



Meeting Agenda – STAMP Committee
 Genesee County Economic Development Center
 Tuesday, June 29, 2021 - 10:30 a.m.
 Location: Innovation Zone Conference Room, Suite 107

Page #’s	Topic	Discussion Leader	Desired Outcome
	1. Call to Order – Enter Public Session	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: 1. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof. 1b. Enter Public Session	P. Zelif	
2-3	2. Chairman’s Report & Activities 2a. Agenda Additions / Deletions / Other Business 2b. Minutes: June 1, 2021	P. Zelif	Vote
4-6	3. Discussions / Official Recommendations to the Board: 3a. Appointment of Phillips Lytle as Special Counsel 3b. Phillips Lytle Contract Amendments (Land Use & Environmental Support)	M. Masse M. Masse	Disc / Vote Disc / Vote
	4. Adjournment	P. Zelif	Vote



GCEDC STAMP Committee Meeting

Tuesday, June 1, 2021

Location: Electronically

3:00 p.m.

MINUTES

ATTENDANCE

Committee Members:

C. Yunker, P. Zelff, A. Vanderhoof, M. Clattenburg

Staff:

M. Masse, L. Casey, J. Krencik, C. Suozzi, S. Hyde, P. Kennett,
L. Farrell

Guests:

Absent:

1. Call to Order / Enter Public Session

P. Zelff called the meeting to order at 3:00 p.m. via conference call / video conference.

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

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 3:01 p.m., for the following reasons:

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

The motion was seconded by A. Vanderhoof and approved by all members present.

1b. Re-Enter Public Session

A. Vanderhoof made a motion to enter back into public session at 3:29 p.m., seconded by C. Yunker and approved by all.

2. Chairman's Report & Activities

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

2b. Minutes: May 4, 2021

M. Clattenburg made a motion to approve the May 4, 2021 minutes; the motion was seconded by A. Vanderhoof. Roll call resulted as follows:

- P. Zelif - Yes
- C. Yunker - Yes
- A. Vanderhoof - Yes
- M. Clattenburg - Yes

The item was approved as presented.

3. Discussions / Official Recommendations to the Board:

3a. Appraisal Contract for ROW through US Fish and Wildlife Refuge – The GCEDC asked five companies for bids to prepare the appraisal for the Right of Way (ROW) for the force main through the wildlife refuge as well as the timeline to complete the work. The appraisal needs to be completed to the standards set forth by US Fish and Wildlife Service (USFWS). The results of the bids are as follows:

1. \$15,000 – KLW Appraisal Group, Inc. – 60 days
2. \$35,000 – Thurston, Casale & Ryan, LLC 30-45 days
3. Declined to bid – Emminger, Newton, Pigeon & Maygar, Inc.
4. No response – Edmunds Enterprises
5. No response – CNY Pomeroy Appraisers, Inc.

The appraisers who were solicited had been preapproved by the US Department of the Interior as qualified to complete this work as listed in the instruction letter that was included with the meeting materials. Our current construction timeline for working in the refuge could start no sooner than July 15th through the end of the year. USFWS has made it abundantly clear that there is no way to begin work in the refuge without the permit. They cannot issue the permit without the appraisal being completed. In this case having the appraisal completed in as short a time as possible, even costing more than others, will help save money in the long run by allowing the contractor to begin work as close to the July 15th date as possible.

Fund commitment: Not to exceed \$35,000 to Thurston, Casale & Ryan, LLC to be covered under the \$33 million grant.

C. Yunker made a motion to recommend to the full Board the approval of the appraisal contract to Thurston, Casale, & Ryan, LLC, not to exceed \$35,000; the motion was seconded by A.

Vanderhoof. Roll call resulted as follows:

- P. Zelif - Yes
- C. Yunker - Yes
- A. Vanderhoof- Yes
- M. Clattenburg- Yes

The item was approved as presented.

4. Adjournment

As there was no further business, C. Yunker made a motion to adjourn at 3:42 p.m., seconded by A. Vanderhoof and passed unanimously.

Mark Masse

**STAMP Committee
June 29, 2021**

\$8 million approval:

Phillips Lytle 2021 contract for STAMP related work

Discussion: Phillips Lytle has prepared a proposal to cover the scope of work for 2021 as it relates to Tech Team support for the off site sewer permitting and wetland permitting, the wastewater treatment facility permitting, and force main installation. The last contract that was approved for Phillips Lytle for this work was March 2, 2019.

Fund Commitment: Not to exceed \$110,000 to be included in the \$8 million.

Board Action Request: Recommend approval to the full Board of Phillips Lytle contract not to exceed \$110,000.

Phillips Lytle additional substation support

Discussion: The GCEDC has requested a proposal from Phillips Lytle to continue its assistance with the design, permitting, planning, structuring and negotiation of agreements for the development, operation and financing for the 345 kV to 115 kV substation that would service the STAMP site.

Fund Commitment: Increase in the contract from \$40,000 to not to exceed \$185,000 to be included in the \$8 million.

Board Action Request: Recommend approval to the full Board of Phillips Lytle contract not to exceed \$185,000, which is an increase of \$145,000 from the original approval.



Phillips Lytle LLP

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

June 24, 2021

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

Dear Steve:

Thank you very much for the opportunity to continue to assist the Genesee County Economic Development Center (and Genesee Gateway Local Development Corporation) with the STAMP Project. The purpose of this letter is to supplement our existing engagement letters (collectively, the "Engagement Letter") relating to STAMP. This supplement describes generally the work we have performed for STAMP Tech Team Project Support and STAMP Substation support, PLUS our anticipated work to be performed for STAMP Tech Team Project Support through end of this calendar year and our anticipated work for STAMP Substation Support through closing of the proposed transfer of the "high side" and the "low side" of the STAMP Substation immediately following completion of construction of the STAMP Substation by Plug Power. A description of the work performed to date and anticipated to be performed, and the estimated legal fees for same, are set forth on the attached "Updated Scope of Work". Upon receipt of your approval, we will bill you on a monthly basis for such work as fees are incurred, consistent with our existing engagement.

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

Sincerely,

Phillips Lytle LLP

By

Douglas W. Dimitroff

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

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

Genesee County Economic Development Center

By _____
Steven G. Hyde, President and CEO

Date _____, 2021

ATTORNEYS AT LAW

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5

**STAMP Project - 6/24/2021 Supplement to Phillips Lytle Engagement Letter
Additional "Updated Scope of Work"
STAMP Substation Support and STAMP Tech Team Project Support**

1. **Additional STAMP Substation Support:** Phillips Lytle will represent and assist GCEDC in connection with the design, permitting, planning, structuring and negotiation of agreements for the development, operation and financing for an electric substation for STAMP to support the proposed Project Gateway project and potentially other projects at STAMP. Tasks include determining an appropriate legal and regulatory structure for ownership and operation of the substation (not including, if necessary, pursuing PSC approvals for same), but including the closings of transfers of substation land to NYPA and National Grid to occur simultaneously with the transfers by Plug Power/project developer of the high side and low side of the completed substation to NYPA and National Grid, respectively.

Est. Legal Fees: \$185,000*

* if the legal structure of the proposed STAMP Substation master development agreement (and various ancillary documents) among the parties are modified substantially from their current form, and/or the NYS Department of Public Service determines or advises that PSC approvals will be needed for Plug Power/project developer and/or GCEDC to construct and then transfer the STAMP substation to National Grid and NYPA, then the foregoing budget amount may need to be increased. In the event PL anticipates that the fees will be greater than the foregoing amount, PL will work with GCEDC to update the fees estimate promptly. It is expected that GCEDC will arrange to have Plug Power/project developer reimburse GCEDC for all or a portion of the legal fees once Plug Power/project developer commits to proceeding with its project. The foregoing scope and fees do not include assistance with any formal challenges to or litigation regarding the proposed substation deal structure, and the estimated legal fees presume this scope of work will be completed prior to March 31, 2023.

2. **Additional STAMP Tech Team Support:** GCEDC is involved in various review and approval processes with governmental agencies or entities that are expected to be active for the remainder of 2021, including the U.S. Army Corps of Engineers (wetland permitting), the Tonawanda Seneca Nation (TCP review/Cultural resource consultation), the Niagara County Water District (water infrastructure), and the New York State Department of Environmental Conservation (on-site Waste Water Treatment Plant/Force Main installation). Phillips Lytle will represent and assist GCEDC relative to design, permitting, planning relating to the foregoing matters on an as needed basis. Phillips Lytle will also represent and assist GCEDC relative to local (Town) permitting approvals for the STAMP Substation.

Est. Legal Fees: \$110,000*

* the foregoing scope of work and fees do not include assistance with any formal challenges to or litigation relating to the STAMP Site; and the estimated legal fees cover this scope of work through December 31, 2021.