



**Meeting Agenda – STAMP Committee**  
 Genesee County Economic Development Center  
 Wednesday, September 4, 2024 - 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. Zeliff	
	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. Zeliff	
2-6	<b>2. Chairman’s Report &amp; Activities</b>  2a. Agenda Additions / Deletions / Other Business  2b. Minutes: July 31, 2024	P. Zeliff	Vote
	<b>3. Discussions / Official Recommendations to the Board:</b>		
7-19	3a. Cost Reimbursement Agreement with National Grid	M. Masse	Disc / Vote
20-23	3b. Asset Purchase Agreement for Substation	M. Masse	Disc / Vote
24-28	3c. Amendment to Contract with CC Environment & Planning	M. Masse	Disc / Vote
	4. Adjournment	P. Zeliff	Vote



GCEDC STAMP Committee Meeting  
Wednesday, July 31, 2024  
Location: 99 MedTech Drive, Innovation Zone  
8:00 a.m.

MINUTES

ATTENDANCE

Committee Members: M. Clattenburg, C. Kemp, C. Yunker, P. Zelifff  
Staff: M. Masse, L. Farrell, P. Kennett, E. Finch, L. Casey, C. Suozzi  
Guests: R. Crossen (Town of Alabama Supervisor), M. Fitzgerald (Phillips Lytle), A. Kosa (CPL)  
Absent:

1. Call to Order / Enter Public Session

P. Zelifff 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 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 8:20 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: July 10, 2024**

**M. Clattenburg made a motion to approve the July 10, 2024, minutes; the motion was seconded by C. Yunker. Roll call resulted as follows:**

P. Zelifff - Yes  
C. Yunker - Yes

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M. Clattenburg – Yes  
C. Kemp - Yes

**The item was approved as presented.**

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

**3a. SEQR Approval Resolution** – M. Masse presented the updated SEQR Resolution that includes updates that were not originally contemplated under the original Environment Impact Study (EIS). These updates include the remainder of the Crosby Road rebuild, the potential roundabout of the intersection of Lewiston and Crosby, a water tank that will help serve fire suppression needs for Edwards, and a force main to handle sanitary sewer to Oakfield.

The GCEDC sent letters indicating their intent to maintain lead agency status to all interested and involved parties about a month ago. M. Fitzgerald stated that a letter was received from the Tonawanda Seneca Nation in response. No other agencies have replied to that letter, but the Nation indicated that they did not want the GCEDC to serve as lead agency for the review. M. Fitzgerald stated that the GCEDC would be the most able entity to implement any mitigation, control development and is the best agency to serve as lead agency. While we appreciate the correspondence, the recommendation would be that GCEDC proceed as the lead agency. The Resolution goes through all the relevant areas of environmental concern, and it concludes that there are no new significant adverse impacts from the proposed developments.

The resolution included with the meeting materials includes the timeline and record of previous action taken on SEQR by the GCEDC as Lead Agency. The resolution also describes the scope of the items analyzed under this SEQR review and outlined by M. Masse above.

Having considered the Environmental Information, STAMP Environmental Record, and having considered the relevant environmental impacts, associated with the Current Proposed STAMP Development, and having weighed and balanced the relevant impacts with social, economic and other considerations, the Agency recertifies that:

- (i) The requirements of 6 N.Y.C.R.R. Part 617 have been met; and
- (ii) Consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the Project remains one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

**Fund commitment:** None.

**Committee action request:** Recommend to the full Board that the Agency adopt by a majority vote the Negative Declaration (as defined in 6 N.Y.C.R.R. 617.2(y)), and is issued by the Agency pursuant to and in accordance with SEQRA, shall take effect immediately.

Resolution No. 08/2024 - 06

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER TO ISSUE A NEGATIVE DECLARATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT CONCERNING CERTAIN INFRASTRUCTURE MODIFICATION AT THE WESTERN NEW YORK SCIENCE & TECHNOLOGY ADVANCED MANUFACTURING PARK

**C. Kemp made a motion to recommend to the full Board the approval of the SEQR Approval Resolution #08/2024-06 as presented; the motion was seconded by C. Yunker. Roll call resulted as follows:**

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

**The item was approved as presented.**

**3b. CPL Contract Force Main to Oakfield** – The Edwards Genesee project needs the design, engineering and construction of certain onsite utilities to support their new facility at STAMP. These improvements will include roadways, water lines, an onsite water storage tank and wastewater lines.

**Fund Commitment:** \$1,961,925 from the \$56M NYS award or GCEDC matching funds.

**Committee Action Request:** Recommend approval of the proposal from Clark Patterson Lee to prepare the design, engineering and permitting for a force main to the Oakfield WWTF.

A. Kosa from CPL reviewed the contract in detail.

A. Kosa stated that for the Oakfield force main it is about 47,000 linear feet which is about 8 or 9 miles. This includes two pump stations. One main pump station would be on the STAMP site. The other would be strategically located halfway in between for future development within the town. CPL’s proposal includes all the surveys and necessary mapping to complete the project. There are permits and approvals to obtain which will require considerable coordination with the Town, County and DEC. Preliminary and final design is included. Also included is any coordination with the Village of Oakfield as there may be some flow monitoring involved. CPL is conceptually trying to figure out the best route within the village. For contractors, geotechnical is included. There is additional work to do for cultural research investigation. Portions of the route, due to the previous water main projects, have been covered but there are areas that were not investigated so time and costs for this have been included. The contract also includes bidding, construction administration and construction observation. CPL anticipates about 12 months of construction so the contract accounts for a full-time inspector to handle any construction challenges. Directional drilling is planned for all creek beds to hopefully avoid permitting issues as well.

**C. Yunker made a motion to recommend to the full Board the approval of the CPL Contract Force Main to Oakfield not to exceed \$1,961,925 as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:**

- P. Zeliff - Yes



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

**The item was approved as presented.**

**3c. CPL Contract for Onsite Water Tank** – The Edwards Genesee project needs the design, engineering and construction of certain onsite utilities to support their new facility at STAMP. These improvements will include roadways, water lines, an onsite water storage tank and wastewater lines.

**Fund Commitment:** \$316,470 from the \$56M NYS award or GCEDC matching funds.

**Committee Action Request:** Recommend approval of the proposal from Clark Patterson Lee to prepare the design, engineering, bid packages and construction inspection for a 500,000-gallon water storage tank to support Edwards, Plug and other tenants at the STAMP site.

A. Kosa from CPL reviewed the contract in detail and stated that the contract is for a 500,000-gallon water tank to support Edwards and other potential tenants that might need fire suppression at the STAMP site. The contract includes survey and mapping, preliminary and final design, permits and approvals, bidding, construction administration and construction observation for about a 20-week construction schedule. There will be an inspector there for multiple projects, so it will be included as part time.

P. Zelif asked if it would be advantageous to the County's water problems to have a flow through tank in the system. M. Masse stated that there have been conversations with the County, and they have long term plans for a tank at some point, but they are not there yet. The County also wanted to do an elevated Tank on Town property. M. Masse also stated that as part of the approval that Edwards got from the Town, their Certificate of Occupancy is contingent upon this tank, and they needed capacity of at least 120,000 gallons dedicated to Edwards. A. Kosa, as a follow-up to P. Zelif's question, also stated that internally that conversation has occurred. There are a couple of options but there is a meeting next week where it can be discussed again with the relevant parties.

**M. Clattenburg made a motion to recommend to the full Board that the approval of the CPL Contract for the Onsite Water Tank not exceed \$316,470 as presented; the motion was seconded by C. Kemp. Roll call resulted as follows:**

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

**The item was approved as presented.**

**3d. Cost Reimbursement Agreement with NYPA** – Included in the meeting materials is a Cost Reimbursement Agreement (CRA) with NYPA for the review of the design and engineering for the control house on the NYPA side of the substation at the STAMP site. Operating Funds will be used to reimburse ourselves as NYPA will not start any work until they receive funds.

**Fund commitment:** \$250,000 included in the \$56 million; however, operating funds will be used to pay NYPA now. The GCEDC will be reimbursed from the \$56M FAST NY grant when funds are available.

**Committee action request:** Recommend approval to sign CRA not to exceed \$ 250,000.

**C. Yunker made a motion to recommend to the full Board the approval of 1) the Cost Reimbursement Agreement and 2) payment to NYPA not to \$250,000 as presented; the motion was seconded by C. Kemp. Roll call resulted as follows:**

P. Zelif - 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 8:33 a.m., seconded by M. Clattenburg and passed unanimously.

**Cost Reimbursement Agreement with National Grid**

**Discussion:** Attached is a Cost Reimbursement Agreement (CRA) with National Grid for the construction in section of the low side of the substation at the STAMP site that will be dedicated over to National Grid upon completion.

**Fund commitment:** \$500,000 included in the \$56 million.

**Committee action request:** Recommend approval to sign CRA not to exceed \$500,000.

## COST REIMBURSEMENT AGREEMENT

**THIS AGREEMENT** ("*Agreement*") is made and entered into effective as of \_\_\_\_\_, 2024 (the "*Effective Date*"), by and between **NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID** (the "*Company*"), a corporation organized and existing under the laws of the State of New York; and **GENESSEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A ECONOMIC DEVELOPMENT CENTER** ("GCEDC" or "*Customer*"), a corporation organized and existing under the laws of the State of New York. Customer and Company may be referred to hereunder, individually, as a "*Party*" or, collectively, as the "*Parties*".

**WHEREAS**, Customer owns and operates property located at Crosby Road in Alabama, New York commonly referred to as the "*Science, Technology, and Advanced Manufacturing Park Site*" or "*STAMP Site*" (the "*Premise*"); and

**WHEREAS**, Company presently owns and operates certain electric distribution and transmission facilities on or near the STAMP Site pursuant to its franchise rights and other property rights; and

**WHEREAS**, Customer has requested that the Company provide remaining construction oversight of a 345kV to 115kV Load Substation located in the Town of Alabama (the "*Substation Low Side*") to support future Manufacturing Facilities located on the STAMP Site; and

**WHEREAS**, after construction of the Substation Low Side is complete, Company will take ownership of the Substation Low Side from Plug/GCEDC, subject to execution and to the terms and conditions of the Development Agreement; and

**WHEREAS**, to accommodate Customer's request, the Company must complete remaining field construction oversight of the Substation Low Side to ensure technical compliance with the National Grid standard and the Point of Interconnection ("*POI*") Station Technical Specifications, which is included in the STAMP Substation Development Agreement which the Parties are working in good faith to execute between the Parties and GCEDC (the "*Project*"); and

**WHEREAS**, the Project falls under Rule 22 of the Company's Electric tariff, PSC No. 220 - Electricity (the "*Tariff*"), as the same may be modified by the New York State Public Service Commission (the "*Commission*") and in effect from time to time; and

**WHEREAS**, the Parties entered into a Cost Reimbursement Agreement dated January 28, 2022 for Company to perform certain project management, engineering, and procurement work related to the Project (the "*January 2022 CRA 1*"); and

**WHEREAS**, the Parties entered into a Cost Reimbursement Agreement dated February 3, 2023 for Company to relocate certain facilities to accommodate the construction of the Second Circuit for the Project (the "*February 2023 CRA 2*"); and

**WHEREAS**, the Parties entered into a Cost Reimbursement Agreement dated May 31, 2023 where the Company will provide service lateral work, a comprehensive engineering review of the technical standard associated with Customer's substation, project management, administrative services, and obtain required approvals for the service lateral work (the "*CRA 3*"); and

**WHEREAS**, Company is willing to complete the Project subject to the terms and conditions herein;  
and

**WHEREAS**, the Company and Customer seek to enter into an agreement to facilitate completion of and payment for the Project; by taking over the remaining work necessary to finish construction of the STAMP 115kV Low Side Station which was previously work Company was going to perform with Plug Power Inc. and Yellowtail Energy, LLC; and



NOW, THEREFORE, in exchange for the covenants contained herein and intending to be legally bound thereby, the Parties hereby agree as follows:

**1. Scope of Work.** The Company shall construct the Project in accordance with the provisions contained in Attachment A ("Company Work") affixed hereto and incorporated into this Agreement as if fully set forth herein. All Company Work will be performed in accordance with the Tariff and all terms and conditions of the Tariff apply to the Project and to this Agreement.

Yellowtail's scope of work is set forth in Attachment B, which is affixed hereto and incorporated into this Agreement as if fully set forth herein (the "Customer Work").

**2. Payment and Remedies.** Customer agrees to pay Company all actual costs incurred by Company and its contractors in connection with the Project. For the purposes of this Agreement, Company's "actual costs" shall include all applicable overheads and adders as well as all applicable taxes. Upon execution of this Agreement, Customer shall provide Company with a payment of \$500,000 ("Initial Payment"). The Initial Payment represents Company's current estimate of Company costs to complete the Project. The Initial Payment represents Company's current estimate of Company costs to complete the Project.

The total actual costs related to the Project shall be determined by the Company upon the completion of the Project. Any undercharge will be reconciled and provided in a final bill to Customer ("Final Bill"). Customer shall pay the Final Bill within the timeline specified on the Final Bill. Any overcharge shall include a payment to Customer if Company's calculations reveal that a refund is due.

**3. Approvals.** It is understood that Company may be required to obtain regulatory and other third-party approvals and releases in connection with the Project. If so, this Agreement shall be subject to any such approvals and releases.

**4. Company Performance.** Company agrees to undertake and perform the Project in accordance with Good Utility Practice, provided however that nothing in this Agreement shall be regarded as a guarantee by Company that the Project will be completed by any specific date nor does this Agreement create or impose any liability on Company solely because such date is not achieved.

For the purposes of this Agreement, "Good Utility Practice" shall mean any of the predominant practices, methods, and acts engaged in or approved by the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region in which the Project is located during the relevant time period. Good Utility Practice shall include, but not be limited to, NERC, NPCC and ISO-N Y criteria, rules, guidelines, and standards, where applicable, and as they may be amended from time to time, including the rules, guidelines, and criteria of any successor organization to the foregoing entities. When applied to the STAMP Substation, the term Good Utility Practice shall include standards applicable to these facilities and systems operated by a utility in the local RTO or ISO region.

**5. Confidentiality.** Customers acknowledges and agrees that the provisions of this Agreement and all invoices and status reports provided by the Company to the Customer pursuant thereto are "Confidential Information". Customer shall not disclose the Confidential Information without the prior written consent of Company, which shall not be unreasonably withheld or delayed.

**6. Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without consideration of the conflict of laws principles thereof. The Parties expressly consent to the jurisdiction of the courts of the State of New York as to any issues related to this Agreement, including the validity, enforceability or interpretation hereof. This Agreement in no way

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precludes Customer from pursuing available remedies with the Commission.

**7. Assignment.** This Agreement, and its terms and conditions, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the non-assigning Party, which consent shall not be unreasonably withheld, conditioned or denied. The foregoing notwithstanding, Company may assign this Agreement to any Company affiliate without Customer's consent. Any attempted assignment that violates this Paragraph 7 is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof.

**8. Independent Contractor.** Each Party acknowledges and agrees that the relationship of the Parties hereto is that of independent contractors. None of the terms herein are intended to create nor will be construed to create an agency, partnership or employment relationship among or between the Parties. Neither Party, nor any its respective officers, members, or employees, will be deemed to be the agent, employee, or representative of the other Party.

**9. Third Party Beneficiaries Excluded.** Nothing in this Agreement is intended to create or shall create any legally enforceable rights in any person or entity other than Company and Customer.

**10. Entire Agreement.** This Agreement, Attachments A, B, C and D hereto, and the applicable provisions of Company's Tariff shall together constitute the complete agreement between Company and Customer with respect to construction of and payment for the Project to the extent related to Customer Work as described herein, and shall supersede and merge all prior discussions, whether written or oral and all prior understandings, whether express or implied between Customer and Company with respect to the Project to the extent related to Customer Work as described herein. This Agreement, or any provision hereof, cannot be modified or amended except in a writing signed by both Parties.

**11. Waiver.** No waiver shall be deemed to be made by either of the Parties to this Agreement of any of its rights under this Agreement unless such waiver shall be in writing signed by the Party to be bound thereby. Each waiver, if any, shall be a waiver only with respect to the specific instance or instances involved and shall in no way impair the rights of the Party bound thereby in any other respect at any other time.

**12. Severability.** To the extent that any provision of this Agreement shall be held to be invalid, illegal or unenforceable, it shall be modified to give as much effect to the original intent of such provision as is consistent with applicable law and without affecting the validity, legality or enforceability of the remaining provisions of the Agreement.

**13. Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each of which is deemed as the original, but all constitute one and the same instrument.

**14. Authority.** Each Party represents and warrants to the other that the signatory identified beneath its name below has the full authority to execute this Agreement on its behalf.

*{Signature page to follow.}*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date.

**NIAGARA MOHAWK POWER CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**GENESSEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**D/B/A ECONOMIC DEVELOPMENT CENTER**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LIST OF ATTACHMENTS**

Attachment A	Scope of Company Work
Attachment B	Scope of Customer Work
Attachment C	Environmental Due Diligence Procedure

## Attachment A

### Scope of Company Work

Company will perform the engineering, design, and construction services work listed below in connection with the Project in accordance with Company's standards, practices and procedures, and Company's engineering specifications.

- Provide project management functions which include scheduling, billing, attending, and coordinating project meetings between Company and customer teams.
- Conduct witness field testing and construction activities such as equipment operation, relays, RTUs, etc. in relation to the Substation Low Side.
- Attend construction meetings with the Customer's contractor(s).
- Provide legal recommendations regarding real estate transactions associated with the transfer of the Substation Low Side.
- Complete any other work related to or required to complete the Project or comply with the terms in this Agreement.

### Company Specifications

The following Company specifications for electric requirements identified under this Agreement are:

- ESB 750 – Electric System Bulletin 750
- ESB 751 – General Requirements Above 600 Volts Service
- ESB 752 – Service Above 15,000 Volts
- ESB 755 – Operation & Maintenance Requirements for Services Above 600 Volts
- Errata & Revisions for the Electrical System Bulletin 750 Series

COMPANY service bulletins are available at:

<https://www.nationalgridus.com/ProNet/Technical-Resources/Electric-Specifications>



## Attachment B

### Scope of Customer Work

Customer shall perform the following work in connection with this Agreement, as applicable:

- Customer shall grant to Company certain perpetual easements and rights for the construction, installation, testing, ownership, use, operation, and maintenance of the portions of the Project to be located on, over, across, and through Customer's property and Customer shall obtain all easements, access rights, rights-of-way, fee interests, or other rights in property necessary to accommodate Company's construction, installation, testing, ownership, use, operation, and maintenance in connection with the Project, as determined to Company's satisfaction in its sole discretion ("Real Property Rights"). Real Property Rights will be obtained and conveyed by Customer in accordance with the Company's Real Property Standards and in a form and substance satisfactory to Company in its sole discretion, if needed to complete the Project.
- In undertaking or performing any work required of it under the terms of this Agreement, including, without limitation, securing the Real Property Rights, Customer shall comply, at all times, with the Company's Environmental Due Diligence Procedure in Attachment C hereto, as may be updated, amended or revised from time to time. Customer shall coordinate with the Company's Environmental Department with respect to the Environmental Due Diligence Procedure. The Company's project manager will provide Customer with the name and contact information for an appropriate Company representative in the Company's Environmental Department, if needed to complete the Project.
- Customer shall identify a project manager who will be given the authority to coordinate all aspects of the Project between Customer and Company.
- Customer shall provide, or shall cause to be provided, complete and accurate information regarding the Premise, Project and the site(s) where Company Work is to be performed, including, without limitation, constraints, space requirements, underground or hidden facilities and structures, and hazardous substances that are known or become known by Customer during the term of the Project, and all applicable data, drawings and specifications.
- Customer shall provide, or shall cause to be provided, the Company and its contractors and representatives with adequate access to the Premise for the purpose of enabling Company to perform the Company Work as and when needed, and shall include adequate and secure parking for Company and contractor vehicles and equipment.
- Other responsibilities and access as deemed necessary by Company to facilitate performance of the Company Work under this Agreement. Customer shall cooperate to the fullest extent possible with Company as required to facilitate the Company Work.

## Attachment C

### **Environmental Due Diligence Procedure**

This document outlines the appropriate level of environmental due diligence that the Third Party may need to perform for an applicable transaction of properties with National Grid, if applicable. The work practices are consistent with those contained in ASTM International Standards and “All Appropriate Inquiry” federal legislation.

#### **1.0 DEFINITIONS**

*Property:* Third Party owned real property including, but not limited to, electrical, gas, generation, and LNG facilities; stations/substations; office buildings; operations centers; staging areas; vacant land.

*Property Transaction:* Property transactions are defined to include:

- The sale or lease of a National Grid-owned property to a Third Party;
- The termination of a lease for a property currently leased by National Grid from a Third Party;
- The purchase or lease by National Grid of a property from a Third Party; and,

#### **2.0 DUE DILIGENCE PROCESS**

All environmental due diligence activities in support of a property transaction must be coordinated by the Third Party with their Environmental Consultant. Due diligence should be conducted early in the property management process since the results of the due diligence could impact property management decisions. Due diligence must be conducted by an Environmental Consultant hired by the Third Party.

The level of due diligence should be commensurate with the transaction and its potential risk.

For property transactions involving property purchase or sale, the current ASTM Standard Practice for ESAs must be followed (ASTM E-1527-13) and all readily available information on the subject property’s environmental conditions must be obtained using the steps outlined in Sections 3.1 – 3.5, as appropriate. Additional activities may also be warranted based on the findings, including but not limited to, Phase II ESA (ASTM E 1903) activities.

For other types of transactions (e.g. leases), the level of due diligence required may vary. Appropriate components of the Phase I ESA process may be employed to complete the due diligence process for these types of transactions.

Documentation of environmental due diligence activities and associated recommendations by the Environmental Consultant must be prepared to support all due diligence activities, regardless of the type of transaction under consideration.

##### **2.1 Records Review**

Records that are readily available regarding current and historical site use and facility operations must be reviewed. Information that should be researched may include but not be limited to:

- Aerial photos

- Information regarding the property's historic use (Assessor's records, street directories, fire insurance maps, building department records, etc.)
- Oil-filled equipment management
- Use and storage of hazardous materials
- Former aboveground or underground storage tank locations
- Presence of dry wells, septic systems, or other underground injection structures
- A determination regarding whether an environmental deed restriction has been placed on the property
- Former pole storage locations
- Spill history/records
- Facility drawings
- Company archives
- Facility documents and reports (e.g., asbestos surveys)
- Deposition of soil and/or material that may have altered or impacted natural resources (e.g., filling in wetlands, altering the natural course of a protected stream)
- Other site-specific information.

## **2.2 Interviews with Knowledgeable Personnel**

Personnel knowledgeable regarding current and former facility operations, and other persons knowledgeable of the property (including local officials), must be interviewed.

## **2.3 Site Reconnaissance**

A site inspection must be conducted of the property. Items to be noted may include but not be limited to:

- Current site use
- Aboveground or underground storage tanks
- Stained soils or concrete
- Current location of oil-filled equipment storage and hazardous substances
- Unusual odors
- Groundwater monitoring wells
- Drywells, catch basins, drainage swales, sumps
- Soil/material stockpiles
- Waste storage areas
- Asbestos-containing materials
- Wastewater treatment
- Adjacent property usage
- Presence of hydraulic equipment
- Stressed vegetation.

## **2.4 Regulatory and Local Agency Review**

Federal and state environmental regulatory databases and lists must be reviewed to determine if the property is of "listed" status. In addition, local environmental regulatory agencies must be contacted to inquire about environmental conditions at the site.

## **2.5 Data Collection**

The collection of samples for environmental analysis is based on the results of a Phase I ESA. If recommended, a Phase II ESA shall be completed.

If possible, samples may be collected with the written permission of the current property owner.

Important factors to consider in addition to Phase I ESA results:

- Facilities with limited operational histories (e.g., office work, transmission line ROW) generally will not require the collection of samples.
- Facilities with current and/or former oil-filled equipment storage areas, waste management areas, gas liquid storage areas, or hazardous waste storage areas generally will require sample collection. The Environmental Consultant will determine the suite of parameters for laboratory analysis.
- Facilities with former locations of aboveground or underground storage tanks generally will require sample collection if insufficient documentation exists regarding the previous tank closure.
- Facilities with current and/or former utility equipment storage locations (e.g., pole storage, mercury regulator storage, oil-filled equipment storage) generally will require sample collection.

## **2.6 Due Diligence Documentation**

A written report of the results of the environmental due diligence must be developed under the direction of the Environmental Consultant. The report must state a conclusion regarding whether environmental contamination was observed or is potentially present at the facility. The written report must be distributed to National Grid.

## **3.0 DIVERGENCE FROM THE GUIDANCE CONTAINED IN THIS CHAPTER**

National Grid has the authority to approve divergence from the guidance contained in this Environmental Due Diligence Procedure. Such decisions will be made on a case-by-case basis taking into account site-specific conditions.

## **4.0 COORDINATION WITH PROSPECTIVE BUYERS OF NATIONAL GRID PROPERTIES**

Third Parties who are prospective buyers of National Grid property have the right to conduct, at their own expense, an environmental assessment. It is in the buyer's best interest to perform a due diligence inquiry in order to obtain exemption from liability under Federal and State Superfund laws. National Grid may share environmental information related to the subject property with the prospective buyer under a signed confidentiality agreement, however the buyer may not rely on this information solely in meeting their due diligence requirement. National Grid must receive a copy of the environmental assessment report, Phase I and Phase II from the prospective buyer. Any sharing or dissemination of information between parties should be coordinated by the National Grid Legal Department.

## **5.0 POST-TRANSACTION REQUIREMENTS**

Upon completion of the transaction, the Third Party must notify National Grid. The following information, as appropriate, should be provided:

- Date of real property closing;
- Name of new owner;

- Address of new owner; and,
- Copies of all reports and documents generated by the transaction





**Asset Purchase Agreement term sheet for STAMP substation related work**

**Discussion:** During the initial construction of the substation Plug (Yellowtail) had acquired certain component parts that have not been installed yet. These assets need to be transferred to the GCEDC in order for it to complete the substation construction in a manner that NYPA and National Grid would accept dedication of it upon completion. Following is the term sheet that will be used to draft the document.

**Fund Commitment:** None at this time. Any funds to pay for the "Reimbursement Amount" (as defined in the agreement) will come from other companies locating at STAMP and paying for their share of the substation on a per MW basis.

**Board Action Request:** Recommend approval to the full Board of the term sheet of the Asset Purchase Agreement. This would also approve the drafting of the agreement by legal counsel and authorizing signature of the agreement as long as it is in conformity with the terms approved in the attached agreement.

## CONFIDENTIAL NON-BINDING TERM SHEET

This non-binding term sheet (“Term Sheet”), dated as of August [REDACTED], 2024 (“Effective Date”), between Plug Power Inc. (“Plug Power”) and Genesee County Economic Development Center (“GCEDC”) and together with Plug Power, the “Parties”), constitutes a statement of the Parties’ present mutual intentions with respect to a proposed divesture of a project to finance the construction of a substation (“Project”) to be consummated through an Asset Purchase and Sale Agreement (the “APA”) between them (or their affiliates) as more fully set forth below (the “Transaction”). This Term Sheet does not contain all matters upon which agreement must be reached for the Transaction to be completed. This Term Sheet is an expression of intention only and, except as expressly set forth below, is not to be construed as a binding agreement on either Party.

Seller	Plug Power Inc. and Yellowtail Energy, LLC
Buyer	Genesee County Industrial Development Agency, D/B/A Genesee County Economic Development Center
The Substation Assets	The Substation Assets, to be more fully described in an exhibit in the APA.
The Substation Land	Any and all rights Seller has to the land under which the Substation facility sits shall be terminated.
Sales/Transfer Taxes	Buyer shall be responsible for all sales or transfer taxes associated with the APA.
Reserved Electricity	<p>Buyer shall reserve, and shall cause any subsequent owner of the Project, to reserve for Seller not less than 282MVA (composed of 265MW real power) of Substation Low Side electrical capacity for the Seller Facility, and may be purchased by the owner/operator of the Seller Facility at any time pursuant to separate agreement with National Grid (“<b>Reservation</b>”). Seller may elect to exercise any amount of the Reservation for a period of thirty-six (36) months from the Substantial Completion Date of the Substation. After the first 24 months, this power reservation will be under a Right of First Refusal (ROFR) for a term of 12 months. If the Buyer notifies the Seller of a request to purchase part or all of the 265 MW during the ROFR period that the Buyer is not using, the Buyer shall have 90 days to respond to said request with a formal relinquishment of the requested number of Megawatts or an action plan with an agreed upon time table to draw down the reserve power being solicited. Failure to respond within the 90 days would constitute a relinquishment of the requested number of Megawatts.</p> <p>The provisions of this Section shall survive the expiration of APA. This reservation of electrical capacity is intended to benefit the Seller Parcel and to bind such obligations as covenants running with the land.</p> <p>The ROFR on the Reservation may be extended automatically by Seller for an additional twelve (12) months by delivery to Buyer of written notice received at least thirty (30) days prior to the end of the initial thirty-six (36) month period.</p>
Reimbursement	An accounting will be completed by Buyer and Seller (the numbers of which shall be mutually agreed upon by the parties) to determine the expected MW of electricity produced by the Substation compared against the funds needed in total to complete the Substation and the funds that Seller spent (the “ <b>Accounting</b> ”). The Accounting shall include the costs

	<p>of the substation including documentation of payment. Both parties agree to reasonably cooperate with one another to complete the Accounting. Both parties agree that each power user of the substation will be responsible for the building cost of the substation as determined by the Accounting, and based upon a formula (construction cost per megawatt), which takes the total cost of substation construction and divides the cost by the 600 megawatts the substation will be built to transmit to achieve a cost per megawatt fee which pays back the construction of the substation by the cooperative of substation electricity users at STAMP. If the Accounting confirms an overpayment on substation construction costs by the Seller based on their 265 megawatts of reserved power in the construction cost per megawatt formula, Buyer shall reimburse Seller the overpayment amount (“<b>Reimbursement Amount</b>”) in accordance with the following: Within forty five (45) business days of the occurrence of any date upon which Buyer, or any subsequent owner of the Project, receives a payment from a third party for their per megawatt fee to access power from the substation r, Buyer shall pay, or caused to be paid, the Reimbursement Amount to Seller only for that proportional amount that the new user has agreed to offtake from the Project.</p> <p>When the Buyer receives any new payments from a third party to purchase a share of the megawatt allocation from the substation, a final true up will be calculated as part of the closing on this third party. The Seller will provide the additional interest cost charged on debt service for the funds expended up to the date of payment. That additional interest amount will be added to the Reimbursement Amount. Notwithstanding, Buyer shall only be obligated to reimburse Seller for the additional interest cost on the debt service attributable to the Reimbursement Amount. Seller shall provide documentary evidence that is satisfactory to Buyer evidencing the additional interest cost and proof of payment of same.</p> <p>If at any time during Seller’s Reservation of electrical capacity, Seller notifies Buyer in writing that Seller will no longer need some or all of its Reservation, then the parties shall adjust the Accounting (“the <b>Adjusted Accounting</b>”). If the Adjusted Accounting confirms an overpayment on substation constructions costs by the Seller based on their reservation of an amount less than 265 megawatts, then Buyer agrees to reimburse Seller as set forth in this subsection. For the avoidance of doubt, in the event Seller does not utilize any of its Reservation of electrical capacity, Seller shall nevertheless be reimbursed for allof its Substation construction costs as provided for above.</p>
Substation Warranties	<p>Substation Assets are to be sold in their current condition, “as-is, where-is.” No warranties regarding the condition of the assets are provided or implied by Seller.</p> <p>Buyer acknowledges and agrees that it is relying solely on its own due diligence and the warranties provided under the EPC Agreement with O’Connell for any representation concerning the Substation Assets.</p>
O’Connell EPC Agreement	<p>Either (i) Buyer, Seller, and O’Connell shall enter into an assignment and assumption agreement under which Buyer assumes all obligations pursuant to the Letters of Intent that have been previously entered into between Seller and O’Connell or (ii) Buyer and O’Connell enter into a</p>

	<p>separate construction agreement and the Letters of Intent between Seller and O'Connell are terminated.</p> <p>In either option, Seller shall be fully released from any and all liabilities, responsibilities, and obligations with respect to the EPC Agreement.</p>
Permits	<p>Seller to provide a copy of all Asset Permits, including architectural drawings stamped and "approved", obtained by Seller in order to construct, operate and own the Substation Assets. Seller to deliver/assign to extent allowable under law all such permits.</p>
Performance Obligation	<p>From and after the closing, Buyer shall use Best Efforts to develop, construct, and commission the Substation Facility to complete Final Completion, and to enter into binding commitments from customers who will operate within the STAMP Facility and offtake power from the Substation, provided that, for the avoidance of doubt, the total offtake from other customers shall not interfere with Seller's Reserved Capacity Amount.</p>
Progress Reports	<p>Buyer will provide progress reports to Seller in a form to be mutually agreed, which shall include, but not limited to, progress on achieving the estimated completion date.</p>
Risk of Loss	<p>Risk of loss or damage to the Substation Assets shall remain with Seller until the Effective Date. After the Effective Date. Buyer shall assume all risk of loss.</p>



## Amendment to General Services agreement with CC Environment and Planning

**Discussion:** In December of 2023 the GCEDC approved a contract with CC Environment and Planning for the following scope of work:

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. Force Main Frac-out Monitoring: Conduct required monitoring within the 2023 force main fracout areas in accordance with the monitoring plan approved by USFW

They are seeking an amendment to the agreement to cover the remainder of the costs associated with this scope of work.

**Fund Commitment:** \$22,500 for Task A to be covered under the \$56 million. There is no increase to Task B.

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



## CC Environment & Planning

Katlyn Hojnacki  
Senior Ecologist/Operations Manager

August 26, 2024

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

### Re: Amendment to STAMP General Environmental Services and Force Main Frac-out Monitoring

Dear Mark:

As discussed, this letter serves as a proposed amendment to the STAMP General Environmental Services and Force Main Frac-out Monitoring contract agreement executed on December 8, 2023, between CC Environment & Planning and Genesee County Economic Development Center (attached for reference).

The amendment reflects a proposal to extend the contract budget to allow work to continue under Task 1 – General Environmental Services for the remainder of 2024. Specific tasks include participation in bi-weekly Tech Team meetings, submittal of pre-construction notifications/joint permit applications for the Crosby Road culvert replacement and Big Water projects, finalization of the Land Management Plan, progress on the Orleans Force Main permit, assistance with Oakfield Force Main permitting, and other environmental review and/or permitting, as necessary. This task is further defined in the original agreement attached. An amended not to exceed budget for Task 1 is \$22,500. No budget changes are proposed for Task 2. This contract continues to be structured as a not to exceed and will be billed based on time and expenses incurred at the rate of the original agreement. This amendment letter does not otherwise alter the purpose or specific provisions of the original agreement.

### ACCEPTANCE

The signatures below indicate acceptance of this amendment as stated above.

Sincerely,

Katlyn Hojnacki, Senior Ecologist  
CC Environment & Planning

**For Genesee County Economic Development Center:**

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

**Enclosure**



## CC Environment & Planning

Katlyn Hojnacki  
*Senior Ecologist/Operations Manager*

November 29, 2023

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

### Re: STAMP General Environmental Services and Force Main Frac-out Monitoring

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. Force Main Frac-out Monitoring: Conduct required monitoring within the 2023 force main frac-out areas in accordance with the monitoring plan approved by USFWS.

#### Schedule and Fee

Project activities will commence immediately upon receipt of a signed contract through December 2024. This contract is proposed as a time and materials with a not to exceed estimated budget of \$49,300 broken out by tasks below. Invoices will be submitted monthly based on the 2024 rate sheet in Attachment A.

Task 1 – General Env. Services: \$30,800

Task 2 – Frac-out Monitoring: \$18,500

**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**

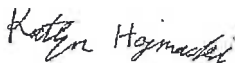
The proposed schedule and fee for this project are based on the following assumptions:

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,



Katlyn Hojnacki, Senior Ecologist  
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

12/8/23  
\_\_\_\_\_  
Date



## CC Environment & Planning

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### CC ENVIRONMENT & PLANNING BILLING RATES CALENDAR YEAR 2024

Employee Type	Hourly Rate
Principal Ecologist	\$185.00
Senior Environmental Scientist/Planner	\$160.00
Environmental Scientist/Planner	\$130.00
Graphic Designer/GIS Analyst	\$115.00
Environmental Technician	\$95.00
Office/Administrative Assistant	\$80.00
Travel/Materials	At Cost
Outside Contracted Services	Cost plus 10%