



**Meeting Agenda – STAMP Committee**  
 Genesee County Economic Development Center  
 Wednesday, March 26<sup>th</sup>, 2025 - 8:00 a.m.  
 Location: 99 MedTech Drive, Innovation Zone

Page #'s	Topic	Discussion Leader	Desired Outcome
	<b>1. Call to Order – Enter Public Session</b>	P. Zelif	
	1a. Executive Session Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons: <ol style="list-style-type: none"> <li>1. Discussions regarding proposed, pending or current litigation.</li> <li>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.</li> <li>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.</li> </ol> 1b. Enter Public Session	P. Zelif	
2-6	<b>2. Chairman's Report &amp; Activities</b>  2a. Agenda Additions / Deletions / Other Business  2b. Minutes: March 5, 2025	P. Zelif	Vote
7-10	<b>3. Discussions / Official Recommendations to the Board:</b> 3a. Town of Alabama Review Fees for Water Tank	M. Masse	Disc / Vote
11	3b. Escrow Agreement – Expense	M. Masse	Disc / Vote
12-14	3c. CRA NYPA Agreement	M. Masse	Disc / Vote
15-32	3d. PSA – Stream US Data Centers	M. Masse	Disc / Vote
	4. Adjournment	P. Zelif	Vote



**GCEDC STAMP Committee Meeting**  
**Wednesday, March 5, 2025**  
**Location: 99 MedTech Drive, Innovation Zone**  
**8:00 a.m.**

**MINUTES**

**ATTENDANCE**

Committee Members: C. Yunker, C. Kemp, M. Clattenburg, P. Zeliff  
Staff: M. Masse, E. Finch, C. Suozzi, J. Krencik, L. Casey, L. Farrell  
Guests: R. Ball (ESD), R. Crossen (Town of Alabama Supervisor), M. Fitzgerald (Phillips Lytle), A. Kaus (Video News Service), R. Gaenzle (Harris Beach), M. Landers (Genesee County Manager), P. Battaglia (GCEDC Board Member/Video Conference), C. Zinni (Batavia Resident)  
  
Absent:

**1. Call to Order / Enter Public Session**

P. Zeliff called the meeting to order at 8:00 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 8:01 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 a public body, but only when publicity would substantially affect the value thereof.

The motion was seconded by M. Clattenburg and approved by all members present.

**1b. Re-Enter Public Session**

C. Yunker made a motion to enter back into public session at 8:16 a.m., seconded by C. Kemp and approved by all.

**2. Chairman's Report & Activities**

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

**2b. Minutes: January 29, 2025 and February 5, 2025**

**M. Clattenburg made a motion to approve January 29, 2025 and February 5, 2025 minutes; the motion was seconded by C. Kemp. Roll call resulted as follows:**

DRAFT

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

The item was approved as presented.

**3. Discussions / Official Recommendations to the Board:**

**3a. Public Hearing Comments and Responses** – M. Masse stated that each company was required to prepare an Environmental Assessment Form (EAF) that was submitted to the GCEDC for review and comment. M. Masse clarified that the GCEDC did not prepare the EAFs for the companies, which he stated he believed was a misconception of the public. Based on the questions and feedback provided by the GCEDC, some of the companies revised their EAFs and resubmitted them, which is why there are multiple EAFs throughout the process. M. Masse stated that the GCEDC received a total of approximately 620 comments on all three projects. These were either emailed or presented at the public hearing. This number includes all comments received up to last Friday, February 28, 2025, when Board packets were sent out. Of those comments, 8 came from Genesee County residents, and another 10 were unknown as to where they live.

M. Masse addressed some of the recurring comments that were presented at the public hearing and/or submitted in writing.

First, there were several comments regarding the GCEDC and General Municipal Law requirements as it relates to public hearings and project approvals. Our legal counsel, Harris Beach, prepared a memo that states where those comments were incorrect and that the GCEDC was fully in compliance with General Municipal Law for the public hearing process. This memo was included with the meeting materials on pages 21 through 24.

Secondly, the Tonawanda Seneca Nation had submitted a comment letter with their concerns over the Alabama Fire Department's ability to deal with any emergencies at the proposed facility. The Town of Alabama has provided a letter stating that they have the equipment to deal with any potential emergencies with onsite diesel fuel storage.

Regarding retention ponds and onsite water, all designs will be completed in accordance with DEC regulations. All onsite water that leaves the property must leave at the same pace and quantity as it did prior to development. There will be natural filtration through the onsite ponds, raingardens and bioswales.

Related to noise levels, Stream will be within the noise limits that were previously established in the 2012 General Environmental Impact Study. Data centers were included in the original zoning change as an allowable use in 2012.

As for the discharge of water, Stream did not propose any discharge of heated water.

Regarding concerns over the power grid, the GCEDC spent five years completing studies with NYISO. The studies concluded that 600 MW of power can be drawn down and it will not affect the overall reliability of the power grid.

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## DRAFT

This project will not cause anyone's electricity and water rates to increase.

There are no wetlands being impacted by this project.

The GCEDC sends weekly emails to the Nation regarding updates on the STAMP site and potential projects. GCEDC has requested a meeting to discuss these projects since last September. The GCEDC will continue to update the Nation and keep them informed of potential projects at STAMP.

M. Masse stated that M. Fitzgerald would address comments related to the CLCPA and air emissions.

M. Fitzgerald stated the Climate Leadership and Community Protection Act (CLCPA) applies to state agencies. When the DEC grants permits and approvals for projects at STAMP, the CLCPA requirements will be applied. These requirements do not apply to the GCEDC. Nevertheless, of the three projects, the one that emits fewer greenhouse gas emissions is Project Double Reed or Stream, which staff has recommended.

Related to air emissions, Project Double Reed or Stream will use six onsite back-up generators as opposed to hundreds of generators for the other projects. Project Double Reed is likely to qualify for an air registration, which would be processed by the DEC as opposed to a Title V permit.

There were also comments made related to the Environmental Justice Citing law, which will impact SEQR reviews. Under SEQR, there is a required analysis of disadvantaged communities. M. Masse stated that the Tonawanda Seneca Nation objects the term "disadvantaged community". The Nation accepts the term as part of the state statute; however, the label was created by the state and the Nation has never been consulted on the actual label itself.

The Board was provided with copies of transcripts, copies of written comments, and a spreadsheet of all names. The GCEDC has addressed the concerns/objections made by the public.

C. Yunker stated that he attended the public hearings for the data centers, and he heard the objections firsthand. He also read the justifications provided by staff and counsel and felt that the concerns and objections have been adequately addressed.

**3b. Staff Recommendation Memo on Proposed Data Center Projects** – M. Masse stated that Project Double Reed was specifically chosen for the least environmental impacts. Of the three projects under consideration, Project Double Reed has demonstrated that it will have by far the lowest level of air emissions, thereby having the smallest impact on air quality. Each of the proposed projects will require the installation of back-up generators that are powered by diesel fuel. On-site diesel fuel storage will be limited to approximately 60,000 gallons for Project Double Reed, whereas diesel storage at the other projects would be more than ten times that level – 700,000 gallons for Project Hydroscale and 1.5 million gallons for Project Rampart. Minimizing on-site diesel fuel storage is directly responsive to the public comments received expressing concerns regarding spill concerns and fire safety.

Project Double Reed's facilities will have the lowest sound emission levels of the three projects, without the need for a mitigation buffer. It should be noted that while initial noise level estimates provided by Project Rampart were like those of Project Double Reed, subsequent updates have shown that both Rampart and Hydroscale's noise levels would exceed the STAMP GEIS thresholds and therefore, would require further study before any approvals could be issued.

## DRAFT

Landscaping proposals for Project Double Reed include vegetative screening that will help shield the building from view. The other two projects would be fully or partially visible when viewed from adjacent properties.

Project Double Reed has demonstrated that it has the experience and financial capabilities to execute, develop, and deliver its project in a timely manner. It is backed by a proven developer with an impressive client base and a multitude of similar projects under its belt. In addition, Project Double Reed is the only project that has a soft commitment from a Fortune 500 company to utilize 100% of the data center capacity.

Project Double Reed will pay over \$7,000,000 in sales tax and property taxes which will be allocated to Genesee County, the Town of Alabama, and its school district on an annual basis, subject to an escalator that will result in approximately \$10,000,000 being paid on an annual basis at the end of the PILOT for the project. It is anticipated that this revenue will have a critical impact on the County's ability to undertake vital updates to our infrastructure, thereby improving the health and welfare of all members of our community. In addition, Project Double Reed will pay \$50,000,000 (at a rate of \$200,000 per MW) to finance construction of the STAMP Substation and to reimburse GCEDC for costs associated with prior investment made to the same, while also paying GCEDC \$18,000,000 for the 60 acres it will purchase for the Project.

Although Project Rampart proposes the highest PILOT/Host Agreement payments of the three projects, our community members made it clear during the public hearings held for these projects that money is not and should not be the only factor taken into consideration during this process. Our directive is to determine which project, if any, is the best fit for Genesee County. Based upon the information provided to us by the three applicants, Project Double Reed will have the smallest environmental impact and will best address concerns voiced by the Nation with respect to visual and noise impacts, all while providing local benefits totaling over \$1,000,000,000 over the life of the PILOT. For these reasons, staff recommends that the GCEDC Board approve Project Double Reed.

GCEDC has undertaken an intensive, months' long review of all three competing applications. Following receipt of multiple applications for competing projects, GCEDC established a process for obtaining final design and information and a final and best offer from all three applicants. Specifically, the process included:

- One-on-one meetings with each applicant and the STAMP Tech Team to answer any applicant questions regarding the process, deliverables relating to final design packages, and related items.
- One-one-one meetings with the STAMP Committee to afford applicants the opportunity to discuss their best and final financial offers.
- Clear written correspondence at each step in the process.

After discussions with each of the applicants, the process was summarized in a December 11, 2024 letter to all applicants. No applicant objected to GCEDC's process as set forth in the December 11 letter.

Following review of all three projects, GCEDC staff prepared detailed summaries of the projects, including incentives requested and design details.

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**3c. SEQR Review Tech Team Memo** – M. Fitzgerald stated that the original Generic Environmental Impact Study (GEIS) was completed in 2012 and has been subsequently updated with each project at the STAMP site. The Board must analyze if the potential project fits with the thresholds that were laid out in the original GEIS. It is important to note that data centers were contemplated in the zone coding as well as the GEIS. M. Fitzgerald stated that once the Board determines that a project fits within the thresholds of the GIES, there is nothing more needed for SEQR. A consistency determination can be made, which would conclude the analysis. The STAMP Tech Team memo, included with the meeting materials, laid out the extensive documentation that was reviewed in connection with each project. The Environmental Assessment Form that each company completed included site plans, noise studies, preliminary stormwater management reports, air quality analysis and visual depictions. These submissions were reviewed by CMS Engineers and Clark Patterson Lee. Project Double Reed is the only project that meets all thresholds or consistency factors in the GEIS for STAMP.

P. Zeliff stated that the documentation has been voluminous, and the Committee has been an active participant in this process for many months, in addition to individual research conducted. The Committee is supportive of the recommendation made by staff.

**3d. Recommendation to Instruct Staff to Prepare SEQR and Approval Resolutions for Board Consideration** – M. Fitzgerald stated that if the Committee would like to move forward with Project Double Reed, then the committee should instruct staff to prepare a SEQR Resolution as well as a Final Resolution for incentives to be considered at the Board Meeting tomorrow, March 4, 2025.

P. Zeliff asked if the Committee had any other comments.

C. Yunker stated that he agrees with P. Zeliff's earlier comments about Project Double Reed and stated that the justifications outlined by counsel and staff are more than adequate.

M. Clattenburg stated that she was initially skeptical of any data center project. There were certain parameters that needed to be satisfied before she would support a data center project. M. Clattenburg stated that Project Double Reed imposes the least number of environmental impacts among the three projects analyzed. She also stated that she is vehemently opposed to any bitcoin project, which this project is *not*. Moreover, the benefits to the community are substantial. Project Double Reed will pay sales tax to the County for all power purchased, which can be used for infrastructure and other needs. Additionally, an infrastructure fund will be created to advance the County Water Project, which will help the health and safety of all residents. For these reasons, M. Clattenburg stated that she will support this project.

**C. Yunker made a motion to instruct staff to prepare the SEQR Resolution and Final Resolution for incentives to be added to the March 4, 2025 Board Agenda; the motion was seconded by C. Kemp. Roll call resulted as follows:**

P. Zeliff - Yes  
C. Yunker - Yes  
M. Clattenburg - Yes  
C. Kemp - Yes

**The item was approved as presented.**

**4. Adjournment**

As there was no further business, C. Yunker made a motion to adjourn at 8:38 a.m., seconded by C. Kemp and passed unanimously.

Mark Masse

**STAMP Committee**  
**March 26th, 2025**

**4a. Reimbursement to Town of Alabama for site plan review of on site water tank**

**Discussion:** The GCEDC had completed the site plan approval of design and engineering of the on site water storage tank. The Town of Alabama hired Wendel Engineering to review the plans and recommend any actions to the Planning Board along with their Special Project Manager. The Planning Board approved the project. The GCEDC has received the attached invoices in connection with this review in the amount of \$4,375.00.

**Fund commitment:** The \$4,375.00 is covered under the existing \$56 million NYESD grant.

**Committee action request:** Recommend approval to the full Board to pay \$4,375.00 to the Town of Alabama.





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PAUL A. BOYLAN  
(1902-1997)  
LAURENCE W. BOYLAN  
(RETIRED)

January 22, 2025

TOWN OF ALABAMA  
ROBERT CROSSEN, SUPERVISOR  
2218 JUDGE ROAD  
OAKFIELD, NY 14125

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**SERVICES FROM DECEMBER 6, 2024 THROUGH JANUARY 22, 2025**

To all services in connection with the GCEDC Fire Suppression Tank at the STAMP site, conferences with Supervisor Crossen, CEO of GCEDC Mark Masse, Town Engineer Rob Klavoon, attendance at December 9, 2024 Town Board meeting

5.5 hrs. @ \$350.00/hr.= \$1,925.00

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(RETIRED)

March 4, 2025

TOWN OF ALABAMA  
ROBERT CROSSEN, SUPERVISOR  
2218 JUDGE ROAD  
OAKFIELD, NY 14125

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SERVICES FROM JANUARY 23, 2025 THROUGH MARCH 4, 2025

To all services in connection with the GCEDC Fire Suppression Tank at the STAMP site, conferences with Supervisor Crossen, CEO of GCEDC Mark Masse, Town Engineer Rob Klavoon, attendance at February 10, 2024 Town Board meeting and February 17, 2025 Town Planning Board meeting.

7 hrs. @ \$350.00/hr.= \$2,450.00

**GCEDC**  
**STAMP Committee Report**  
**March 26, 2025**

**Escrow Agreements – Expenses**

The GCEDC Board required three data center projects that were looking at overlapping acreage to enter into agreements to cover the costs incurred by the GCEDC regarding their projects. The GCEDC Board approved the draft Escrow Agreement at the 10/31/24 Board Meeting. The agreement includes language stating - "Applicant shall reimburse invoices out of pocket consultants fees incurred in review of the Project".

At the 1/16/25 Board Meeting, the GCEDC Board approved payment of invoices to Phillips Lytle related to the data centers, not to exceed \$25,000 per company, as this was the amount that had been received from each company at that time. Per the agreements, funds are required to be replenished as necessary. Additional funds have been received from each company.

**Fund Commitment:** The total amount is to be determined. Total expenses would not exceed the total funds received from these companies under the Escrow Agreements.

**Board Action Request:** Recommend authorization to pay expenses related to the executed Escrow Agreements in place with three data center projects. Total expenses would not exceed the total funds received from these companies under the Escrow Agreements.

**Cost Reimbursement Agreement with NYPA**

**Discussion:** Attached is a First Amendment to a Cost Reimbursement Agreement (CRA) with NYPA for the review of the design and engineering for the substation at the STAMP site.

**Fund commitment:** Additional \$250,000 included in the \$56 million.

**Committee action request:** Recommend approval to sign CRA for an additional \$250,000.

**FIRST AMENDMENT**

This FIRST AMENDMENT to **Q#s 580 & 1484 GCEDC New Load Cost Reimbursement Agreement** (this "Amendment") is made and effective as of March \_\_, 2025 by the **New York Power Authority ("NYPA")** and **Genesee County economic Development Center ("GCEDC")** and referred to collectively as the "Parties."

**WITNESSETH:**

WHEREAS, the Q#s 580 & 1484 GCEDC New Load Cost Reimbursement Agreement ("CRA") between NYPA and GCEDC is effective as of August 29, 2024; and

WHEREAS, the Parties now wish to amend the CRA in certain respects as set forth below; and

WHEREAS, NYPA has been providing support pursuant to the terms of the CRA and has incurred costs exceeding the Initial Prepayment amount of Two-Hundred Fifty Thousand (\$250,000); and

WHEREAS, GCEDC agrees to pay NYPA for those additional costs by paying an Additional Prepayment of Two-Hundred Fifty Thousand (\$250,000); and

WHEREAS, the Parties desire that NYPA continue to provide support pursuant to the terms of the CRA.

NOW THEREFORE, in consideration of the foregoing, of mutual promises of the Parties, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Notwithstanding the provisions amended herein, all other terms and conditions of the Support Agreement shall survive and remain in full force and effect.
2. Paragraph 5(a) of the Support Agreement is deleted in its entirety and replaced with the following:
  - a. Developer provided NYPA with a prepayment of Two-Hundred Fifty Thousand (\$250,000.00) ("*Initial Prepayment*"). NYPA has incurred costs nearing or above that Initial Prepayment, and Developer has agreed to pay Two-Hundred Fifty Thousand (\$250,000.00) ("*Additional Prepayment*"), such amount representing NYPA's current estimate of Work to be performed by NYPA while NYPA and Developer negotiate a development agreement to complete the Project. NYPA shall invoice Developer for the Additional Prepayment; Customer shall pay such amount to Company within thirty (30) Days of the invoice date. Unless it elects to do so in its sole discretion, NYPA shall not be obligated to commence any Work under this Agreement prior to NYPA's receipt of the Additional Prepayment. NYPA will endeavor to provide notice to Developer if NYPA Reimbursable Costs are going to meet or exceed the combined total of the Initial Prepayment

and Additional Prepayment of Five Hundred Thousand (\$500,000). NYPA shall have the right to stop Work if Reimbursable Costs exceed Initial Prepayment and Additional Prepayment of \$500,000 until such time as the Parties execute an amendment to this Agreement or enter into a development agreement for completion of the Work.

This Amendment may be executed in one or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute only one legal instrument.

IN WITNESS WHEREOF, NYPA and GCEDC have caused this Amendment to be executed by their duly authorized representatives.

**Genesee County Economic Development Center**

**Power Authority of the State of New York**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Mark A. Masse

Name: Bruce Fardanesh

Title: President & CEO

Title: VP System Planning & Analysis

**AUTHORIZING RESOLUTION**  
*(Appointment of Counsel - Purchase and Sale Agreement  
Stream U.S. Data Centers, LLC Project)*

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, March 27, 2025.

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

Resolution No. 03/2025 - \_\_\_\_\_

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") AUTHORIZING THE APPOINTMENT OF COUNSEL REGARDING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT, A DEED, AND ANY RELATED DOCUMENTS IN CONNECTION THEREWITH WITH RESPECT TO THE PROJECT PROPOSED BY STREAM U.S. DATA CENTERS, LLC.

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

WHEREAS, among other property, the Agency owns approximately 60 acres of vacant land located at Crosby Road and Alleghany Road, in the Town of Alabama, Genesee County, New York consisting of part of tax parcel 10.-1-3, part of tax parcel 10.-1-4.112, and tax parcels 10.-1-8, 10.-1-10 and 10.-1-4.2, as may be subdivided (collectively, the "**Land**"); and

WHEREAS, **STREAM U.S. DATA CENTERS, LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has offered to purchase a portion of the Land (approximately 60 acres) in connection with a certain project to be undertaken by the Company thereon pursuant to the terms and conditions of that certain Purchase and Sale Agreement, the form of which is attached hereto as Exhibit A (the "**Purchase and Sale Agreement**"); and

WHEREAS, on January 16, 2025, the Agency adopted a resolution (the "Initial Resolution") pursuant to which the Agency (i) accepted the Application of the Company, (ii) directed that a public hearing be held, and (iii) described the forms of financial assistance being contemplated by the Agency with respect to the Project; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency, on March 6, 2025, made certain findings in compliance with SEQRA, such that no further compliance with SEQRA is required; and

WHEREAS, on March 6, 2025, the Agency adopted a resolution (the "**Final Resolution**") pursuant to which the Agency authorized (i) the disposition of the Land to the Company and (ii) the execution and delivery of the Purchase and Sale Agreement, along with related documents to the Company, among other things; and

WHEREAS, the Agency wishes to appoint Phillips Lytle LLP as counsel to the Agency with respect to the negotiation, execution, and delivery of the Purchase and Sale Agreement.

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

Section 1. Phillips Lytle LLP is hereby appointed as counsel to the Agency with respect to the negotiation, execution, and delivery of the Purchase and Sale Agreement.

Section 2. Phillips Lytle LLP shall be entitled to attorney fees from the Agency, exclusive of third party costs (i.e. recording costs, survey, etc.) not to exceed \$25,000.00 based upon time and billing and subject to no title, governmental approval and/or environmental issues and no litigation arising in connection with the Purchase and Sale Agreement and the transactions contemplated therein.

Section 3. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 4. These Resolutions shall take effect immediately upon adoption.



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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zeliff	[ ]	[ ]	[ ]	[ ]
Matthew Gray	[ ]	[ ]	[ ]	[ ]
Paul Battaglia	[ ]	[ ]	[ ]	[ ]
Craig Yunker	[ ]	[ ]	[ ]	[ ]
Kathleen Manne	[ ]	[ ]	[ ]	[ ]
Chandy Kemp	[ ]	[ ]	[ ]	[ ]
Marianne Clattenburg	[ ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

**SECRETARY'S CERTIFICATION**  
*(Appointment of Counsel - Purchase and Sale Agreement ,  
Stream U.S. Data Centers, LLC Project)*

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

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

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on March 27, 2025, with the original thereof on file in the offices of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this \_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Secretary

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**Exhibit A**

Form of Purchase and Sale Agreement

**PURCHASE AND SALE CONTRACT  
FOR VACANT LAND (the "Contract")**

Contract Date: \_\_\_\_\_, 2025 (the "Effective Date").

**PURCHASER(S):** **STREAM US Data Centers, LLC**, a New York State Limited Liability Company with an address at 2001 Ross Avenue, Dallas, TX 75201.

**SELLER(S):** **Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center**, a New York public benefit corporation with an address at 99 MedTech Drive, Batavia, NY 14020 (also referred to herein as the "GCIDA").

Purchaser offers to purchase the property described below from Seller, and on the Effective Date, Seller agrees to sell the property described below to Purchaser, on the following terms:

**1. PROPERTY DESCRIPTION:** Part of land owned by the Seller, approximate size of 60 acres located within the Genesee County Science, Technology and Advanced Manufacturing Park (the "STAMP Site") in the Town of Alabama, New York. The land included in the sale is depicted on the attached Exhibit "A" and consists of part of tax parcel 10.-1-3, part of tax parcel 10.-1-4.112, and tax parcels 10.-1-8, 10.-1-10 and 10.-1-4.2 (the "Land"). The actual acreage to be purchased by Purchaser from Seller shall be determined based on the Instrument Survey Map (as hereinafter defined). The "Property" consists of (a) the Land, (b) all improvements, fixtures and attachments located on the Land, if any, (c) all rights, privileges, easements and appurtenances related thereto, and (d) any permits, approvals or other rights relating to the ownership, use and operation of the Land and improvements, fixtures and attachments located on the Land.

**2. PRICE; AMOUNT AND HOW IT WILL BE PAID:** The purchase price to be paid by the Purchaser to the Seller (the "Purchase Price") shall be \$300,000 per acre, which shall be prorated for each 100<sup>th</sup> of a partial acre and will be determined based on the actual acreage Purchaser wishes to acquire as depicted on the Instrument Survey Map (as hereinafter defined).

The Purchaser shall receive a credit at closing for any deposit made hereunder. The balance of the Purchase Price, as adjusted pursuant to this Contract, shall be paid as follows: (Check and complete applicable provisions.)

- (A) By official bank draft, wire or certified check at closing.  
 (B) Other

**3. CONTINGENCIES:** Purchaser makes this offer subject to the contingencies set forth in this Section 3 of the Contract. Purchaser will have a period of one hundred and twenty (120) days after the Effective Date (the "Contingency Period") to inspect the Property and to confirm the contingencies set forth in Section 3 of the Contract. In the event that Purchaser has not satisfied or waived the contingencies prior to the expiration of the Contingency Period or is otherwise not satisfied with the condition of the Property, Purchaser may terminate this Contract by delivering written notice to Seller, whereby this Contract shall terminate and neither party shall have any further liability hereunder. Upon the expiration of the Contingency Period and provided that Purchaser did not terminate this Contract,

the contingencies shall be deemed waived by Purchaser and the parties shall proceed to Closing. Subject to Section 16 of the Contract, the Seller expressly agrees to allow Purchaser and/or its agents, consultants and employees with access to the Property for the purpose of any non-invasive testing activities the Purchaser determines are necessary during the Contingency Period.

**X (A) Development Approvals.** This offer and Purchaser's obligations are contingent upon Purchaser obtaining all requisite approvals and permits, exclusive of a building permit, from any governing body having jurisdiction with respect to the zoning, construction, development and use of the Property for the Purchaser's intended use of the Property in size, capacity and other characteristics satisfactory to Purchaser (the "Required Approvals"). Purchaser shall have until the last day of the Contingency Period, to obtain the Required Approvals in final, non-appealable form, upon conditions acceptable to the Purchaser, in its sole discretion. Purchaser and Seller agree to make joint application(s) during the Contingency Period and diligently pursue such application(s) in a cooperative manner but at Purchaser's sole cost and expense.

**X (B) Subdivision / Land Separation Approval.** This offer and Purchaser's obligations are contingent upon Seller obtaining all requisite approvals from any governing body having jurisdiction for subdivision or land separation approval of the Property, including approval of the Land to be designated as a separate tax parcel for real estate taxes which shall be effectuated upon the filing of the subdivision plat map (the "Subdivision Approval") at Closing (defined below). Purchaser and Seller agree to promptly make joint application for Subdivision Approval and diligently pursue the application. The final approval, upon conditions acceptable to Purchaser and Seller, shall be obtained on or before the last day of the Contingency Period.

**X (C) Financing Contingency.** This offer and Purchaser's obligations are subject to Purchaser obtaining and accepting financing suitable to its intended use, in its sole discretion, during the Contingency Period. For purposes of the Financing Contingency, acceptable financing shall include, but not be limited to assistance, if any, from the GCIDA for property tax abatement, mortgage tax exemption, sales tax exemption and such other governmental incentives and grants that the Purchaser determines are necessary, in its sole discretion.

**X (D) Environmental Contingency.** This Contract and Purchaser's obligations are expressly subject to the completion of an environmental audit to the satisfaction of the Purchaser, including a Phase I Environmental Site Assessment at Purchaser's expense, within the Contingency Period, and the results of such environmental audit being satisfactory in Purchaser's sole discretion. Seller shall provide Purchaser with copies of any documentation in its actual possession relating to the environmental conditions of the Property upon written request.

**X (F) Project Level Contingencies.**

This offer, and Purchaser's obligations, are subject to the Title Company agreeing to insure title to the Property, at Purchaser's sole cost and expense, in an amount not less than the value of the Property after completion of Purchaser's improvements thereon by standard ALTA Forms and at ordinary premiums, free and clear of all encumbrances and other matters other than Permitted Exceptions, in the name or Purchaser (or its designee) after delivery of the Deed, which title insurance policy shall contain such affirmative insurance and endorsements as Purchaser shall reasonably require.

This offer, and Purchaser's obligations, are subject to all representations and warranties of Seller in this Contract being true when made and as of the Closing Date.

This offer, and Purchaser's obligations, are subject to: (1) following the date of the Title Evidence, there shall have occurred no material change in (i) the marketability of title, (ii) title to the Property or survey matters not previously disclosed in the Title Evidence, or (iii) any other fact or condition which would, in Purchaser's reasonable judgment, prohibit or impair the development, maintenance and operation of the Property as a data center facility of a size, capacity and other characteristics satisfactory to Purchaser with direct, contiguous access (ingress and egress) from and to the Land and the adjacent public ways and necessary infrastructure; and (2) no reports or studies obtained by Purchaser disclosed the presence or threat of Hazardous Materials at, or in the vicinity of, the Property; and (3) Seller having performed all covenants and obligations required by this Contract to be performed by Seller on or prior to the Closing Date. Items (1)(iii) and (2) shall either be deemed either satisfied or waived by Purchaser on or before the expiration of the Contingency Period should the Purchaser fail to exercise its right to terminate this Contract prior thereto.

At expiration of the Contingency Period, the Deposit shall become non-refundable in the event Purchaser breaches its obligation to close but applicable to the Purchase Price in the event the transaction closes.

Purchaser may elect, in its sole and absolute discretion, but shall not be obligated to, to waive any contingencies set forth in this Contract.

4. **CLOSING DATE, PLACE, AND POSSESSION:** The transfer of title (the "Closing") shall take place by mail in escrow or at the offices of the Seller's attorney within thirty (30) days following the last day of the Contingency Period (the "Closing Date"). TIME IS OF THE ESSENCE AS TO PURCHASER'S OBLIGATION TO CLOSE ON OR BEFORE THE CLOSING DATE.

5. **TITLE AND RELATED DOCUMENTS:** Seller shall provide the following documents in connection with the sale:

- A. **Deed.** Seller will deliver to Purchaser at closing a properly signed and notarized Bargain and Sale Deed with covenant against grantor's acts and subject to trust fund provisions of Section 13 of the Lien Law and containing the restriction set forth in Section 19(A), in form and substance reasonably satisfactory to the parties.
- B. **Bill of Sale and General Assignment.** Seller will deliver to Purchaser at closing a properly signed bill of sale and general assignment instrument transferring all of Seller's right, title and interest in any Property other than the Land, in form and substance reasonably satisfactory to the parties.
- C. **Abstract, Bankruptcy and Tax Searches.** Seller will furnish and deliver to Purchaser or Purchaser's attorney at least thirty (30) calendar days from the Effective Date, at Seller's expense, fully guaranteed tax, title and United States Court Searches dated or re-dated after the date of this Contract with a local tax certificate for Town, Village or City and School District taxes, if any (collectively, with the Instrument Survey Map, the "Title Evidence"). Purchaser will pay for continuing such searches to and including the day of closing.
- D. **Instrument Survey Map.** The Seller shall furnish, at Purchaser's cost, an instrument survey of the Property being purchased and shall have markers placed on the angle points and pins on the corners (the "Instrument Survey Map"). Purchaser agrees and acknowledges that it shall reimburse

Seller for up to \$2,500.00 for the cost of the Instrument Survey Map incurred by Seller; provided, however, it is expressly agreed and acknowledged that in the event that the actual cost for the Instrument Survey Map is less than \$2,500.00, Purchaser shall only be obligated to reimburse Seller for the same. The Instrument Survey Map shall be prepared by a licensed surveyor and dated or re-dated after the date of this Contract. 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, and shall be furnished to the parties and their attorneys within forty-five (45) calendar days from the Effective Date of this Contract. 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.

- E. **Authority to Convey.** Seller will furnish and deliver to Purchaser or Purchaser's attorney evidence reasonably satisfactory to Purchaser and the Title Company of Seller's authority to convey the Property.
- F. **Other Closing Documents.** Seller shall deliver such other documents or items reasonably necessary to facilitate the Closing, including customary affidavits sufficient for the Title Company to delete any exceptions for parties in possession, mechanics' or materialmen's liens or other items which do not constitute Permitted Exceptions from Purchaser's title insurance policy.

6. **MARKETABILITY OF TITLE:**

- A. The Deed and other documents delivered by Seller shall be sufficient to convey good marketable title to the Property in fee simple, free and clear of all liens and encumbrances, except Permitted Exceptions (as defined below). Purchaser agrees to accept title to the Property subject to: (i) restrictive covenants of record common to the tract or subdivision of which the Property is a part, provided these restrictions have not been violated and would not be violated by the Purchaser's anticipated improvements or uses; (ii) the lien of current real estate taxes not due and payable; (iii) public utility easements along lot lines as long as Purchaser has determined those easements do not interfere with any buildings now on the Property or with any improvements Purchaser may construct; and (iv) any exception approved or accepted by Seller pursuant to Section 7 below (the "Permitted Exceptions"). Seller agrees to furnish any documents required by federal or state laws for transfer of title to the Property.
- B. PURCHASER ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS BEING CONVEYED BY SELLER IN "AS-IS" CONDITION, AND THAT PURCHASER IS BUYING THE PROPERTY BASED SOLELY ON PURCHASER'S KNOWLEDGE OF THE PROPERTY AND NOT IN RELIANCE ON ANY REPRESENTATION MADE BY SELLER OR ANY EMPLOYEE OR AGENT OF SELLER, EXCEPT AS MAY OTHERWISE BE EXPRESSLY PROVIDED IN THIS CONTRACT. SELLER EXPRESSLY DISCLAIMS, AND PURCHASER ACKNOWLEDGES SUCH DISCLAIMER OF ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING THE PROPERTY EXCEPT AS EXPRESSLY SET FORTH HEREIN, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES REGARDING THE PHYSICAL CONDITION OR ENVIRONMENTAL COMPLIANCE OF THE PROPERTY NOT EXPRESSLY SET FORTH HEREIN. THE REPRESENTATIONS AND DISCLAIMER CONTAINED IN THIS CONTRACT SHALL SURVIVE CLOSING.

7. **OBJECTION TO TITLE:** Purchaser shall have the right to raise objections to the status of title to the Property pursuant to the provisions of this Section by sending a written notice of such objections to Seller no later than ten (10) days prior to the end of the Contingency Period. Any matter to which Purchaser has a right to object and to which it does not timely object shall be deemed approved and accepted by Purchaser as a Permitted Exception. If Purchaser timely raises any objections to title to the Property, Purchaser shall notify Seller, in writing, of such objections no later than ten (10) days prior to the end of the Contingency Period. Seller shall notify Purchaser, in writing, within five (5) business days after Seller's receipt of Purchaser's title objections ("5-Day Period") stating (i) which objections Seller shall cure at or prior to the Closing and (ii) which objections Seller has elected not to cure (if it elects to do so in its sole and complete discretion). In the event Seller does not send a notification to Purchaser within the 5-Day Period, Seller shall be deemed to have elected not to cure any of the Purchaser's title objections. If in its written notice to Purchaser, Seller has elected not to cure any one (1) or more title objections raised by Purchaser or if Seller fails to respond within the 5-Day Period, then Purchaser may terminate this Contract by providing written notice to Seller on or before the last day of the Contingency Period. If Seller elects in its written notice to Purchaser within such 5-Day Period that Seller has elected to cure any one (1) or more of Purchaser's title objections but Seller fails to cure such title objections by the Closing Date, Purchaser may terminate this Contract on written notice to Seller. Upon any such termination, the Deposit shall be returned to Purchaser. If Purchaser fails to terminate this Contract pursuant to the terms of this Section, then Purchaser shall be deemed to have waived any such title objections.

8. **RECORDING COSTS, MORTGAGE TAX, TRANSFER TAXES AND CLOSING ADJUSTMENTS:** Purchaser will pay for the costs associated with this transaction including, but not limited to, the real property transfer tax and real property gains tax, if applicable, recording the deed, the mortgage, and for the entire mortgage tax subject to any terms contained in an incentive package, if any, from GCIDA. The parties agree to cooperate in the execution and timely filing of all necessary documentation to determine any real property transfer gains tax. The following, as applicable, will be prorated and adjusted between Seller and Purchaser as of the date of closing, excluding any delinquent items, interest and penalties: current taxes or special district fees computed on a fiscal year basis, rent payments, fuel oil on the Property, water charges, pure water charges, sewer charges, current common charges or assessments. Purchaser shall be obligated to pay Seller's attorneys fees not to exceed \$25,000.00 consistent with the Agreement for the Payment of Project Evaluation Expenses dated November 25, 2024 by and between Seller and Purchaser.

9. **RISK OF LOSS:** Risk of loss or damage to the Property by fire or other casualty until transfer of title shall be assumed by Seller. If damage to the Property by fire or such other casualty occurs prior to transfer, Purchaser may cancel this Contract without any further liability to Seller. If Purchaser does not cancel but elects to close, then Seller shall transfer to Purchaser any insurance proceeds, or Seller's claim to insurance proceeds payable for such damage.

10. **CONDEMNATION.** If, prior to the Closing Date, any portion of or interest in the Property shall be taken or is in the process of being taken by exercise of the power of eminent domain, or if any governmental authority notifies Seller prior to the Closing Date of its intent to take or acquire any portion of or interest in the Property (each a "Taking"): (a) Seller shall promptly give Purchaser written notice of such event; and (b) Purchaser shall have the option to terminate this Contract by providing notice to Seller to such effect on or before the date which is sixty (60) days from Seller's notice to



Purchaser of such Taking (and, if the Closing is scheduled to occur prior to the expiration of such sixty (60) day period, Purchaser shall have the right to an extension to the date that is sixty (60) days following Seller's notice to Purchaser of such Taking in order to make its election). If Purchaser elects to terminate in accordance with this Section, Escrow Agent shall return the Deposit to Purchaser, this Contract shall terminate, and neither Seller nor Purchaser shall have any recourse against the other (except to the extent such recourse arises in connection with a provision of this Contract which is intended to survive termination). If Purchaser does not timely notify Seller of its election to terminate this Contract in the event of a Taking, Purchaser shall purchase the Property and pay the Purchase Price, and Seller shall pay over or assign to Purchaser on delivery of the Deed, awards recovered or recoverable by Seller on account of such Taking.

**11. DEPOSIT TO SELLER:** Purchaser shall make a \$1,800,000.00 deposit ("Deposit") within two (2) business days of the Effective Date, to be held in escrow by Seller's attorney Phillips Lytle LLP, 28 East Main Street, Suite 1400, Rochester, New York 14614. Such Deposit shall be refundable until the expiration of the Contingency Period at which time it shall become non-refundable unless the Closing fails to occur for any reason other than the default of Purchaser and shall be credited against the Purchase Price at Closing. Should this Contract be terminated by Purchaser prior to the expiration of the Contingency Period, the Deposit shall be refunded to the Purchaser. In the event of Seller's default under this Contract, or if prior to Closing any one or more of Seller's representations or warranties are breached in any material respect, Purchaser may, in its sole and absolute discretion, elect to (i) terminate this Contract by giving Seller timely written notice of such election prior to or at Closing and recover the Deposit, (ii) pursue the remedy of specific performance, or (iii) waive said failure or breach and proceed to Closing. In the event of Purchaser's default under this Contract, or if prior to Closing any one or more of Purchaser's representations or warranties are breached in any material respect, Seller may terminate this Contract by giving Purchaser timely written notice of such election and recover the Deposit as liquidated damages.

By signing a copy of this Contract, Phillips Lytle LLP ("Escrow Agent") agrees to be bound by the terms of this Section 11. The Deposit shall be held by Escrow Agent and disbursed in accordance with the following terms:

(a) Escrow Agent shall hold the Deposit in an IOLA or non-interest bearing account at a federally insured bank located in Erie County or Monroe County, New York.

(b) Escrow Agent will deliver the Deposit to Seller or to Purchaser, as the case may be, under the following conditions:

(i) To Seller on the Closing Date if the Closing occurs, credited against the balance of the Purchase Price due from Purchaser to Seller at Closing;

(ii) Subject to the provisions of subparagraph (c) hereof, to Seller upon receipt of written demand therefor, such demand stating that Seller is entitled to the Deposit or any portion thereof pursuant to this Contract and specifically setting forth the facts and circumstances underlying the same;  
or

(iii) Subject to the provisions of subparagraph (c) hereof, to Purchaser upon receipt of written demand therefor, such demand stating that Purchaser is entitled to the Deposit or any portion thereof pursuant to this Contract and specifically setting forth the facts and circumstances underlying the same.

(c) Upon the filing of a written demand for Deposit by Purchaser or Seller pursuant to subsections (ii) or (iii) of subparagraph (b) of this Section, Escrow Agent shall promptly deliver or mail a copy thereof to the other party if the notice was not already provided to the other party by the demanding party. The other party shall have the right to object to the delivery of the Deposit by filing written notice to such objection with Escrow Agent at any time within ten (10) business days after the delivery of such copy to it, but not thereafter. Such notice shall set forth the basis for objecting to the delivery of the Deposit. Upon receipt of such notice, Escrow Agent shall promptly deliver or mail a copy thereof to the party who filed the written demand.

(d) In the event that Escrow Agent shall have received the notice of objection provided for in clause (c) above and within the time therein prescribed, Escrow Agent shall continue to hold the Deposit until (i) Escrow Agent receives written notice from Seller and Purchaser directing the disbursement of said Deposit, in which case, Escrow Agent shall then disburse said Deposit in accordance with said direction, or (ii) in the event of litigation or any other action between Seller and Purchaser, Escrow Agent shall deliver the Deposit to the court in which said litigation, or the court or other forum in which the action is pending, or (iii) Escrow Agent takes such affirmative steps as the Escrow Agent may, in the Escrow Agent's reasonable opinion, elect in order to terminate the Escrow Agent's duties including, but not limited to, deposit in court and an action for interpleader, the costs thereof to be borne by whichever of Seller or Purchaser is the losing party.

(e) Escrow Agent shall comply with all reporting requirements under the Internal Revenue Code of 1986, as amended, or any other legal requirement. Escrow Agent shall not charge a fee for its services as Escrow Agent. Notwithstanding the foregoing, in the event Escrow Agent shall deposit the Deposit in court in an action for interpleader, the non-prevailing party in such action shall be required to pay Escrow Agent's reasonable legal fees and court costs in connection with such action.

(f) Purchaser acknowledges that Phillips Lytle LLP is currently representing Seller as legal counsel in connection with the transactions contemplated by this Contract. Neither the agreement by the parties hereto that Phillips Lytle LLP shall act as Escrow Agent, nor any other term of this Contract, nor any other agreement or understanding between or among the parties hereto shall prevent or inhibit, or be construed or interpreted so as to prevent or inhibit, Phillips Lytle LLP from serving at any time as legal counsel to Seller or any agent or affiliate of Seller, whether in connection with this Contract or otherwise. Escrow Agent shall be responsible for holding, and disbursing the Escrow Funds pursuant to this Contract, but in no event shall it be liable for any exemplary or consequential damages hereunder when its acts, taken or omitted, are in good faith. The duties and responsibilities of Escrow Agent hereunder shall be determined solely by the express provisions of this Section and no other or further duties or responsibilities shall be implied. Escrow Agent shall not have any liability under, nor duty to inquire into the terms and provisions of any agreement or instructions, other than outlined in this Section.

**12. REAL ESTATE BROKER:** Seller and Purchaser acknowledge that no broker brought about this transaction. Seller and Purchaser warrant and represent that they have not dealt with any other brokers in connection with the sale embraced in this Contract and agree to indemnify and hold each other harmless from the claims of any other brokers for commissions.

**13. RESPONSIBILITY OF PERSONS UNDER THIS CONTRACT; ASSIGNABILITY:** If more than one person signs this Contract as Purchaser, each person and any party who takes over that person's legal position will be responsible for keeping the promises made by Purchaser in this Contract.

If more than one person signs this Contract as Seller, each person or any party who takes over that person's legal position, will be fully responsible for keeping the promises made by Seller. Purchaser shall not have the right to assign its rights, duties and obligations pursuant to this Contract or any of its rights hereunder without prior written consent of Seller, which consent shall not be unreasonably conditioned, withheld or delayed; provided, however, Purchaser shall be permitted to assign this Contract to an affiliate, parent or subsidiary of Purchaser herein ("Permitted Assigns") without obtaining Seller's consent so long as Purchaser named herein remains fully responsible for the performance of all of Purchaser's obligations under this Contract. No assignment shall be effective unless and until Purchaser provides Seller with a notice of assignment together with a copy of the applicable assignment and assumption agreement.

**14. ENTIRE CONTRACT:** This Contract when signed by both Purchaser and Seller will be the record of the complete agreement between Purchaser and Seller concerning the purchase of the Property. No verbal agreements or promises made by either Seller or Purchaser shall be binding.

**15. NOTICES.** All notices under this Contract shall be in writing and shall be deemed validly given if sent by certified mail or by overnight delivery via a commercial courier to the addresses specified below or if sent by e-mail to the e-mail address below by either party or its counsel. Any notice issued by or on behalf of Seller or Purchaser with respect to this Contract must also simultaneously be provided to the counsel for the receiving party to be effective as follows:

Seller:

Genesee County Industrial Development Agency d/b/a Genesee County Economic Development  
Center  
Attn: Mark A. Masse, President and CEO  
99 MedTech Drive  
Suite 106  
Batavia, New York 14020  
E-Mail: mmasse@gcedc.com

Counsel for Seller:

Phillips Lytle LLP  
Attn: Anthony J. Iacchetta, Esq.  
28 East Main Street  
Suite 1400  
Rochester, New York 14614  
E-mail: aiacchetta@phillipslytle.com

Purchaser:

Counsel for Purchaser:

Any notice so delivered shall be deemed given (i) when delivered or refused by hand during regular business hours, (ii) three (3) days after being sent by United States registered or certified mail, (iii) the next business day if sent by overnight courier service, or (iv) when sent if sent by e mail. Any notice given by a party to Escrow Agent shall be simultaneously given to the other party. Any notice given by a party to the other party relating to its entitlement to the Deposit shall be simultaneously given to the Escrow Agent. Any party may change its address(es) for receiving notices hereunder by delivering ten (10) days' prior written notice to Escrow Agent and the other party in accordance with this Section. Attorneys for either party may send notices on behalf of their respective clients.

**16. ACCESS TO PROPERTY/DUE DILIGENCE.** At any time after the Effective Date, Purchaser may inspect, survey, examine and/or test the Property and conduct such tests thereon as it deems appropriate, including any such non-invasive inspection, surveying, examination, and/or testing required to conduct such activities in support of locating the planned economic development project at the site to and including any activities necessary for the SEQR process, by agent or otherwise. Purchaser acknowledges and agrees that it shall have no right to conduct drilling, soil boring or other invasive testing on the Property without first obtaining Seller's prior written consent, which consent shall not be unreasonable withheld, conditioned or delayed, but shall be predicated upon Purchaser presenting Seller with a detailed map of the location of where such invasive testing shall be conducted, a description of the nature of such invasive testing and whatever environmental or engineering reports upon which Purchaser is basing its request for such drilling, soil boring or other invasive testing. Purchaser and/or its agents and employees shall have access to the Property at any reasonable time for purposes of making the foregoing inspections. Unless otherwise agreed to in writing between the Purchaser and Seller, Purchaser shall bear all costs associated with the foregoing inspections and associated activities of the Property performed or conducted by Purchaser, or at the request of Purchaser, by its agent(s) or otherwise. Purchaser agrees to indemnify, defend and hold Seller harmless from all third party actual suits, causes of action, losses, payments and expenses (including, but not limited to, reasonable attorneys' fees) arising from: (a) any personal injury or property damage to the extent caused by the negligence of Purchaser and/or its representatives, agents, employees and contractors during the inspection of the Property; and (b) any and all mechanics', laborers', materialmen's or other liens asserted against the Property resulting from Purchaser's foregoing inspections, which indemnity shall survive closing or the earlier termination of this Contract. Purchaser agrees to return the Property in as near as possible its condition prior to Purchaser's entry thereon. Additionally, prior to permitting any contractor, agent, person or entity to enter onto the Property for any purposes, Purchaser shall deliver to Seller evidence of commercial general liability insurance and automobile liability insurance coverage maintained by such contractor, agent, person or entity, with each such policy having a combined single limit per occurrence for personal injury and property damage of not less than Five Million Dollars (\$5,000,000); provided, however, no such certificates shall be required of any subcontractor of an environmental engineer and/or contractor which has provided Seller with the requisite certificate. All policies required by this section shall name Seller as an additional insured thereon. Each such insurance policy shall be maintained with an insurer that is reasonably acceptable to Seller, and the form and scope of coverage shall be reasonably acceptable to Seller. Each such contractor shall also maintain workers compensation insurance, if required by applicable law, in no less than the minimum statutory amount.

17. **INTEREST IN PROPERTY.** Seller represents and warrants that, except for Seller, there are no persons in possession or occupancy of the Property or any part thereof, nor are there any persons who have possessory rights in respect to the Property or any part thereof. Any possessions, occupancy and/or possessory rights of any persons other than Seller, shall be terminated by Seller on or prior to the Closing Date.

18. **BUSINESS PARK ASSOCIATION.** Purchaser acknowledges that Seller is in the process of forming a business park association that will oversee the maintenance and upkeep of certain common areas within the STAMP Site. Purchaser agrees to subject the Property to the business park association. Within five (5) days following the Effective Date of this Contract, Seller shall provide to Purchaser the latest draft of the Declaration of Covenants, Conditions, Restrictions and Easements for Genesee County Science, Technology and Advanced Manufacturing Park (the "Declaration"). Purchaser agrees to promptly (but no later than thirty (30) days following receipt of the Declaration) review and provide comments (if any) to the Declaration. If no comments are received within the thirty (30) day period, Purchaser shall be deemed to accept the Declaration in its then current form and shall not have the opportunity to provide further comments except as to revisions or additions made by other negotiating parties. The Declaration remains subject to the final review and approval of Seller, Plug Project Holding Co., LLC, Edwards Vacuum LLC and New York Green, Inc. Purchaser shall execute the Declaration once the same is finalized and agreed to by the parties. In the event that the Declaration is not finalized and approved prior to the Closing Date, Purchaser agrees to promptly execute the Declaration once the same is finalized and to subject the Property to the Declaration. The provisions of this Section shall survive the Closing and transfer of title.

19. **SUBSTATION AND POWER USAGE.**

A. **MW Limitation.** The parties acknowledge and agree that Purchaser or its designee shall be authorized to gain access to and use up to 250 MW of power from the substation constructed on the STAMP Site (the "STAMP Substation"). Under no circumstances shall Purchaser or its designee gain access to or use more than 250 MW of power from the STAMP Substation without the prior written consent of Seller, in Seller's sole and absolute discretion. The above MW limitation and the remedies contained in this Section shall run with the land and will be included as a restriction in the Deed delivered to Purchaser at the Closing. Seller and/or any other owner of any portion of the STAMP Site that is damaged by such breach shall be authorized to seek both monetary damages and injunctive relief if Seller breaches the MW limitation set forth herein. This Section shall survive the Closing and transfer of title.

B. **Substation Reimbursement.** Purchaser acknowledges that, as a condition of the sale of the Property, Purchaser is obligated to reimburse Seller for its proportionate share of the cost of constructing the STAMP Substation (the "Reimbursement"). Purchaser's proportionate share of the Reimbursement shall be based upon the MW allocated to each STAMP Substation user, which in the case of Purchaser is 250 MW. The cost per MW shall be determined by the total MW of electricity produced by the STAMP Substation against the funds needed in total to complete the STAMP Substation. Seller estimates this amount will be Two Hundred Thousand (\$200,000) per MW (the "Estimated Cost"). Upon final completion of the Substation, an accounting will be completed by Seller whereby a final price per MW will be determined (the "Accounting"). At Closing, Purchaser shall pay to Seller 50% percent of the Reimbursement based upon the Estimated Cost, which in the case of Purchaser shall be \$25,000,000.00 (the "Closing Payment"). Purchaser shall pay the remainder of the Reimbursement to Seller within thirty (30) days of written receipt from Seller of the Accounting, which shall identify the actual cost per MW, and a statement from

Seller identifying the amount remaining due from Purchaser after deduction of the Closing Payment. This Section shall survive the Closing and transfer of title.

20. **APPLICABLE LAW.** This Contract shall be governed by, and construed in accordance with, the laws of the State of New York. The parties further agree that for the purposes of litigation arising between the parties, venue shall be laid in Genesee County Supreme Court. The prevailing party shall be entitled to recover reasonable attorney fees and court costs. This provision shall survive the Closing and delivery of the Deed.

21. **COUNTERPARTS.** This Contract may be signed in several counterparts, and/or by execution of counterpart signature pages which may be attached to one or more counterpart, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument. Any counterpart to which is attached the signatures of all parties shall constitute an original of this Contract. Any counterpart delivered by electronic mail or facsimile transmission shall have the same force and effect as an original thereof.

22. **AUTHORITY.** Purchaser certifies to Seller that the execution, delivery and performance by Purchaser of this Contract and the performance of Purchaser of the transactions contemplated hereunder have been duly authorized by Purchaser and that the individual signing this Contract on behalf of Purchaser has the full authority of Purchaser to enter into this Contract. Seller certifies to Purchaser that the execution, delivery and performance by Seller of this Contract and the performance of the Seller of the transactions contemplated hereunder have been duly authorized by Seller and that the individual signing this Contract on behalf of Seller has the full authority of Seller to enter into this Contract.

23. **ENVIRONMENTAL.** Seller represents and warrants to the best of its actual knowledge without independent investigation or inquiry that (a) it has not received written notice that the Property is in violation of any federal, state, local or administrative agency ordinance, law, rule, regulation, order or requirement relating to environmental conditions or Hazardous Materials and (b) Seller has not generated, stored or disposed of any Hazardous Materials at the Property, and Seller has no actual knowledge of any previous or present generation, storage, disposal or existence of Hazardous Materials at the Property. As used herein, the term "Hazardous Materials" means each and every element, compound, chemical, mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision.

***[REMAINDER OF PAGE HAS BEEN LEFT INTENTIONALLY BLANK; SIGNATURES ON FOLLOWING PAGE]***

IN WITNESS WHEREOF, Seller and Purchaser have caused this Contract to be executed as of the Effective Date.

**GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**

By: \_\_\_\_\_  
Name: Mark A. Masse  
Title: President and CEO

**STREAM US Data Centers, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ESCROW AGENT:**

**PHILLIPS LYTTLE LLP**

By: \_\_\_\_\_  
Name: Anthony J. Iacchetta, Esq.  
Title: Partner

EXHIBIT "A"

Land

See attached.