewater

per day, allowing for the full realization of manufacturing capacity at the STAMP Site; (b) Facilitating the best and most practical discharge of wastewater for the STAMP Site, including appropriate management of discharge water levels and flow; (c) Allowing for the most practical lifespan of the wastewater system, with minor maintenance and repairs as necessary; (d) Providing tenants of the STAMP Site full wastewater capacity for other non-manufacturing related water usage, including, inter alia, employee related water usage; (e) Allowing for a less intrusive, and most practical, water discharge route.

Furthermore, the Acquisition and the Force Main is essential to the full realization of the STAMP Project, which will create an advanced manufacturing technology hub in Genesee County and will attract large-scale, advanced manufacturing companies to the region.

Evidence entered into the Public Hearing Record established that the STAMP Project will boost the economy and local tax bases, and create thousands of jobs. Specifically, upon full completion and occupancy, the STAMP Project could result in approximately 9,330 full-time-equivalent jobs, with approximately \$531.9 million in direct annual wages and approximately \$761.3 million in indirect wages. The STAMP Project is estimated to result in approximately 1,400 to 2,900 direct and indirect full-time equivalent jobs during the construction phase, with total earnings ranging from \$40.8 million to \$83.8 million.

The economic output from the STAMP Project is projected to equal approximately \$4.6 billion, once the STAMP Project is completed and operational. This also includes secondary economic impacts. Property tax rates are projected to decrease due to significant increases in the tax base from the STAMP Project. Areas that will directly benefit from the STAMP Project's impact on the tax base include the Town of Alabama, Genesee County, and the Oakfield-Alabama School District. Upon completion, the STAMP Project is expected to result in annual state income

tax of approximately \$33.6 million. Retail operations from the STAMP Project are projected to generate \$2.3 million in annual sales taxes for both Genesee County and the State of New York.

The development and attraction of an advanced manufacturing hub within Genesee County will attract large-scale, advanced manufacturing companies such as semiconductor manufacturers and computer chip manufacturers to the region, who require unique facilities to produce their products. The STAMP Project will provide advanced manufacturing companies a location to do so within Genesee County, which is an ideal location for many reasons, including, *inter alia*: (a) Access to low-cost hydropower; (b) access to key brand new infrastructure, including expansive water, wastewater, and natural gas capabilities; (c) availability of over 665 developable acres, with proximity to a 310+ acre continuous parcel for additional development; (d) Site readiness, given that the STAMP Site is already zoned for advanced manufacturing and support operations, and completion of all environmental, archeological, federal, and state pre-permitting field work; (e) proximity to local colleges, universities, and talent; (f) ease of access to and from the STAMP Site via thruway, airport, rail, and port; (g) the attractive financial environment of New York, with 0% income tax, 0% personal property tax, and 0% inventory tax.

The STAMP Project will further support the local economy by attracting manufacturers and other new business to Genesee County, and will help support and develop other existing businesses in the community.

Testimony and evidence entered into the Public Hearing Record establish the substantial benefits the Force Main and the STAMP Project will have on the economies of the Towns of Alabama and Shelby, and Genesee and Orleans Counties.

As demonstrated by the testimony and exhibits introduced into the Public Hearing Record and the findings set forth above, the Corporation finds and determines that the Acquisition

will result in the many public uses, benefits, and purposes associated with the Force Main. Furthermore, the Acquisition is necessary to the development of the STAMP Project, and will allow for the full realization of the many public uses, benefits, and purposes of the STAMP Project detailed above.

**III. The Acquisition Location and Reasons for Selection of that Location**

The Corporation finds and determines that, based upon the testimony and evidence that comprises the Public Hearing Record, including maps and surveys detailing the Acquisition: (a) the location of the Acquisition is necessary to the development of the Force Main and the STAMP Project; (b) the Acquisition's location, size, and geographic and environmental features make it particularly well suited for the location for the Force Main; (c) the location of the Force Main allows for the provision of needed services necessary for an advanced manufacturing technology campus within the region; and, (d) other alternative locations for both the STAMP Project and the Force Main were reviewed and considered, and were all deemed to be unsuitable or otherwise unacceptable.

After considering the testimony and evidence entered into the Public Hearing Record, and specifically considering that alternative locations are extremely limited, all other alternative locations considered were deemed unsuitable or otherwise unacceptable. As such, the Corporation finds and determines that location of the Acquisition is essential for the full realization of the public uses, benefits, and purposes associated with the Force Main and the STAMP Project as a whole.

**VI. General Effect of the Acquisition on the Environment and Residents of the Locality**

The Corporation finds and determines that, based upon the testimony and evidence entered into the Public Hearing Record, the Acquisition is consistent with social, economic and

other essential considerations from among the reasonable alternatives available, and is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable (by incorporating as conditions to the decision those mitigative measures that were identified as practicable).

Accordingly, the Corporation has adopted and issued a Findings Statement pursuant to SEQRA. A copy of the Finding Statement is attached as Exhibit \_\_\_\_, and is incorporated by reference.

**V. Other Relevant Factors**

All of the testimony and evidence submitted at the Public Hearing, and all comments received in writing from July 25, 2023, until the closing of the Public Hearing Record on August 1, 2023, at 5:00 p.m., have been given due consideration.

In particular, but without limitation, the Corporation has considered the objections submitted by Orleans County, submitted through their attorney Lippes Mathias LLP, both in person at the Public Hearing and by letter dated July 27, 2023 (the "Orleans County letter"). The Corporation has also considered the objections submitted by the Orleans County Industrial Development Agency (the "OEDA", together with Orleans County, the "Orleans County Opponents"), submitted through their Chief Executive Officer Michael Dobell, both in person at the hearing and by letter dated July 27, 2023 (the "OEDA letter"). A number of the objections raised by the Orleans County Opponents were based on factual allegations that were unsupported by the record as reviewed and considered by the Corporation (including the testimony and exhibits submitted into the Public Hearing Record).

The Orleans County Opponents also raise certain objections to the Acquisition and the STAMP Project on the basis of SEQRA. Specifically, the Orleans County Opponents assert

that the Force Main and the STAMP Project will result in reduced wastewater discharge capacity for the Medina Business Park, adverse impacts to fishing and recreational tourism on Oak Orchard Creek, and drainage/flooding concerns in the areas adjacent to Oak Orchard Creek. Notably, these objections were each addressed in detail through the STAMP Project permitting process with the New York State Department of Environmental Conservation (“NYSDEC”), and are explicitly addressed in the Findings Statement attached hereto, the contents of which are incorporated herein by reference. As such, the Corporation finds and determines that the objections raised by the Orleans County Opponents on these points are without merit.

The Orleans County Opponents also assert objections based on legal arguments, all of which have been reviewed and considered by the Corporation and have been found to lack merit. Specifically, the Orleans County Opponents allege that the use of eminent domain is improper and unauthorized because of the Corporation’s status as a sewer works corporation. This objection ignores that the New York State Legislature has expressly delegated its power of eminent domain to sewer works corporations and the constitutionality of the EDPL for such projects has been repeatedly upheld by New York courts.

The Orleans County Opponents also object to the Acquisition alleging that there are no valid public uses, benefits, or purposes associated with the Acquisition or the STAMP Project. This objection was simply unsupported by the testimony and exhibits received into the Public Hearing Record, including, specifically, the Economic Impact Analysis for the WNY STAMP Project, prepared by BBP & Associates, LLC as part of the Draft GEIS (the “BBP Report”). The BBP Report establishes the many public uses, benefits, and purposes associated with the STAMP Project, as well as the other evidence documenting that the STAMP Project will have a meaningful positive impact on the economies of the surrounding towns and counties. The

Acquisition and, thus, the Force Main, are necessary to the full realization of the public uses, benefits, and purposes associated with the STAMP Project.

The Orleans County Opponents also allege that their preventative acquisition of easements over the properties owned by Donald and Dana Quackenbush and Brennen and Valerie O'Connor allegedly prevents the Corporation from acquiring temporary easements on these properties (the "Quackenbush and O'Connor Preventative Easements"). The Orleans County Opponents allege that the Quackenbush and O'Connor Preventative Easements constitute a "prior public use" of those properties, preventing the Corporation's acquisition. The Orleans County Opponents admit that their acquisition of easements was purportedly to "preserve the economic development opportunities for Orleans County." In consideration of the evidence and admissions entered into the Public Hearing Record, the Corporation finds that the Orleans County Opponents have no existing or planned public use or purpose for the Quackenbush and O'Connor Preventative Easements and, instead, have acquired them for the sole purpose of attempting to frustrate the Corporation's Acquisition.

Even assuming, *arguendo*, that there is a valid prior public use associated with the Quackenbush and O'Connor Preventative Easements (which the Corporation finds there is not), the Corporation's Acquisition of temporary easements on Quackenbush and O'Connor properties would cause no interference with Orleans County's theoretical future public use. The Corporation's proposed easements on the Quackenbush and O'Connor properties are temporary and only for the staging of construction equipment. No installation or development of the Force Main will take place within those temporary easements and the properties will be restored to their original state prior to expiration of the easements.



Therefore, upon review of the Public Hearing Record and applicable law, the Corporation finds and determines that the objections submitted by the Orleans County Opponents are wholly without merit and neither those objections, nor any of the other testimony, evidence, and written comments submitted in any way preclude the Acquisition of the Properties by the Corporation or otherwise prevent the Corporation from issuing its Determination and Findings relative to the same.

**C. DETERMINATION**

Pursuant to EDPL § 204, and having given due consideration to the complete Public Hearing Record, the Corporation makes the following determination concerning the Acquisition. After consideration of the foregoing findings, and all of the testimony, evidence, and comments submitted to the Corporation regarding the STAMP Project, the Corporation determines that it is appropriate for the Corporation to proceed to acquire:

Three temporary construction easements, over certain parcels of real property, together with the improvements thereon and appurtenances thereto, (the "Acquisition") one of which is situated within the Town of Alabama, County of Genesee, New York and two of which are situated within the Town of Shelby, County of Orleans, New York, respectively, and all of which are adjacent to New York State Route 63, and which are more specifically described as SBL Nos. 6.-1-29 (Genesee County) and 90.16-2-26 (Orleans County) and 90.16-2-23.1 (Orleans County) (collectively, the "Properties"), for the purpose of: (a) constructing, installing, laying, maintaining, inspecting, operating, extending, replacing, repairing, servicing, upgrading, modifying, and/or removing a pipe/conduit, commonly called a "force main," and other equipment and appurtenances over, through, across, above, and under the easements, together with the right of unimpaired access to said forced main and equipment, and the right of ingress and egress on, over, and through the Properties, for any and all purposes necessary and incident to the exercise of all rights thereunder, which shall ultimately facilitate the sanitary disposal of treated sanitary wastewater and treated process wastewater in accordance with all local, state, and federal requirements through an established system of pipe lines, treatment plants and other means of disposal, pursuant to Sections 115 and 122 of the Transportation Corporations Act, and which shall service the Western New York Science and Technology Advanced Manufacturing Park ("STAMP") located in the Town of Alabama, County of Genesee, New York; (b) providing critical infrastructure to STAMP, which is a 1,250-acre mega site

designed to power advanced manufacturing in upstate New York; and (c) ensuring that STAMP is equipped with an adequate sewage disposal system, thereby facilitating the creation of jobs and economic revenue at STAMP (together, the "Project"). The record owners of the Properties include David F. Schloss and Allison H. Adkison, Donald C. Quackenbush and Dana M. Quackenbush, and Brennen O'Connor and Valerie O'Connor.

It is hereby further determined that the Corporation should exercise its power of eminent domain in order to implement the Acquisition and permit the Force Main and STAMP Project to proceed.

ATTENTION: ANY PERSON AGGREIVED BY THE DETERMINATION AND FINDINGS WHO WISHES TO CHALLENGE AND SEEK JUDICIAL REVIEW THEREOF MUST DO SO, IF AT ALL, (1) BY FILING A PETITION, IN ACCORDANCE WITH NEW YORK EMINENT DOMAIN PROCEDURAL LAW § 207, IN THE APPELLATE DIVISION, FOURTH DEPARTMENT, 50 EAST AVENUE, ROCHESTER, NEW YORK 14604, NO LATER THAN THIRTY (30) DAYS AFTER THE COMPLETION OF THE CORPORATION'S PUBLICATION OF ITS DETERMINATION AND FINDINGS PURSUANT TO EDPL § 204, OTHERWISE ANY SUCH CHALLENGE OR JUDICIAL REVIEW MAY BE TIME BARRED, AND (2) BY SERVING DEMAND, IN ACCORDANCE WITH NEW YORK STATE EMINENT DOMAIN PROCEDURE LAW § 207, UPON THE CORPORATION TO FILE A WRITTEN TRANSCRIPT OF THE RECORD OF THE PROCEEDING BEFORE IT AND THE UNDERLYING DETERMINATION AND FINDINGS. THE APPELLATE DIVISION MAY CONSIDER THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED ACQUISITION AND THE OTHER MATTERS SET FORTH IN NEW YORK EMINENT DOMAIN PROCEDURE LAW § 207. ANYONE WISHING TO CHALLENGE THE DETERMINATION AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.

October 6, 2023

**SCHEDULE A**

**STAMP FORCE MAIN  
TEMPORARY EASEMENT NO. TE-13  
SBL No. 9016-2-26**

**ALL THAT TRACT** or parcel of land situate in the Town of Shelby, County of Orleans, State of New York and more particularly described as follows:

Beginning at a point on the westerly right-of-way line of NYS Route 63 (South Gravel Road) (66 feet wide right-of-way), a distance of 36 feet southerly of the northerly line of tax account number 90.16-2-26; thence,

1. Southerly, along the westerly right-of-way of NYS Route 63, a distance of 30 feet, more or less, to a point; thence,
2. Westerly, through the lands of tax account number 90.16-2-26, along a line measured perpendicular to the westerly right-of-way line of NYS Route 63, a distance of 40 feet, more or less, to a point 40 feet westerly of and parallel to the westerly right-of-way line of NYS Route 63, thence,
3. Northerly, through the lands of tax account number 90.16-2-26, along a line 40 feet westerly of and parallel to the westerly right-of-way line of NYS Route 63, a distance of 30 feet, more or less, to a point; thence,
4. Easterly, through the lands of tax account number 90.16-2-26, along a line measured perpendicular to the westerly right-of-way line of NYS Route 62, a distance of 40 feet, more or less, to the Point of Beginning.

Temporary Easement No. TE-13, as described above, contains approximately 0.028 acre of land.

**STAMP FORCE MAIN  
TEMPORARY EASEMENT NO. TE-14  
SBL NO. 90.16-2-23.1**

**ALL THAT TRACT** or parcel of land situate in the Town of Shelby, County of Orleans, State of New York and more particularly described as follows:

Beginning at a point on the easterly right-of-way line of NYS Route 63 (South Gravel Road) (66 feet wide right-of-way), a distance of 48 feet northerly of the southerly line of tax account number 90.16-2-23.1; thence.

1. Northerly, along the easterly right-of-way of NYS Route 63, a distance of 30 feet, more or less, to a point: thence,
2. Easterly, through the lands of tax account number 90.16-2-23.1, along a line measured perpendicular to the westerly right-of-way line of NYS Route 63, a distance of 40 feet, more or less, to a point 40 feet easterly of and parallel to the easterly right-of-way line of NYS Route 63: thence,
3. Southerly, through the lands of tax account number 90.16.2-23.1, along a line 40 feet easterly of and parallel to the easterly right-of-way line of NYS Route 63, a distance of 30 feet. more or less. to a point; thence,
4. Westerly, through the lands of tax account number 90.16-2-23.1. along a line measured perpendicular to the westerly right-of-way line of NYS Route 63, a distance of 40 feet, more or less, to the Point of Beginning.

Temporary Easement No. TE-14, as described above, contains approximately. 0.028 acre of land.

**STAMP FORCE MAIN  
TEMPORARY EASEMENT NO. TE-20  
SBL NO. 6.-1-29**

All that tract or parcel of land situate in the Town of Alabama, County of Genesee, State of New York and more particularly described as follows:

Beginning at the intersection of the westerly right-of-way line of Allegany Road (New York State Route 63) (66 feet wide right-of-way) and the southerly line of tax account number 6.-1-29; thence,

1. Westerly, along the southerly line of tax account number 6.-1-29, a distance of 10 feet, more or less, to a point 10 feet westerly of and parallel to the westerly right-of-way line of Allegany Road; thence,
2. Northerly, through the lands of tax account number 6.-1-29, along a line 10 feet westerly of and parallel to the westerly right-of-way line of Allegany Road, a distance of 316 feet, more or less, to the northerly line of tax account number 6.-1-29; thence,
3. Easterly, along the northerly line of tax account number 6.-1-29, a distance of 10 feet, more or less, to the westerly right-of-way line of Allegany Road; thence,
4. Southerly, along the westerly right-of-way line of Allegany Road, a distance of 316 feet, more or less, to the southerly line of tax account number 6.-1-29 and the point of beginning.

Temporary Easement No. TE-20, as described above, contains approximately 0.073 acre of land.

**BOARD RESOLUTION NO. \_\_\_\_**

**WHEREAS**, STAMP Sewer Works, Inc. (the “Corporation”) is a sewage-works corporation of the State of New York that was created on or about January 13, 2021, pursuant to Section 3 of the State of New York Transportation Corporations Law (the “Act”), and more particularly organized under Article 10 and Section 122 of the Act;

**WHEREAS**, the Corporation has proposed the acquisition of:

Three temporary construction easements, over certain parcels of real property, together with the improvements thereon and appurtenances thereto, (the “Acquisition”) one of which is situated within the Town of Alabama, County of Genesee, New York and two of which are situated within the Town of Shelby, County of Orleans, New York, respectively, and all of which are adjacent to New York State Route 63, and which are more specifically described as SBL Nos. 6.-1-29 (Genesee County) and 90.16-2-26 (Orleans County) and 90.16-2-23.1 (Orleans County) (collectively, the “Properties”), for the purpose of: (a) constructing, installing, laying, maintaining, inspecting, operating, extending, replacing, repairing, servicing, upgrading, modifying, and/or removing a pipe/conduit, commonly called a “force main,” and other equipment and appurtenances over, through, across, above, and under the easements, together with the right of unimpaired access to said forced main and equipment, and the right of ingress and egress on, over, and through the Properties, for any and all purposes necessary and incident to the exercise of all rights thereunder, which shall ultimately facilitate the sanitary disposal of treated sanitary wastewater and treated process wastewater in accordance with all local, state, and federal requirements through an established system of pipe lines, treatment plants and other means of disposal, pursuant to Sections 115 and 122 of the Transportation Corporations Act, and which shall service the Western New York Science and Technology Advanced Manufacturing Park (“STAMP”) located in the Town of Alabama, County of Genesee, New York; (b) providing critical infrastructure to STAMP, which is a 1,250-acre mega site designed to power advanced manufacturing in upstate New York; and (c) ensuring that STAMP is equipped with an adequate sewage disposal system, thereby facilitating the creation of jobs and economic revenue at STAMP (together, the “Project”). The record owners of the Properties include David F. Schloss and Allison H. Adkison, Donald C. Quackenbush and Dana M. Quackenbush, and Brennen O’Connor and Valerie O’Connor; and

**WHEREAS**, the Corporation is authorized and empowered under the New York State Transportation Corporations Law (the “TCL”) to, among other things, acquire by purchase or condemnation real property that is necessary or convenient for carrying out its purposes; and

**WHEREAS**, the Acquisition is proposed in order to, among other things, (1) allow for the construction, installation, and laying of the Force Main to facilitate the sanitary disposal of treated wastewater from the Western New York Science and Technology Advanced Manufacturing Park (“STAMP” or the “STAMP Project”), a 1,250-acre mega site designed to attract large-scale advanced manufacturing companies; (2) provide critical infrastructure to STAMP; (3) ensure that STAMP is equipped with an adequate sewage disposal system, thereby facilitating the creation of jobs and economic revenue at STAMP; and, (4) allow for the full realization of the attendant public uses, benefits, and purposes associated with the STAMP Project, including, *inter alia*, increases to the economy and local tax base, creating of thousands of jobs, attracting manufacturers and other new business to Genesee County, and supporting and developing other existing businesses in the community.

**WHEREAS**, the New York State Eminent Domain Procedure Law (“EDPL”) sets forth uniform procedures for condemnations throughout the State of New York, which also governs the Acquisition; and

**WHEREAS**, pursuant to the EDPL, the Corporation was required to hold a public hearing to determine whether the public interest would be served by the proposed Acquisition of the above-mentioned Properties and the impact of such an Acquisition on the public where the Properties are located; and



**WHEREAS**, the Corporation held a public hearing pursuant to Section 204 of the EDPL in relation to the Acquisition on July 27, 2023, at 10:00 o'clock in the morning (the "Public Hearing") at the Town of Alabama Volunteer Fire Department, located at 2230 Judge Road, Oakfield, New York 14125, also commonly known as 2230 Judge Road, Basom, New York 14013 (the "Hearing Room");

**WHEREAS**, the Public Hearing informed the public about the proposed Acquisition, reviewed the public use to be served by the Acquisition, and reviewed the general effect of the Acquisition upon the environment and residents of the locality where the Acquisition will occur; and

**WHEREAS**, pursuant to Article 2 of the EDPL, within ninety days after the conclusion of the public hearing, the condemnor of a property is required to make a determination and findings concerning the proposed Acquisition; and

**WHEREAS**, pursuant to the EDPL, the Corporation has received and reviewed testimony from the Public Hearing including all exhibits and comments submitted to the record and other relevant information; and

**WHEREAS**, the Acquisition is vital to the construction of the Force Main and to the realization of the STAMP Project as a whole; and

**WHEREAS**, the Acquisition will serve a public purpose and confer a public benefit; and

**WHEREAS**, absent the Acquisition, construction of the Force Main would not occur and public uses, benefits, and purposes associated with the Force Main would be jeopardized; and

**WHEREAS**, absent the Acquisition, construction of the Force Main would not occur and the STAMP Project, and its attendant public uses, benefits, and purposes, would be jeopardized; and

**WHEREAS**, on October 6, 2023, the Corporation satisfied any requirements imposed by Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and regulations adopted pursuant thereto by the Department of Environmental Conservation and State of New York (“NYSDEC”), being 6 N.Y.C.R.R. Part 617, et seq., as amended (the “Regulations” and, collectively with the SEQR Act, “SEQRA”), by resolving to issue a Findings Statement, a copy of which is attached as Exhibit A, certifying that, considering the relevant environmental impacts, facts and conclusions disclosed in the GEIS, and weighing and balancing relevant environmental impacts with social, economic and other considerations, and consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the Acquisition 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; and

**WHEREAS**, the Corporation has drafted its determination and findings concerning the Acquisition, a copy of which is attached as Exhibit B;

The Board of Directors of STAMP SEWER WORKS, INC. hereby

**RESOLVES**, that this Resolution, which is adopted by a majority vote of the members of the Board of Directors of the Corporation, shall take effect immediately; and

**RESOLVES**, that the Determinations and Findings, which is adopted by a majority vote of the members of the Board of Directors of the Corporation, shall take effect immediately; and

**RESOLVES**, that the Environmental Record (as that term is defined in the SEQR Resolution No. 1), and the SEQRA Resolution No. 1 have been received, are incorporated into the record of the Public Hearing, are also incorporated into the Determination and Findings and this Resolution, and have been reviewed in connection with the adoption of the Determination and Findings; and

**RESOLVES**, that the transcript of the Public Hearing of July 27, 2023, at 10:00 o'clock in the morning has been received, is incorporated into the record of the Public Hearing, is also incorporated into the Determination and Findings and this Resolution, and has been reviewed in connection with the adoption of the Determination and Findings; and

**RESOLVES**, that the Board Chair, officers, and the staff of the Corporation, including the Corporation's legal counsel, Phillips Lytle LLP, acting together or individually, are hereby further authorized and directed on behalf of the Board of Directors of the Corporation, to distribute copies of this Resolution and the Determination and Findings and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution and otherwise effectuate the Acquisition, including for temporary occupancy during construction.

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> |
|----------------------|------------|------------|---------------|----------------|
| Paul Battaglia       | [ ]        | [ ]        | [ ]           | [ ]            |
| Craig Yunker         | [ ]        | [ ]        | [ ]           | [ ]            |
| Tim Hens             | [ ]        | [ ]        | [ ]           | [ ]            |
| Pete Zelif           | [ ]        | [ ]        | [ ]           | [ ]            |
| Steve Mountain       | [ ]        | [ ]        | [ ]           | [ ]            |
| Robert Crossen       | [ ]        | [ ]        | [ ]           | [ ]            |
| Marianne Clattenburg | [ ]        | [ ]        | [ ]           | [ ]            |

The Resolutions were thereupon duly adopted.

**CERTIFICATION**  
(BOARD RESOLUTION NO. #\_\_\_)

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

I, the undersigned Secretary of the STAMP Sewer Works, Inc., DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the STAMP Sewer Works, Inc., (the "Corporation"), including the Resolution contained therein, held on October 6, 2023, with the original thereof on file in the Corporation's office, and that the same is a true and correct copy of the proceedings of the Corporation and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Corporation this \_\_\_\_\_ day of October, 2023.

\_\_\_\_\_  
Secretary

## Designation of "Permittee with Signature Authority" for DMR reporting

**Discussion:** In 2022 the NYSDEC approved and issued the SPDES permit for the WWTF but they left the DMR limit sets inactive but had them set to become active automatically as of 9/1/2023. That would make the first DMR due 10/28/2023 and if you aren't operational you could report the No Data Indicator (NODI) Code C for No Discharge.

We have had CPL look into the reporting process and SSWC needs to have someone register for EPA MyCDX to utilize the NetDMR system, and examine the limit set to be familiar with it and make sure key staff are aware and have the sampling plan prepared. Once an operator is selected, they will be set up as either the "Data Provider" or the "Permittee with No Signature" in the system. They will enter the data.

The SSWC then needs to appoint a "Permittee Signature" member from the Board to review, approve and submit the data.

**Fund Commitment:** None.

**Board action request:** Appoint Steve Mountain as the authorized "Permittee Signature" within the DMR reporting system.