

Meeting Agenda – STAMP Committee
 Genesee County Economic Development Center
 Wednesday, March 29, 2023 - 8:00 a.m.
 Location: 99 MedTech Drive, Innovation Zone

Page #'s	Topic	Discussion Leader	Desired Outcome
	1. Call to Order – Enter Public Session	C. Yunker	
	1a. Executive Session Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons: <ol style="list-style-type: none"> 1. Discussions regarding proposed, pending or current litigation. 2. The 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. 3. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof. 1b. Enter Public Session	C. Yunker	
2-4	2. Chairman’s Report & Activities 2a. Agenda Additions / Deletions / Other Business 2b. Minutes: February 28, 2023	C. Yunker	Vote
5-7	3. Discussions / Official Recommendations to the Board: 3a. Phillips Lytle for Business Park Association Formation	M. Masse	Disc / Vote
8-12	3b. Survey for Edwards Genesee Real Estate Transactions	M. Masse	Disc / Vote
13-16	3c. General Services Agreement with CC Environment & Planning	M. Masse	Disc / Vote
17-24	3d. Access Agreement for Construction Parking Area for Plug Power	M. Masse	Disc / Vote
	4. Adjournment	C. Yunker	Vote



GCEDC STAMP Committee Meeting
Tuesday, February 28, 2023
Location: 99 MedTech Drive, Innovation Zone

10:00 a.m.

MINUTES

ATTENDANCE

Committee Members: P. Zeliff, C. Kemp, M. Clattenburg (Video Conference*), C. Yunker
Staff: M. Masse, J. Krencik, L. Casey, L. Farrell (Video Conference), P. Kennett
Guests: R. Crossen (Town of Alabama Supervisor/Video Conference), M. Fitzgerald
(Phillips Lytle/Video Conference)
Absent:

* Attending from physical location identified in meeting notice as open to the public.

1. Call to Order / Enter Public Session

P. Zeliff called the meeting to order at 10:03 a.m. in the Innovation Zone.

1a. Executive Session

C. Yunker made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 10:04 a.m., for the following reasons:

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

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

1b. Re-Enter Public Session

C. Yunker made a motion to enter back into public session at 10:28 a.m., seconded by C. Kemp and approved by all.

2. Chairman's Report & Activities

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

2b. Minutes: February 1, 2023

C. Kemp made a motion to approve the January 11, 2023 minutes; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

- P. Zeliff - Yes
- C. Yunker - Yes
- M. Clattenburg – Yes (Video Conference*)
- C. Kemp - Yes

The item was approved as presented.

3. Discussions / Official Recommendations to the Board:

3a. Tree Purchases for Planting – In conjunction with the Town of Alabama Planning Board approval of the substation, they requested that trees be planted in the open space area to the north of the substation entrance road to provide more screening to the residents. These 7 acres are in the 300-foot buffer area that is zoned Ag/Res and cannot be developed. Through the tree purchase program at Genesee Soil & Water Conservation District we can purchase these trees at a discounted rate. We will work with local organizations to get them planted at no cost. This will also reduce the amount of open space that would require annual maintenance such as mowing.

Fund Commitment: \$4,473 from operational funds.

Board Action Request: Approval of payment of \$4,473 to Genesee Soil & Water Conservation District.

The Committee stated that the deer population is prevalent in the area that the trees would be planted. R. Crossen estimates that 50 – 60% of the trees would be lost due to consumption by the deer. The Committee recommends that staff and CC Environment and Planning find measures that protect the investment in trees before purchasing. Staff will discuss the Committee's concerns with CC Environment and Planning. Potential solutions will be presented at the Board meeting on Thursday, March 2.

This agenda item was tabled.

3b. Easement Approvals – In conjunction with the installation of the force main from the STAMP site to the direct discharge point at Oak Orchard Creek, there are several easements needed. We are seeking approval of the following easements:

1. Permanent Easement 6 - \$5,000
2. Permanent Easement 13 - \$500

Fund Commitment: \$5,500 from the \$33 million.

Board Action Request: Approval of payment of \$5,500 to the holders of the easement numbers identified above.

C. Yunker made a motion to recommend to the full Board the approval of the ROW easement payments not to exceed \$5,500 as presented; the motion was seconded by C. Kemp. Roll call resulted as follows:

- P. Zeliff - Yes
- C. Yunker - Yes
- M. Clattenburg – Yes (Video Conference*)
- C. Kemp - Yes

2b

4. Adjournment

As there was no further business, C. Yunker made a motion to adjourn at 10:36 a.m., seconded by C. Kemp and passed unanimously.

Phillips Lytle Business Park Association Formation

Discussion: Phillips Lytle has prepared a proposal to cover the scope of work for the formation of the Business Park Association for STAMP. This amount can be included in with the common area charges that companies at STAMP would pay their portion of based on acreage owned versus total developable acreage at the site.

Fund Commitment: Not to exceed \$35,000 to be paid out of operational funds.

Board Action Request: Recommend approval to the full Board of Phillips Lytle contract not to exceed \$35,000.



Phillips Lytle LLP

VIA EMAIL

PRIVILEGED & CONFIDENTIAL

March 16, 2023

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

Re: Proposed Supplement to Engagement Letter for STAMP Project -
Scope of Work for STAMP Business Park Association

Dear Mark:

Thank you very much for the opportunity to continue to assist the Genesee County Economic Development Center (and Genesee Gateway Local Development Corporation) with the STAMP Project. The purpose of this letter is to supplement our existing engagement letters (collectively, the "Engagement Letter") relating to STAMP. This supplement describes our proposed scope of work for creation of a STAMP business park association, and the estimated legal fees for same, as set forth on the attached "Updated Scope of Work". Upon receipt of your approval, we will bill you on a monthly basis for such work as fees are incurred, consistent with our existing engagement. As described on the attached "Updated Scope of Work", the estimated legal fees assume that litigation is not pursued by the property owners with respect to each easement taken.

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: Anthony J. Iacchetta, Esq.
Adam S. Walters, Esq.
Steve Hyde
Lezlie Farrell

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

Genesee County Economic Development Center

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

Date _____, 2023

ATTORNEYS AT LAW

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

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

3a

6

STAMP Project - 3/15/2023 Supplement to Phillips Lytle Engagement Letter
Additional "Updated Scope of Work"
STAMP Business Park Association

- I. STAMP Business Park Association: GCEDC is evaluating the formation of a business park association (the "Association") to handle de minimis property obligations for the STAMP project site, excluding the area to be used as a substation and the areas reserved for commercial/retail use (the "Site"). Formation of the Association would require compliance with New York General Obligations Law, including the submission of an application to the New York State Department of Law in compliance with Cooperative Policy Statement No. 7. The application will require the preparation of a declaration encumbering the Site and the negotiation of the declaration with existing or expected property owners including Plug Power and Edwards Vacuum (or their respective affiliates) and the entity that will manage the de minimis property obligations, NY Green, Inc. In addition, the application would include the preparation and/or marshalling of additional deliverables, including, but not limited to, statutorily required affidavits, a budget for the de minimis property obligations, along with documentation supporting the budget, deed(s) for the portions of the Site that will be maintained by NY Green, Inc., instrument survey maps for the Site and a legal description for the Site. Further, the application will need to be reviewed by the New York State Department of Law and may require revision and further negotiation based upon comments received from the New York State Law Department. Phillips Lytle will represent and assist GCEDC relative to the foregoing matter on an as needed basis.

Est. Legal Fees for formation of a STAMP Business Park Association: \$25,000 – \$30,000*

* the foregoing scope of work and fees assumes that no additional property owners or other entities will be involved in negotiation of the declaration. In addition, the scope of work does not include the costs of any deliverables that are to be provided by third parties. The foregoing also does not include any disbursements for filing and recording fees, which we estimate will be approximately \$1,100 - \$1,300.

Doc #10996270.2

Survey for Edwards Genesee Real Estate Transaction

Discussion: The GCEDC asked four companies for bids to survey the two parcels that are covered under the PSA and the Ground Lease agreement with Edwards:

The Instrument Survey Map shall show acreage inclusive of the rights of way, if any, show all recorded encumbrances, meet all of the Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys and be certified as an ALTA/NSPS survey. The Instrument Survey Map shall be certified to meet the standard requirements of the Genesee County Bar Association and, if applicable, meet the filing standards for subdivision as set forth by the responsible agency of the county in which the Property is located.

The PSA calls for Edwards to reimburse us for the survey up to \$2,500.

The results of the bids are as follows:

1. Bid of \$7,760 – Frandina Engineering and Land Surveying
2. Bid of \$6,500 - Welch & O'Donoghue
3. Townsend & Lamendola declined to bid

Fund Commitment: Not to exceed \$6,500 to Welch & O'Donoghue for STAMP survey work from operating funds.

Board Action Request: Approval of survey contract for STAMP.



PROPOSAL

March 20, 2023

Mark Masse
Genesee County Economic Development Center
99 MedTech Drive
Suite 106
Batavia NY 14020

Sent via email to: mmasse@gcedc.com

**RE: STAMP ALTA surveys for Parcels A and B on Project Kingfisher
Alabama, NY**

Dear Mr. Masse,

We have been preparing surveys at the STAMP site since its inception when the first parcels were assembled to create this world class industrial park. We are thoroughly familiar with every parcel and can be trusted to continue to provide accurate surveys as the project progresses.

Our quote is \$7760 for the ALTA surveys of Parcels A (50 acres) and B (30 acres), as outlined on the "STAMP Master Plan – Project Kingfisher" map dated October 2022.

- It is assumed that the new parcel boundaries will follow the new road along the eastern boundary and the wetland buffer will form the proposed southern boundary.
- It is assumed that the new installed utilities will be located as per the CAD files supplied by CPL. No underground utility investigation is included in this proposal.

This is a one-time ALTA survey of the current existing conditions. It is not an As-Built of any future, proposed construction.

Our quotes assume:

- NYS Prevailing wage rates good until June 30, 2023
- No snow cover
- ALTA 2021 Table A items 1,2,3,4,6,8,11b,13,18.
- Certification parties to be supplied by the lender.

Boundary Survey

- Deeds, easements, title reports and existing surveys to be provided, **prior** to our field survey
 - Owner or client to provide current deed with legal description
 - We do not do title searches
 - Complete copies of the most recent title commitment is required **PRIOR** to starting work



- No permitting or submission to municipal authorities
- Stakeout of corners (monuments) is included (if ALTA item #1 is checked)
- Zoning report to be provided (if ALTA Item #6 is checked)
- If easements are to be plotted, (if Item #18 is checked), the current title report must be provided **before** we start our mapping.

We must have these items PRIOR to starting the work, if not, extra hourly fees will be charged if received AFTER our survey is completed to cover the extra time to review the report and revise the survey.

TOPOGRAPHIC SURVEY

- Survey topographic limits - NOT INCLUDED
 - (only if #5 is checked) – NOT INCLUDED
- Utility locating Quality level C:
 - (only if #11 is checked)
 - Only visible utilities shall be located and inverts on accessible sewer structures shall be measured
 - No excavation, test pits or other methods of locating underground utilities are included.
 - We will request all available utility or record drawings within the survey limits thru an 811 DIGSAFELY request.
 - However, they only provide information within the public right of way limits of the road and will not cover private services outside of the right of way.
- Record Drawings: Please provide any available record drawings prior to our field survey to aid in the mapping.
- Standalone trees, over 6" in diameter, will be located, and the size will be noted
 - wooded lots will be delineated by an outline of the tree line
- If soil borings or wetland flags are to be located, they should be installed prior to our field survey. No extra trips are budgeted for this.
- We will use the vertical datum of NAVD88 and the horizontal datum of NAD83, unless an assumed or other datum is specified.

DELIVERABLES

- 1 combined drawing showing both parcels
- The control points will be listed in a table on the drawing
 - no tie sheets will be prepared, please advise if they are needed.
 - no permanent bench marks will be set, please advise if they are needed.
- CAD file (Version 2023) and digitally stamped PDF of completed survey
- 4 paper copies of final stamped survey, no mylars



FRANDINA ENGINEERING AND LAND SURVEYING, PC
 CIVIL ENGINEERS AND LAND SURVEYORS
 NYS Certified WBE and DBE Firm

1701 HERTEL AVENUE
 BUFFALO, NEW YORK 14216
 716.883.1299
www.FRANDINA.com

This quote includes the draft completed survey and then 1 round of comments from the lender. We have experienced comments from multiple lenders on ALTA surveys extending several months beyond our draft survey so we will address additional multiple comments at an hourly rate of \$145 for CAD revisions.

Thank you for requesting this quote from us and please sign below if you want to proceed. Please confirm receipt of this quote.

Very truly yours,

Rosanne Frandina, PE, LS
 President

CC: Proposals #3923

Accepted by:		
Printed Name and title	Signature	Date

Welch & O'Donoghue

Land Surveyors, P.C.

P.O. Box 297, 2077 Lakeville Road

Avon, New York 14414

Ph. (585) 226--2990

Fax 343-5810

Email - wosurvey@rochester.rr.com

March 22, 2023

Mark A. Masse, CPA
Genesee County Economic Development Center
99 MedTech Drive
Suite 106
Batavia, New York 14020

Re: Survey of Approximately 80 acres on Crosby Road – Town of Alabama, Genesee County, NY. Parcel "A" containing 50+- Acres and Parcel "B" containing 30+- Acres

Dear Mark,

Thank you for the opportunity to provide you with a quote for surveying services in connection with the above referenced project. Based on a review of the document you provided, I have the following proposal.

The cost to provide you with an ALTA survey and Subdivision Plan would be \$6,500.00

Per the ALTA Standards, I will need an up-to-date Commitment for Title Insurance to reference on the face of the ALTA Survey at some point before we can finalize the surveys. I would need six weeks to complete the work from the time of receiving notice to proceed.

If you have any questions or would like to discuss the details of the scope of the project, please contact me. The best number to reach me is my cell 585-455-0581.

Sincerely,
Kevin M. O'Donoghue

Kevin M. O'Donoghue, L.S.

General Services agreement with CC Environment and Planning

Discussion: As the GCEDC continues to work on permitting the STAMP site there are issues that arise in dealing with the DEC. This contract will allow the GCEDC to utilize CC Environment and Planning's historical knowledge of STAMP as well as their environmental knowledge to move through and respond to any issues/concerns that the DEC may bring up. This will also cover their oversight of the tree planting for north of the substation access road.

Fund Commitment: \$30,000 to be covered under the \$8 million.

Committee Action request: Recommend approval to the full Board the proposal for CC Environment and Planning.



CC Environment & Planning

Sheila S. Hess
Principal Ecologist/CEO

March 17, 2023

Genesee County Economic Development Center
Attn: Mark Masse, VPO
99 MedTech Drive, Suite 106
Batavia, NY 14020
Via Email: mmasse@gcedc.com

Re: STAMP General Environmental Services and Tree Planting Oversight

Dear Mark:

I am pleased to submit the following proposal for CC Environment & Planning to provide continued environmental review, planning, and technical support services toward development of STAMP (Science & Technology Advanced Manufacturing Park) in the Town of Alabama, Genesee County, NY. As a member of the STAMP Technical Team since its inception, CC Environment & Planning has the background, project expertise, and relationships to ensure efficient and effective delivery of the services described below.

This Letter Agreement (hereinafter referred to as "Agreement") is a proposal for consulting services by CC Environment & Planning (hereinafter named as "Contractor") for Genesee County Economic Development Center (hereinafter referred to as "Client"). This agreement shall commence upon signature. The following services and terms of the Agreement between the Client and Contractor are as follows:

Scope of Services

1. General Environmental Services: Includes assistance with on- and off-site design review, permitting, and SEQR; other environmental services, as necessary; and participation in STAMP Technical Team meetings.
2. Tree Planting Oversight: Provide coordination and oversight of volunteer crews for the planting of approximately 2,275 trees and installation of shelter tubes north of the substation access road; assist with planting, as necessary.

Schedule and Fee

Project activities will commence immediately upon receipt of a signed contract through December 2023. This contract is proposed as a time and materials with a not to exceed estimated budget of \$30,000. Invoices will be submitted monthly based on the 2023 rate sheet in Attachment A.

Conditions

The Contractor guarantees the quality of this work. Once this offer is accepted payments are to be made at times specified upon presentation of an invoice by Contractor. However, the Client and the Contractor may mutually decide to reschedule, postpone, or delay this project as business needs may suddenly dictate without penalty and without time limit, subject only to mutually agreeable time frames in the future.

Assumptions

The proposed schedule and fee for this project are based on the following assumptions:

1. The Client and the project team will provide appropriate, timely access to contacts and information and provide requested feedback necessary to complete the scope of services as scheduled.
2. All parties will make every effort to ensure timely answers to questions as related to the scope of services and progress.
3. All parties will inform each other immediately of any unforeseen changes, new developments, or other issues that affect and influence this project so necessary adjustments can be made.
4. Adjustments to the total fee based on unforeseen circumstances, an adjusted timeline, or additional services outside the stated scope will require negotiation and written consent of both parties.

ACCEPTANCE

If this proposal meets with your approval, please countersign below and return one copy for our records. If you have any questions, please contact me. We appreciate the opportunity to provide these services toward the continued development of STAMP.

Sincerely,



Sheila S. Hess, Principal Ecologist/CEO
CEO CC Environment & Planning

AUTHORIZATION

CC Environment & Planning is hereby authorized by Genesee County Economic Development Center to proceed with the services described herein in accordance with the terms and conditions proposed herein.

Genesee County Economic Development Center

Date



CC Environment & Planning

CC ENVIRONMENT & PLANNING
BILLING RATES
CALENDAR YEAR 2023

Employee Type	Hourly Rate
Principal Ecologist	\$185.00
Senior Environmental Scientist/Planner	\$150.00
Environmental Scientist/Planner	\$125.00
Graphic Designer/GIS Analyst	\$110.00
Environmental Technician	\$90.00
Office/Administrative Assistant	\$75.00
Travel/Materials	At Cost
Outside Contracted Services	Cost plus 10%

Access Agreement for construction parking area for Plug Power

Discussion: As part of their construction of their hydrogen facility, Plug Power would like to utilize the approximate 6.5 acre parcel directly to the south of their site as a construction parking area. Plug Power will be responsible for all DEC permits (except the Part 182) and compliance.

Fund Commitment: None.

Committee Action Request: Recommend approval of access agreement.

ACCESS AGREEMENT

THIS ACCESS AGREEMENT (this "Agreement") is made and entered into by and between **PLUG POWER** with an address of 6840 Crosby Road, Basom, New York 14013 ("Grantee"), and **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE ECONOMIC DEVELOPMENT CENTER**, with an address of 99 MedTech Drive, Suite 106, Batavia, New York 14020 ("Grantor").

WHEREAS, Grantee desires to enter onto certain property, (which is more particularly described in **Exhibit A** attached hereto, the "Property"), for temporary parking purposes as set forth herein, and Grantor has agreed to grant Grantee the right to enter thereon for the purposes stated herein.

NOW, THEREFORE, in consideration of the sum of a one time payment of \$10,000 paid by the Grantee to the Grantor, the parties hereto agree as follows:

1. Grant of Access/Use. Grantor hereby grants to Grantee and its employees, agents, consultants and contractors (collectively, "Grantee's Representatives") a non-exclusive, revocable license to enter upon the Property for the sole purpose of using it as temporary parking area for its construction workers ("Parking Project").
2. Term. This Agreement shall commence on the last date written below (the "Execution Date") and shall terminate upon the earlier of (a) that date that is two (2) years after the Execution Date; or (b) upon written notice for Grantee to Grantor that Grantee has removed the contents of its Parking Project and in fact all such contents have been removed and the Property has been returned to its original condition as existed immediately prior to the commencement of the Term of this Agreement as more fully set forth below.
3. Holdover. In the event Grantee holds over past the expiration of the Term of this Agreement the consideration therefor shall be \$500 per month.
4. Interference. Grantee and Grantee's Representatives shall utilize commercially reasonable efforts to minimize disruption to Grantor's use of the Property, and to prevent damage to the building, structures and other improvements on the Property or any personal property of Grantor and others located at, on or near the Property, if any.
5. Compliance with Laws. In using the Property for temporary storage, Grantee and Grantee's Representatives shall obtain all permits required under, and shall otherwise comply at all times with all laws, rules, regulation, orders, directives and requirements of any kind imposed by any federal, state or local government or any agency or instrumentality of any such government which are applicable to the Grantee's use of the Property, including without limitation any state or federal environmental laws and Grantee shall cause its employees, representatives, agents, contractors and subcontractors to so comply.
6. Part 182 and SEQR. The Grantor has performed a SEQR review of the proposed parking area and issued a Negative Declaration as a result. The Grantor is also in the process of

- securing a Part 182 permit to allow for year round use of the area for temporary parking and will handle all mitigation associated with that permit.
7. Third Party Access to woods. The Grantee will not construct, or cause, any impediment to the third party owner of the wooded area west of the proposed parking area. The Grantee will ensure that the third party has a clear access to the wooded area from Crosby Road.
 8. Indemnification. Grantee hereby assumes any and all risks associated with the use of the Property by Grantee, its employees, agents or representatives. Grantee hereby agrees to indemnify, defend and hold Grantor, its employees, agents and representatives harmless from and against any and all claims, demands, damages, expenses, losses, fees, costs, liabilities, obligations, penalties and/or suits or other actions (including reasonable attorneys and expert fees) arising in any way from the use of the Property by Grantee, or from any acts or omissions of Grantee, its agents, employees or representatives on the Property. Grantee shall promptly repair any damage to the Property caused by any Grantee Representatives and return the Property to as near as reasonably practicable to the condition it was in prior to the date of this Agreement including insuring that the property is free of trash and debris. All provisions contained herein relating to Grantee's obligations or insuring and indemnifying Grantor and restoring the Property shall survive any termination of this Agreement.
 9. Temporary fencing. If the Grantee installs fencing, or other security improvements, to the property they must remove all of those improvements at the termination of the lease. Any other disturbance caused to the property by the Grantee must be restored back to its original condition prior to termination of the lease.
 10. Insurance. Grantee shall, as a condition to the grant of the rights provided herein, comply with the insurance requirements set forth at Exhibit B attached hereto.
 11. Grantor Rules. Grantor shall have the right to establish and enforce reasonable rules and regulations concerning this Agreement and Grantee's use of the Property and compliance with said rules and regulations by Grantee.
 12. Assignment/Subletting. This Agreement is personal to Grantee and Grantee agrees not to sublease or assign it without the prior written consent of Grantor. Any purported assignment or sublease by Grantee shall be void *ab initio* and a basis for immediate termination of this Agreement.
 13. Binding Provisions. This Agreement is intended for the exclusive benefit of the parties hereto and shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.
 14. Governing Law. This Agreement shall be governed by the laws of the State of New York as to, including, without limitation, matters of validity, construction, effect and performance, but exclusive of its conflicts of laws provisions.
 15. Notices. All notices or other communications required or permitted under this Agreement shall be in writing and given by certified mail (return receipt requested) or by nationally recognized overnight courier service that regularly maintains records of items delivered.

Notices shall be sent to each party's address as set forth at the beginning of this Agreement, subject to change by notice under this section.

16. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall constitute one and the same instrument.
17. Early Termination. The Grantee acknowledges that the Grantor is actively marketing the property listed in Exhibit A as being available for purchase and development. The Grantee has the right to terminate this contract at any time with six (6) months written notice to the Grantee.
18. Entire Agreement. This Agreement constitutes the parties' entire agreement on this subject. No change, waiver or discharge is valid unless in writing and signed by the party against whom it is sought to be enforced.

[No further text on this page; Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Access Agreement to be executed as of the date written under their respective signatures.

GRANTEE:

By: _____

Name: _____

Title: _____

Date: _____

GRANTOR:

**GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER.**

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

Property Address: Part of Crosby Road, Basom, New York
Tax Account No.: Part of 10.-1-39.122

EXHIBIT B

INSURANCE REQUIREMENTS

Grantee shall maintain insurance protecting Grantee from any and all claims under applicable Workers' Compensation statutes, and shall also provide Employer's Liability coverage with a limit of liability not less than **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**.

Grantee shall maintain Commercial General Liability Insurance covering all claims of damages for all injuries, including death, and all claims on account of property damage, including Products/Completed Operations and Contractual Liability, of not less than **FIVE MILLION DOLLARS (\$5,000,000.00)** combined single limit for bodily injury ("BI") and property damage ("PD"). Such commercial general liability insurance may be carried through a combination of primary and excess liability coverage, shall be endorsed specifically to cover the contractual liability assumed in Section 8 of this Agreement, and shall provide that Grantor is covered as an additional insured.

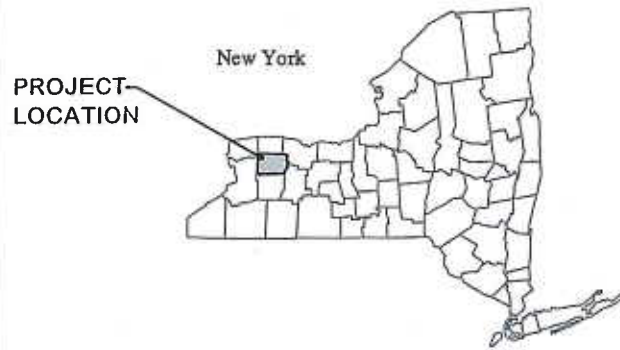
Grantee shall maintain Comprehensive Automobile Liability Insurance with respect to any and all owned, hired and non-owned vehicles to be used by Grantee or any agent, employee, representative or subcontractor of Grantee in connection with the use of property or any other real property owned by Grantor with a limit of liability not less than **TWO MILLION DOLLARS (\$2,000,000.00)** combined single limit BI and PD.

Upon execution of this Agreement by Grantee and prior to any access to the Property, Grantee shall provide Grantor with certificates from its insurers evidencing that the insurance required to be maintained under this **EXHIBIT B** is in place.

If Grantee contracts with any third party to perform any portion of the Activities on the Property or any other real property owned by Grantor authorized to be performed under this Agreement, Grantee shall be responsible for the acts of such third party and Grantee shall bear all responsibility for assuring the adequacy of any insurance carried by any such third party. The amount of such insurance carried by any third party shall not limit Grantee's liability hereunder.

The liability of Grantee shall not be limited to the insurance required as part of this Agreement.

GATEWAY PROJECT - PLUG POWER HYDROGEN PRODUCTION FACILITY EAST TEMPORARY LAYDOWN AREA & SOUTH TEMPORARY PARKING AREA CROSBY ROAD BASOM, GENESEE COUNTY, NEW YORK

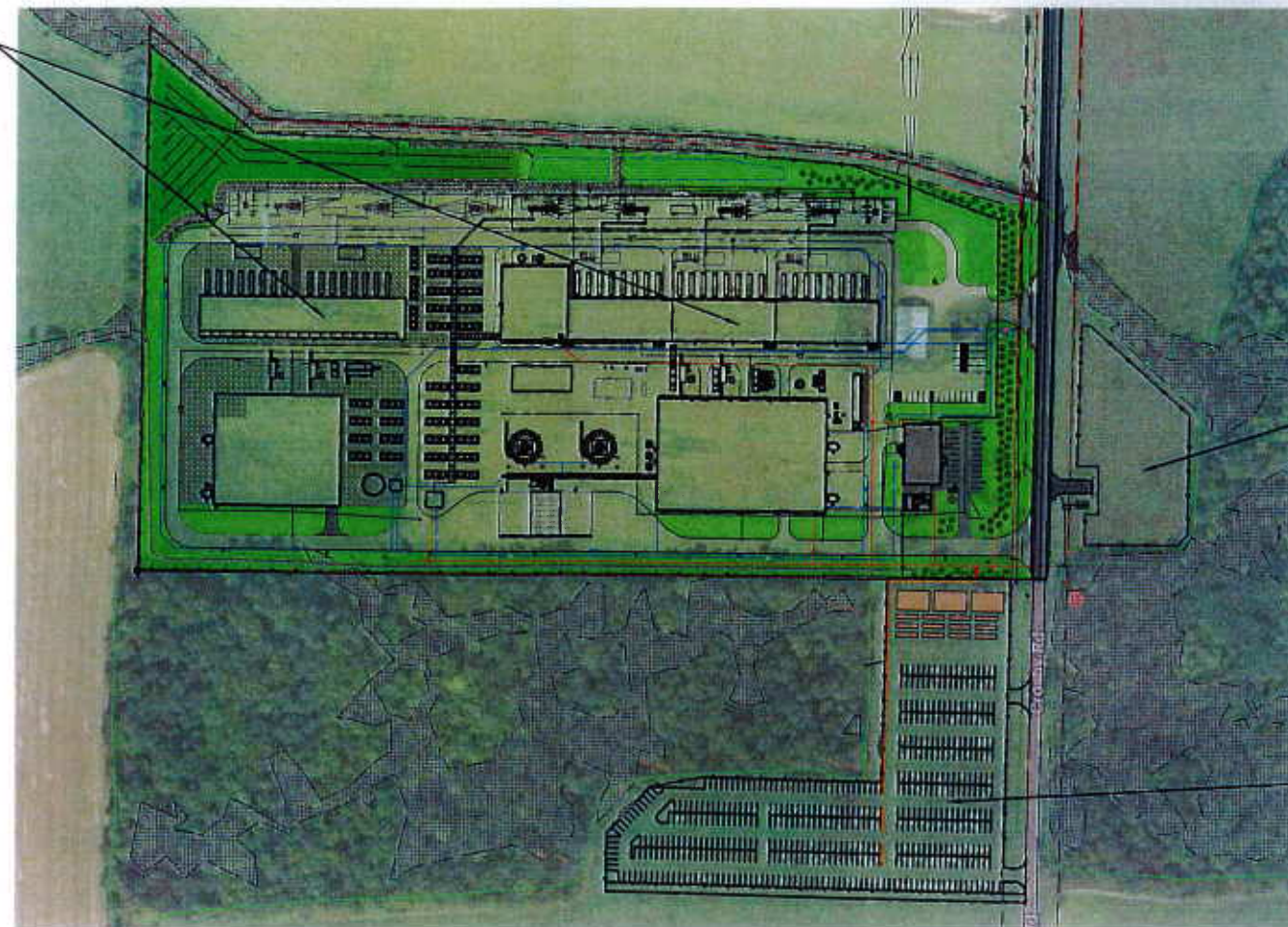


LOCATION MAP
NTS



LOCATION MAP W/ AERIAL
NTS

GATEWAY - PLUG POWER HYDROGEN PRODUCTION FACILITY SITE



EAST TEMPORARY LAYDOWN AREA PROJECT LOCATION

SOUTH TEMPORARY PARKING AREA PROJECT LOCATION

SITE LAYOUT W/ AERIAL
NTS

DRAWING INDEX	
SHEET TITLE	SHEET NO.
COVER SHEET	C-000
E. TEMP LAYDOWN AREA EXISTING CONDITIONS AND CLEARING PLAN	C-001
E. TEMP LAYDOWN AREA SITE PLAN	C-002
E. TEMP LAYDOWN AREA GRADING AND DRAINAGE PLAN / EROSION CONTROL PLAN	C-003
S. TEMP PARKING AREA EXISTING CONDITION AND CLEARING PLAN	C-004
S. TEMP PARKING AREA SITE PLAN	C-005
S. TEMP. PARKING AREA GRADING AND DRAINAGE PLAN	C-006
S. TEMP PARKING AREA EROSION CONTROL PLAN	C-007
DETAILS	C-008
E. TEMP LAYDOWN AREA RESTORATION PLAN	C-009
S. TEMP PARKING AREA RESTORATION PLAN	C-010



NO.	ISSUE DATE	REVISION DESCRIPTION
0	06-26-2022	ISSUED FOR BID AND PERMIT PURPOSES
1	10-05-2022	ISSUED FOR AGENCY REVIEW
2	03-17-2023	ADDED S. TEMP. PARKING AREA - ISSUED FOR AGENCY REVIEW

CLIENT:
PLUG POWER
888 ALBANY SHAKER ROAD
LATHAM, NY 12110

PROJECT:
GATEWAY PROJECT
EAST TEMPORARY LAYDOWN AREA /
SOUTH TEMPORARY PARKING AREA
6540 CROSBY ROAD
BASOM, NY 14013



INVICTUS
Civil Engineering, LLC

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Lewiston, NY 14092
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I hereby certify that I am a duly Licensed Professional Engineer in the State of New York, No. 120845, and I am the author of the design shown on this drawing. I am not aware of any other person who has prepared or assisted in the preparation of this drawing. I am not aware of any other person who has prepared or assisted in the preparation of this drawing. I am not aware of any other person who has prepared or assisted in the preparation of this drawing.

SHEET TITLE:
COVER SHEET

SHEET:
C-000

SHEET NO. 25-1013 DATE 09/30/2022