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Third Supplemental Final Environmental Impact  
Statement (TSDEIS)  
Luther Forest Technology Campus  
Amendments to PDD  
Towns of Malta & Stillwater  
Saratoga County, New York

*Prepared for:*



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**THIRD SUPPLEMENTAL FINAL ENVIRONMENTAL IMPACT STATEMENT**  
**Proposed PDD Amendment**  
**Luther Forest Technology Campus**  
**Towns of Malta & Stillwater, Saratoga County, New York**

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# PROPOSED PDD AMENDMENTS

## 1.0 EXECUTIVE SUMMARY

### 1.1 SUMMARY

As required by the State Environmental Quality Review (SEQRA) regulations defined in 6 New York Codes, Rules and Regulations (NYCRR) Part 617, this Third Supplemental Final Environmental Impact Statement (TSFEIS) discusses the potentially significant adverse environmental impacts and benefits of the proposed action. It has been prepared in accordance with Article 8 of SEQRA and Part 617 of the implementing regulations. The original Town of Malta Planned Development District legislation which created the Luther Forest Technology Campus (LFTC) was classified as a SEQRA Type 1 Action and a Generic Environmental Impact Statement (GEIS) was prepared. The LFTC is located on approximately 1,350 acres situated one-half mile southeast of the intersection of Dunning Street and Route 9 in the Town of Malta and west of Cold Springs Road in the Town of Stillwater, Saratoga County. The TSFEIS addresses proposed revisions to that legislation which would affect the Planned Development District zoning applicable within the LFTC.

This TSFEIS includes the Third Supplemental Draft Environmental Impact Statement (SSDEIS) dated September 19, 2014, and revised on December 22, 2014, was accepted by the SEQRA “lead agency” Malta Town Board on February 2, 2015 and the responses to public and involved/interested agency comments received during the public comment period on the TSDEIS, which responses are set forth, in Section 2.0 of this TSFEIS.

#### The Proposed Action

The proposed action under consideration by LFTCEDC and GLOBALFOUNDRIES is the amendment of the existing PDD legislation at LFTC in the Towns of Malta and Stillwater, Saratoga County, New York. Even in light of achieving some of the important goals set forth in 2004, LFTCEDC has met with challenges in its task of bringing additional tenants to the remaining development areas zoned within the PDD.

The applicants are requesting that certain amendments be made to the PDD legislation in order to address the challenges to development seen in the ten years since the legislation was initially passed. The amendments include (1) changes to the permitted

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uses and definitions of uses, (2) removal of the restriction on PILOT agreement in the LFTC, (3) modifications to soil disturbance and subdivision processes, (4) remove development agreements in favor of a development-fee model; (5) codification of the process for calculation of open space and recreation fees; and (6) confirmation of location of noise monitoring locations and bringing decibel levels into parity with all other parts of the Towns.

### Summary of Public Comments

A majority of the public comments on the TSDEIS centered on the addition of campus commercial uses as of right within the LFTC, the fiscal impact of the removal of the PILOT restriction within the LFTC, noise, traffic, and the residential buffer changes related to subdivision. Each of these subject matters is summarized in the following paragraphs, along with a characterization of other comments.

A. Campus Commercial Uses. Comments on internal commercial uses within the LFTC focused on the competition to existing small businesses in the rest of the Towns. Concern was expressed that allowing or expanding small businesses within LFTC would create a downtown solely servicing the internal campus, and create a disincentive to travel outside of the campus to patronize local shops. Furthermore, concerns were raised about whether the Towns' Master Plans (including the Town of Malta's Downtown Plan) conflicted with the uses proposed within the LFTC.

The concept of the commercial uses within LFTC is not being introduced for the first time in the present application. The 2004 legislation contemplated such uses by special use permit in Development Areas 6, 7, and 8. Further restrictions from the original legislation included on-site concessionaires and no free-standing commercial structures. The three changes the applicants have requested regarding commercial uses on campus are (1) removal of the limitation of use by special permit; (2) expand the ability to locate campus businesses in 2, 3, 4, 5 and 9; and (3) remove vague legislative language which could restrict a business that "attracts customers from outside the Campus." Moreover, the applicants have attempted to off-set these changes by imposing a limitation of 5,000 SF for each business which they believe is a more direct method to limit patronage than

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outside the campus than the current legislative language. No other changes to the initial PDD have been proposed, including that no retail business may be free-standing.

B. Removal of Restrictions on Real Property Tax Abatement. Comments were received both in support and in opposition to the removal of the restriction on payments-in-lieu-of-taxes (PILOT) agreement. The potential impact to development within LFTC, as well as the potential impact to local government and the school districts were the subject of eight (8) public comments. Comments and questions generally addressed (1) the positive impact on LFTC in its ability to make the Campus more competitive from an incentives standpoint, (2) the impact to the school districts with the newly imposed 2% tax cap under NYS law; (3) the overall wisdom of tax incentive programs at the state and local levels; (4) suggestions to mitigate the use of PILOTs in the Town of Malta; and (5) revenues necessary to support additional emergency and fire protection services.

The applicants indicated in the TSDEIS that the original SEQRA review included a complete discussion of fiscal impacts of PILOTs within LFTC. First, it has been noted that the 2003 DGEIS included a complete Economic Impact Analysis which assessed the impacts to both Towns under PILOTs in the event the LFTCPDD was approved and drew the conclusion that it would be a financial benefit. Second, the original SEQRA review repeatedly considered the development outside of Development Area 1 to be “secondary and ancillary” from a fiscal impact standpoint and, therefore, determined it to be of no impact. Third, the inclusion of a tax incentive abatement in the 2004 legislation was a direct result of the FGEIS’ statement that not having the ability to use a PILOT may help the Towns in the event of the termination of the Empire Zone program prior to the tenancy of a semiconductor manufacturer in Development Area 1. However, the termination of the Empire Zone occurred after the purchase and development of land within Development Area 1 by GLOBALFOUNDRIES which is “grandfathered” into the Empire Zone program. As a result, a tax-exempt PILOT within that portion of Development Area 1 is not necessary and, therefore, the tax abatement limitation in the FGEIS is not germane to the present application because the application involves the remaining secondary and ancillary Development Areas.

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Finally, the TSDEIS provides detailed and updated data concerning the impacts of the construction of GLOBALFOUNDRIES within Development Area 1 to the tax base in both Towns including: local and school tax payments from 2011-2013, school district spending per pupil, and impacts to New York State aid reimbursements to both districts. In the original 2003-2004 SEQRA review, it was the foregoing metrics which were of vital importance to concluding that the overall fiscal impact would be a positive one. Specifically, the Malta Ridge Fire Company received \$523,335.89 in 2013, while the Arvin Hart Fire Department received \$2,369 as additional revenue because of the development with LFTC.

New York State tax incentive programs were also raised as part of the public comment process. Specific questions were asked about the Start-UP NY program and other available NYS tax incentive programs which were discussed extensively in the TSDEIS and will be more specifically addressed the Section 2.0 under Response to Public Comments. Additionally, while it is noted that the wisdom of each incentive program from Start-Up NY to PILOT agreements is a discussion happening at the legislative level of government, the supplemental SEQRA review process is intended to examine those changed circumstances presented directly by the application. As such, the decision by NYS or the County of Saratoga to engage in economic incentive programs does not fall within the scope or appropriateness of an examination of environmental impacts of the present application.

C. Noise. The proposed noise changes are divided into two separate and distinct amendments: (1) to confirm the location of the monitoring stations per the language of the original 2004 Statement of Findings; and (2) to change the decibel levels applicable within LFTC to those noise levels associated with the rest of the Town citizenry. The Community Response Board (CRB) in the Town of Malta noted its agreement that the noise monitoring current locations should be examined as to the original findings, but to allow for flexibility in the relocation to ensure accurate measurements. With respect to the change in decibel levels, the CRB offered the sole comment on noise to say that a change would take away from the rural nature of the area.

The original SEQRA findings in 2004 determined that, based upon all documentary evidence, the best location for accurate noise monitoring was at the PDD property lines.

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The present application seeks to return to those findings by noting the current location of the noise monitors are inconsistent with the 2004 findings, but said locations can be changed by the Town Planning Boards in the event the receptors' ability to adequately function is affected by topography or other geographic conditions. Furthermore, the Town of Malta has recently engaged in a SEQRA process to determine the impacts of modifying its noise ordinance for the entirety of the Town, including all of LFTC's neighbors, when it passed a 2012 noise ordinance with decibel levels at 50 dBA during the evening and 60 dBA during the day. From the existing record, there is no environmentally distinguishing factor between LFTC and its neighbors which justifies a more restrictive noise control. The data from the 2003-2004 SEQRA review and the 2012 SEQRA review for the Malta noise ordinance are consistent in determining that noise levels of 50 dBA during the evening and 60 dBA during the day is appropriate to mitigate any adverse impact. The Town also engaged the services of a sound engineering consultants to recommend additional octave band measurements which are intended to provide additional empirical standards for the measurement of noise.

D. Traffic. One comment was received concerning traffic and it was made by the CRB. Specifically, the CRB indicated that it wished to see construction traffic considered as part of the decision-making process and that additional study is needed along secondary or tertiary traffic routes. The existing SEQRA record from 2004 until the present includes a threshold for construction traffic, which has been updated along the way as part of the supplemental SEQRA process for the development and approval of GLOBALFOUNDRIES. It is required that any applicant seeking approvals to build within LFTC would have to demonstrate either (1) compliance with the existing thresholds; or (2) a construction traffic management plan which adequately mitigates any large impacts which may arise from its project. Specific details concerning the initial thresholds is provided under Section 2.0 Response to Public Comments.

E. Subdivision and Site Plan Changes. The CRB posted the only comments on the various subdivision and site plan changes proposed in the application. Notably, it concurred with all changes with the exception of the applicant's request that the Joyce/Knapp Road residences in Stillwater not be considered "Luther Forest residential neighborhoods" as the homes are nearly ½ mile away from the closest PDD property line. The applicants have stated that an interpretation of 400 feet as related to

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Development Area 4 would render the land area too small for development. As such, the applicants maintain that the existing SEQRA record was intended to protect the residences far closer to the PDD in the Luther Forest section of Malta, given the expansive distance to the next closest residential home to the south in Stillwater.

F. Other Comments. Miscellaneous comments were made regarding the development of financial plan for the longevity of the Campus, financial assurances for future maintenance of Campus roads, the Campus' consistency with the Saratoga County Economic Development Strategic Plan, the direction of collected fees towards public safety, and SEQRA compliance for new proposed uses.

### Changes to the TSDEIS

This TSFEIS makes the following changes to the TSDEIS:

1. In all locations where the phrase "net habitable square feet" or "net habitable SF" is used, it shall be replaced with "net leasable square feet" or "net leasable SF" to provide consistency with the existing PDD language in 167A-52 S.3 and S.4.
2. Table 4-3.1 shall be amended to reflect "Town of Malta FPD #1" instead of "Malta Ridge Vol Fire Co."
3. Table 5.1.1 shall be amended to include "campus commercial by special permit" for Development Areas 6, 7, and 8.
4. In all locations where a hotel use is discussed in the TSDEIS, it shall be clarified that the applicant seeks to permit not more than one hotel as of right within the LFTCPDD.

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### 1.2 PROJECT HISTORY

#### 1.2.1 Original Legislation for LFTC

On June 3, 2002, a uniform PDD Application for LFTC was filed with the Malta and Stillwater Town Boards. Pursuant to a coordinated review,<sup>2</sup> the Malta Town Board (“the Board”) subsequently assumed SEQRA “Lead Agency” status for the environmental review of the proposed LFTC action by consent through a cooperative agreement with the Town of Stillwater. Scoping was conducted, and a Draft GEIS was accepted as complete by the Board on January 16, 2003. Following a 60-day public review and comment period, including two (2) public hearings, the Board prepared a Final GEIS for LFTC dated October 16, 2003 and adopted Findings on May 18, 2004. The Stillwater Town Board also adopted similar Findings on June 14, 2004, for the portion of the LFTC project site located in the Town of Stillwater. Subsequent to completion of the SEQRA review, both Towns adopted PDD legislation, which established semiconductor manufacturing as well as other allowable uses within LFTC.

The GEIS evaluated four (4) phases of fab development within Development Area 1, with ancillary development taking place in other development areas of LFTC. The substantive basis for assessing the potential environmental impacts of the semiconductor manufacturing in Development Area 1 was derived from the estimates set forth in the AGI Industry Requirements Report (IRR). This report made various assumptions regarding the size and other specific metrics of the planned four (4) phases of semiconductor manufacturing.

On May 24, 2004 the Malta Town Board filed with the New York State Department of State (NYSDOS) Local Law No. 6 of the Year 2004, which established the LFTC PDD and made semiconductor manufacturing an allowable land use. The Malta PDD legislation for LFTC amended §167A-52 of the Code of the Town of Malta, and was subsequently modified by the Malta Town Board at the request of the LFTCEDC on

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<sup>2</sup> Interested and involved agencies included, among others, the Stillwater Town and Planning Boards, the Malta Planning Board, the Saratoga County and Mechanicville-Stillwater Industrial Development Agencies (IDA), the Saratoga County Planning Board, the Army Corps of Engineers (Corps), NYSDOT, NYSDEC, NYSDOH, New York State Department of Public Service (NYSDPS), New York State Historic Preservation Office (NYSHPO), Empire State Development Corporation (ESDC), and the Village of Round Lake Board of Trustees.

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October 10, 2007 by Local Law No. 18 of the Year 2007 and on February 28, 2007 by Local Law No. 2 of the Year 2007.

On July 8, 2004 the Stillwater Town Board filed with the NYSDOS Local Law No. 4 of the Year 2004, which established the LFTC PDD and made semiconductor manufacturing an allowable land use. The Stillwater PDD legislation was subsequently modified by the Town Board on December 31, 2004 by Local Law No. 8 of the Year 2004.

### **1.2.1 AMD-GLOBALFOUNDRIES Action**

On February 25, 2008, AMD filed its initial application to the Town of Malta for a PDD Amendment. AMD's specific plans for development presented in 2008 for the semiconductor manufacturing facilities proposed three (3) phases of fab development in Development Area 1, with each individual phase of fab development being larger than previously presented in the 2003 GEIS. Accordingly, a Draft Supplemental Environmental Impact Statement (SDEIS) was prepared for the proposed Fab 4X Project (aka, Fab 8 Module 1), including an AMD Industry Requirements Report (AMD IRR). This report provided more specific information for AMD's proposed actions in Development Area 1 of LFTC and served to replace the 2002 AGI Report.

On March 31, 2008 the Malta Town Board acting in its capacity as the SEQRA lead agency accepted a SDEIS as complete and commenced a public comment period on the document. Following the close of the public comment period, on August 1, 2008, a Supplemental Final Environmental Impact Statement (SFEIS) accepted by the Malta Town Board. Findings Statements and revised PDD legislation were subsequently adopted which enabled GLOBALFOUNDRIES to apply for and obtain site plan approvals for Fab 8 Module 1 and the second administrative building.

In most respects, the GLOBALFOUNDRIES modified master plan as proposed would fully comply with the existing 2004 Findings Statements for LFTC and the 2008 Findings Statement for the proposed AMD/GLOBALFOUNDRIES Development described above. Most importantly, the GLOBALFOUNDRIES project would continue to fulfill the LFTC community vision by providing additional economic benefits desired when the LFTC was originally created and the Findings were adopted. These benefits include additional well-paying technical jobs during operation, as well as a plethora of construction jobs. The proposed action will also promote the cumulative economic

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growth in the region, consistent with the evaluation in the GEIS and Findings Statement for LFTC. Based on the financial and economic data from the development and construction of GLOBALFOUNDRIES in LFTC, there is no reasonable basis to challenge the continued relevance of the growth analysis provided in the GEIS. The underlying economic data from the GEIS remain valid.

On March 7, 2013, the Malta Town Board acting in its capacity as the SEQRA lead agency accepted a SSDEIS as complete and commenced a public comment period on the document. After holding public comment upon until May 7, 2013 and conducting two public hearings, a Supplemental Second Final Environmental Impact Statement (SSFEIS) was deemed complete by the Malta Town Board on July 29, 2013. Findings Statements and revised PDD legislation were subsequently adopted on August 19, 2013. Collectively, the GEIS, SEIS, SSEIS and Findings for LFTC and the Fab 8 Campus, in addition to the PDD legislation in Malta and Stillwater, set forth, among other things, “specific conditions or criteria under which future actions will be undertaken or approved, including requirements for any subsequent SEQRA compliance.”<sup>3</sup>

### **1.2.3 Proposed Action**

On September 19, 2014, the applicants filed their initial application to the Town of Malta for a PDD amendment to enable the continued growth of the LFTC campus. This initial application included an applicant-prepared TSDEIS (in lieu of an Environmental Assessment Form), as well as other miscellaneous documents in support of the application. On that same date, the applicants provided copies of the proposed TSDEIS to the involved agencies. Shortly thereafter, the Town posted the entire contents of the initial application on their website: <http://www.malta-town.org>. On September 24, 2014, the Town of Malta caused a Notice of Intent to Re-Establish lead agency to be circulated to all involved agencies.

In most respects, the proposed amendments by the applicants fully comply with the existing 2004 Findings Statements for LFTC, the 2008 Findings Statement for the proposed AMD/GLOBALFOUNDRIES Development, and the 2013 Findings Statement for the proposed Fab 8.2, as described above. For example, some of the proposed

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<sup>3</sup> See 6 NYCRR § 617.10(c).

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amendments seek changes to the actual language of the legislation itself concerning permitted uses, open space fee calculations and the development agreement model which are supported or unaffected by environmental information existing in the prior SEQRA record. (6 NYCRR 617.109d)[1]). Minor proposed changes to the soil disturbance restrictions, tax abatement limitations, noise and subdivision rules within the PDD represent differences from the studies and findings in 2004 and have the potential for adverse impacts; thereby necessitating the preparation of this TSDEIS.

On October 27, 2014, the Malta Town Board voted to re-establish itself as lead agency, issued a Positive Declaration, and waived scoping under SEQRA. It also acknowledged receipt and the continuing review of the draft TSDEIS as the third supplement to the original GEIS.

On November 12, 2015, the positive declaration was published with the Environmental Notice Bulletin (ENB).

The Towns of Malta and Stillwater commented on the completeness of the applicant-prepared TSDEIS, which was subsequently revised and resubmitted to the Town by the applicants on December 22, 2014.

On February 2, 2015, the Town of Malta voted that the TSDEIS was complete based upon the revised version submitted on December 22, 2014. By resolution passed on that date, the Town Clerk was directed to file and circulate a Notice of Completion, a copy of which was made part of the Resolution. Further, the Town of Malta set a public hearing on the TSDEIS for March 2, 2015 at 6:40pm at Town Hall. The Town subsequently issues copies of the accepted TSDEIS to Involved Agencies and other interested parties, the NYSDEC Commissioner, NYSDEC Region 5, and the Chief Executive Officer of the political subdivision in which the action will be principally locate; and electronically placed the TSDEIS onto the Town of Malta website at <http://www.malta-town.org/ArchiveCenter/ViewFile/Item/525>. Copies of the TSDEIS were provided to persons requesting a copy from the Town of Malta.

On February 6, 2015, the Town published a Notice of Acceptance of TSDEIS and Public Hearing in the legal notices section of the Daily Gazette. This notice was issued

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pursuant to Part 617 of the implementing regulations pertaining to Article 8 (SEQRA) of the Environmental Conservation Law. The notice established a 30-day public review and comment period until the close of business on March 16, 2015, and established a public hearing at 6:40 pm on March 2, 2015 at Malta Town Hall.

On February 11, 2015, the Notice of Acceptance of the TSDEIS and Public Hearing were published in the ENB. The notice established a 30-day public review and comment period until the close of business on March 16, 2015, and established a public hearing at 6:40 pm on March 2, 2015 at Malta Town Hall.

The written public comment period was held open until March 16, 2013.

SEQRA Documentation pertaining to the required TSDEIS notices is provided in Appendix A.

### **1.3 SUMMARY OF THE TSDEIS**

The TSDEIS, accepted February 2, 2015, evaluated the potential environmental impacts of the proposed action. This section provides only a brief summary of the TSDEIS and have been included for convenience of the reader of this TSFEIS. The complete TSDEIS has been incorporated by reference to this document in accordance with 6 NYCRR Section 617.9

The proposed action is for the amendment of the Luther Forest Technology Campus Planned Development District (PDD) which is applicable to the Luther Forest Technology Campus (LFTC), located in the Towns of Malta and Stillwater, Saratoga County, New York.

Luther Forest Technology Campus Economic Development Corporation (LFTCEDC) and GLOBALFOUNDRIES, the owner and operator of the Fab 8 Campus within the PDD, are jointly requesting that certain amendments be made to the PDD legislation in order to address the barriers to development that have come to light in the ten years of LFTC's existence. In the most general terms, the amendments proposed by the applicants are meant to expand the field of potential owners within LFTC and clarify for them the requirements of siting therein.

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Section 2.0 summarizes the prior New York State Environmental Quality Review Act (SEQRA) reviews that were conducted during the period of 2002-2004 for LFTC, in 2008 for the proposed AMD Development of LFTC, and, most recently, in 2013 for the proposed GLOBALFOUNDRIES' Fab 8.2 project.

Section 3.0 provides an overview of the proposed action, including a specific listing of PDD amendments being requested. The applicants are requesting eight (8) groups of amendments to the existing Malta PDD legislation for LFTC, including changes to the permitted uses and attendant definitions, removal of tax abatement limitations, the soil disturbance and subdivision restrictions, the development agreement in favor of a development fee model, interpretations of residential buffer language and internal LFTC roads are not major arterials requiring 100 foot setbacks from roads, the calculation and collection of open space and recreation fees, and noise monitoring locations and decibel levels.

Section 4.0 describes the changed conditions that are the primary subject of this Third Supplemental Draft Environmental Impact Statement (TSDEIS). These changed conditions include traffic flow changes related to different permitted uses, economic analysis related to the removal of the tax abatement limitation, and decibel limitation changes.

Section 5.0 addresses the potential environmental impacts and describes mitigation measures associated with the changed conditions defined in the prior section. The anticipated changes are not anticipated to have any new adverse environmental impacts since the changes requested are either (1) in compliance with existing SEQRA record; or (2) demonstrate no changes which would have a detrimental effect on the environment based upon documentary evidence or previous findings.

Section 6.0 summarizes alternatives to the applicants' proposed action, including the No Action Alternative and Alternative PDD amendments. These alternatives evaluate the potential scope and range of potential ancillary development within LFTC for comparative analysis and consideration.

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Section 7.0 summarizes unavoidable adverse impacts and concludes that there is not expected to be any unavoidable adverse impacts associated with the proposed action.

Section 8.0 addresses irreversible and irretrievable commitment of resources which include loss of natural habitat and the use of building materials and other man-made resources consistent with the prior SEQRA record.

Section 9.0 address growth inducing impacts of the proposed PDD amendments which are intended to meet the vision for the LFTC originally contemplated in 2004.

Section 10.0 addresses effects on use and conservation of energy, including a summary of energy consumption, energy conservation measures and energy efficiency building standards which anticipates no changes from the prior SEQRA record.

Section 11.0 contains a list of references, and Section 12.0 contains a list of acronyms and abbreviations.

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### 2.0 RESPONSE TO PUBLIC COMMENTS

The following represents the responses to comments that were received on the TSDEIS for the LFTCEDC PDD Amendments. A public meeting was held on February 2, 2015 to solicit comments on the TSDEIS and the SEQRA public hearing was held on March 2, 2015. The public comment period extended until March 16, 2015.

Copies of all written correspondence received on the project during the public comment period are provided in their entirety in Appendix B. Appendix C provides complete transcripts of the public meeting the SEQRA public hearing held on March 2, 2015.

Substantive comments are first summarized below and then provided in greater detail noting the person and/or agency making the comment. Responses are provided for each substantive comment. It is important to note that comments as summarized in the text of this TSFEIS may not be provided verbatim, although every attempt has been made to accurately reflect the substantive comment.

### 2.1 SUMMARY OF COMMENTS

The following written comments were received:

1. Letter dated December 15, 2014 from the Center for Economic Growth.
2. Resolution No. 50 of 2014 from Stillwater Planning Board, December 15, 2014.
3. Letter dated December 19, 2014 from the Saratoga Economic Development Corporation.
4. Letter dated December 28, 2014 from Cristina and William Connelly of Beauty Society Salon, Malta.
5. Letter dated January 20, 2015 from Malta Small Business Owners.
6. Letter dated January 21, 2015 from the Saratoga County IDA, Ray Callanan.
7. Email dated February 20, 2014 from Fred and Sylvia Sievers, Malta Residents.
8. Letter dated February 23, 2015 from the Malta LFTC Community Response Board.
9. Letter dated March 2, 2015 from Paul Sausville, Malta Town Supervisor.

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10. Letter dated March 6, 2015 from Lynda Bablin, Town of Malta Resident.

During the March 2, 2015 SEQRA Public Hearing, the following persons made comments on the TSDEIS:

1. Carol Henry, Chair of Community Response Board (CRB).
2. Peter Shaw, Malta Ridge Fire Department.
3. William Connelly, Beauty Society Salon, Malta Resident. (add citation, same as his letter)
4. Todd Shimkus, Saratoga County Chamber of Commerce.
5. Paul Sausville, Town of Malta Supervisor.

### 2.2 WRITTEN COMMENTS AND RESPONSES

1. Letter dated December 15, 2014 from the Center for Economic Growth (CEG), F. Michael Tucker (President & CEO)

*Comment 1: CEG strongly supports the amendment currently proposed because of its focus on leveling the playing field, expanding uses, and clarifying and updating certain PDD amendments with respect to the Town standards. The amendment is highly aligned with the desire of individual towns and our region as a whole to attract nanotechnology supply chain and support businesses to further solidify and sustain our status as an industry cluster in that field. CEG has learned that the current prohibition on tax abatements through PILOTs does keep LFTC off site selection short lists, and we view it as hampering local governments' flexibility in negotiating with potential new investors. We value our long-standing collaboration with the Town of Malta to being sustainable, high-quality economic growth to Tech Valley. Thank you for considering CEG's perspective on this important economic development matter.*

Response: Comment noted.

2. Resolution No. 50 of 2014, Stillwater Planning Board, December 15, 2014

*Comment 2.1: Section B.2 of the proposed PDD "Campus Commercial" should provide that businesses of 5,000 square feet or smaller be an allowable use, but that such use for businesses over that size be required to obtain a special use permit.*

Response: Comment noted. The applicants proposed an as-of-right ability to place small, commercial enterprises within larger approved buildings, with a limitation of

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5,000 square feet. The Stillwater Planning Board's idea permits the planning boards in each town the ability to specially permit larger commercial enterprises only upon a demonstration of meeting the criteria for special use permits under local zoning. Under this concept, site-specific SEQRA issues such as traffic, water, and sewer would be addressed by the boards in conjunction with special use permit criteria, such as whether the use is in harmony with general purpose of the Master Plan, and more fully set forth in Town of Malta Code Section 167-38.1 and Town of Stillwater Code Section 210-47.

*Comment 2.2: Conference center section in the PDD provide that only one hotel is permitted within the Campus.*

Response: Comment noted and the limitation to one hotel will be provided for in the legislation.

*Comment 2.3: Development fee calculation should use the square footage of the entire building, and not simply the footprint to determine the size of the business, and that the Town Board should determine what the appropriate amount per square foot to charge as a fee.*

Response: Comment noted. In light of the fact that the development fees were specifically identified as "non-mitigation" in the legislation and Prior SEQRA record, the final inclusion of a development fee calculation, if any, is not the subject of this TSFEIS and is properly considered as a policy decisions by the Town Boards.

*Comment 2.4: Section X.6.a.2 "Mitigation" should define the square footage outside of the footprint of the building and that the Town Board determine the appropriate amount of the fee.*

Response: Comment noted. See Response to Comment 2.3 above.

*Comment 2.5: Section X.7.a "Mitigation" be amended by changing it from the "downtown area of Stillwater" to the "higher density population of Stillwater."*

Response: Comment noted. As the comment is not subject to environmental findings under SEQRA, it is properly considered by the Stillwater Town Board during its consideration of the final legislative enactment.

### 3. Letter dated December 19, 2014 from the Saratoga Economic Development Corporation, Dennis Brobston (President)

*Comment 3.1: These amendments will significantly improve SEDC's ability to attract high-value companies from around the world and will have a positive impact on job growth in Saratoga County.*

## PROPOSED PDD AMENDMENTS

Response: Comment noted.

*Comment 3.2: A payment in lieu of taxes agreement or PILOT is necessary when dealing with companies looking to locate anywhere. PILOTS are available anywhere in Saratoga County except LFTC. Having the ability to utilize the Saratoga County Industrial Development Agency's (SCIDA) programs will greatly benefit our marketing efforts. We need this tool in the toolbox. PILOTs will make us competitive with other areas of the State and the World. Right now we are at a disadvantage.*

Response. Comment noted.

*Comment 3.3: The other change that will further help negotiations with potential Campus tenants is the development of a more comprehensive and realistic model for development fees, open-space fees and recreation fees. The present process is very convoluted, costly and difficult to manage. Making these changes will enable the potential business to better understand the expectations and the costs of doing business in LFTC.*

Response. Comment noted. With respect to the development fees, the applicants have proposed a development fee model which is akin to a recreation or open space fee for nanotechnology manufacturing facilities or projects exceeding 100,000 net leasable square feet. It is anticipated that the fee model will provide clarity necessary for budgeting and expedience in light of the fact that Section F of the current PDD legislation specifically notes that the development agreement funds are not SEQRA mitigation, but rather a host community benefit. However, the development fees contemplated in the original legislation were specifically denoted as non-mitigation and, therefore, not created as part of the SEQRA process. Therefore, any decision to include, modify or remove the development fees or agreements shall be within the legislative powers of the Town Boards.

With respect to the open space and recreation fee calculation and collection, the applicants propose that the current practice of the Town of Malta Building and Planning Department concerning the method of calculating the open space, recreation, and development fees at the time of site plan application be formalized in the legislation. The policy is as follows: One half of the sum at the time of the issuance of a building permit and the remaining balance at the issuance of a certificate of occupancy.

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### 4. Letter dated December 28, 2014 from Cristina and William Connelly of Beauty Society Salon, Malta

*Comment 4.1: We are the owners of a successful small family business for the past 23 years in Malta and we have seen some small successes with other new businesses opening in our downtown. It has come to our knowledge that LFTC is seeking zoning changes and we think that is great to attract high tech tenants and ancillary development into the tech park.*

Response: Comment noted.

*Comment 4.2: A portion of the proposal would be detrimental to small businesses in our newly developing downtown if small businesses are permitted within LFTC. These commercial businesses should be kept in the downtown setting and not allowed within the LFTC as they would be in direct competition with the downtown, leaving no reason for LFTC persons to do business with longtime, taxpaying small businesses that keep the community going. Please, take into consideration the small businesses that are already located within downtown are paying taxes into the community as well as the empty storefronts waiting to be filled and leave this portion of the LFTC zoning changes out.*

Response: The existing PDD legislation contemplates small businesses within LFTC that are intended to “provide such goods and services primarily for the use and benefit of employees and visitors to the Campus, so as to reduce environmental impacts by providing services within the Campus” and to prevent commercial uses which would create a commercial center. (167A-52.C.2.a). The current application does not seek to expand that intention, but rather to clarify the mechanisms by which businesses are permitted to develop within LFTC. First, the proposed changes would provide flexibility to development by permitting campus commercial uses in Development Areas beyond just 6, 7, and 8. Development Areas 2, 3, 4, 5 and 9 would also be permitted to secure commercial enterprises but under the same restrictions as the other areas. Second, the proposed definition for “campus commercial” in Appendix B clarifies the types of businesses which “serve the needs of the community” in order to provide some understanding to potential applicants. Third, the application removes the special use permit restriction for smaller retail businesses that meet the siting criteria. Furthermore, the proposed definition maintains the limitation that retail cannot be free-standing and must exist within permitted buildings and, within those buildings, is limited to 5,000 SF. Anything larger than 5,000 SF could be subject to a special use permit review by the Planning Boards.

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Additionally, it is important to note that, while every effort has been made to contemplate and address the comments posed as they relate to the Malta downtown and the use restrictions within the Campus, economic competition factors between small businesses owners in any part of the Town or Towns cannot be weighed in the SEQRA balance as against other environmental factors such as water, air, and the like in favor of preferred municipal economic master plan. As such, the subject of impact on economic competition may be important as a legislative factor as it relates to the Town's Master Plans, it is not a probative factor contemplated by the SEQRA review process.

### 5. Letter dated January 20, 2015 from the Malta Small Business Owners<sup>4</sup>

*Comment 5: As small business owners, we ask that you please consider removing the section in the LFTC zoning that would allow small businesses to set up within the campus. The original intent for the zoning changes are to allow high tech and ancillary companies into the campus with tax savings. Permitting the clause for small service business will hurt the current businesses in Malta, Stillwater and even Mechanicville, businesses that have been paying taxes and giving into the community. Allowing this portion of the zoning to proceed and making your loyal downtown businesses compete would be unacceptable. Please, take this into consideration and leave this portion out of the LFTC zoning changes. Perhaps zoning to make it more attractive for small businesses to set up in our already downtown is a better alternative. This would create tax dollars to stay local and create sustainable, walkable community that old and new residents have been waiting for.*

Response: Comment noted. See Response to Comment 4.2

### 6. Letter dated January 21, 2015 from the Saratoga County IDA, Raymond Callanan (Chairman)

*Comment 6.1: Saratoga County Industrial Development Agency (SCIDA) would like to take this opportunity to express its wholehearted support for the requested changes to the LFTC campus. We believe the amendments are the essential element needed to attract high tech companies, capital investment and well-paying jobs to Saratoga County.*

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<sup>4</sup> While it is difficult to discern each and every name subscribed to the letter, it contains 24 names which can be seen in Appendix B. Some of the names include: Beauty Society Salon, Forest Cleaners, Saratoga South Boutique, Hee Lee, Matthew Michele, Vincenzo Federico, John Rello, William Connolly, Wired Coffee and Bagel, Vinny's Barber Shop and China Wang.

## PROPOSED PDD AMENDMENTS

Response: Comment noted.

*Comment 6.2: The beneficial economic impacts of SCIDA projects have been very significant. The private sector has invested over \$6.7 billion in the construction and equipping of new facilities throughout Saratoga County. Over 11,000 jobs (5,000 of which are manufacturing) have been created or retained with a cumulative annual payroll of over \$400 million. Assessed taxable value of SCIDA projects has risen from its pre-IDA involvement of \$2.6 million to its current value of \$1.2 billion on the County-wide assessment rolls. Over \$80 million in payments-in-lieu-of-taxes (PILOTs) have been distributed by the SCIDA to the county, cities, towns and school districts throughout the County. With GLOBALFOUNDRIES paying full taxes, annual PILOT payments to local tax jurisdictions are now in excess of \$13 million. Recognizing the potential for long-term benefits of the Campus to our economy, we have made a significant contribution to LFTC's development. As early as 2001, the SCIDIA made the first of three loans to SEDC which would eventually total \$650,000. These investments were to be used to pay the costs of planning, engineering, and environmental work required to prepare the Campus for development. As recently as 2012, the SCIDA held discussions with the EDC regarding the potential purchase of Development Area 4 for the cost of forgiving the \$650,000 loan. The SCIDA also considered contributing \$500,000 of its unrestricted fund balance towards the extension of infrastructure to Area #4 and other adjacent development areas. The SCIDA Board, by resolution in October 2012, agreed to continue to negotiate with the LFTCEDC on the land purchase and infrastructure improvements. We continue to invest in the future of the Campus and the Town by most recently providing \$17,000 towards the Saratoga County Regional Traffic Study.*

Response: Comment noted.

*Comment 6.3: In 2004, the NYS Empire Zone Program ("EZP") was in place. This program allowed qualified tax companies to receive a credit on their annual state corporate franchise taxes equal to the amount of local real property taxes paid. EZP was terminated by the State in 2010 because of its increasing costs. GLOBALFOUNDRIES continues to receive EZP credits due to its status as a qualified participant prior to the program's termination, but going forward no potential businesses considering locating within the Campus would have access to the EZP. Recognizing the benefits of the program (local tax jurisdictions receive full property taxes while companies still receive tax incentives) the inserted into the PDD legislation a specific prohibition against companies receiving any real property tax abatement from the SCIDA. Additionally, the SCIDA is prohibited from granting sales tax exemption from the State 4% sales tax which again*

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*had been exempted under the EZP. Although the EZP is no longer available, the prohibition against the granting of abatements still remains in place. The Campus is then the only land within Saratoga County, the region, and most likely the entire State, where a business is legally prohibited from requesting tax abatements in conjunction with its location decision. This has the effect of placing the Campus in a non-competitive position versus other development areas either across the street (Rt. 9) or across the State.*

Response: Comment noted.

*Comment 6.4: On October 14, 2014, the SCIDA amended its 30-year old abatement schedule to provide greater flexibility in determining the appropriate abatement for proposed qualified manufacturing projects. For the first five years, qualified manufacturers may receive an abatement ranging from 50% to 100% of the added value assessment attributed to new construction. From years 6 to 10, the company may receive an abatement ranging from 0% to 100% of the added value assessment. The amended policy includes specific evaluation criteria to guide the SCIDA Board in determining the percentage of abatement and the term of any future PILOT Agreements. These criteria include (1) the number of jobs retained, salaries, benefits and importance of existing jobs to the County economy; (2) the amount of capital investment; (3) the impact of project on existing businesses or segment of the County economy; and (4) the impact of the project on public infrastructure and services.*

Response: Comment noted. The SCIDA newly enacted Uniform Tax Exemption Policy (UTEP) is attached at Appendix D.

*Comment 6.5: During the initial planning stages of the Campus, the focus was on the nano-technology industry. That factor was critical in the State's decision to contribute funds necessary to provide the extensive infrastructure required to support a major chip manufacturer. That strategy was clearly successful; attracting a multi-billion dollar investment by GLOBALFOUNDRIES resulting in the creation of over 2300 highly skilled and highly paid jobs. In addition, over 10,000 construction workers have been involved in the project over the past several years. The beneficial spin-off impacts on the local economy are clearly substantial and ongoing. However, other than GLOBALFOUNDRIES' purchase of its property and initiation of construction, there has not been a single additional company located within the Campus over the ten years since the zoning was adopted. In comparison, the NYSERDA STEP Park, adjacent to the Campus, has located two large office buildings with SCIDA assistance (of 130,000 SF and 100,000 SF) as well as a technology training facility operated by Hudson Valley Technology College. These projects which serve GLOBALFOUNDRIES' operations, as well as*

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*other high tech companies such as General Electric could not located within the Campus under the current zoning and likely would not, given the aforementioned prohibition against tax abatements. Zoning laws by their nature are subject to continual change and amends to reflect changes in circumstances on the ground. When the PDD was created in 2004, the accepted plan was to locate several major chip manufacturers within the Campus. The adjacent development areas were zoned with the intent of providing space for support services such as nano-technology manufacturing and research and development to the exclusion of all other high tech industries. This original strategy should be revised and the Campus opened up for a broader range of high technology. High tech industries draw employees from the same highly educated and skilled work force that the nan-tech industry relies upon. By opening up the zoning to allow a greater range of technology industries, the Town and County could create a real synergy within the Campus where each new business location builds on the potential of attracting additional businesses which draw on a similar workforce and support systems. The Campus is a prime development park with many characteristics attractive to growing companies in search of a new home. The SCIDA is prepared to actively work with the Towns of Malta and Stillwater, the County, the State and other advocates for the growth and health of the economy.*

Response: Comment noted. For the types of industry sectors targeted by the proposed amendments, refer to TSDEIS Section 4.1.3.

*Comment 6.6: SCIDA reaffirmed its willingness to reopen discussion with the LFTCEDC on the purchase of Development Area 4 and the extension of public infrastructure to make the site "shovel ready." Considering the amount of investment involved, we would need to have the assurance that we would be able to attract potential buyers from a broader spectrum and to offer the types of tax incentives that are an essential element of industrial development in today's marketplace. The State has invested approximately \$120 million in infrastructure development to support the Campus. Their obligation and commitments to GLOBALFOUNDRIES, including Empire Zone credits, are in the hundreds of millions of dollars. The Towns, County and SCIDA have also invested their time and monies to insure that the Campus is a success. Without the requested changes, all that investment may continue to go unfulfilled. We urge the decision makers of the Towns to take affirmative action on the applicants' requests.*

Response: Comment noted.

### 7. Email dated February 20, 2014 from Fred and Sylvia Sievers, Malta Residents

*Comment 7.1: In Table 4-3.1(Town of Malta Payments), the column entitled "Malta Ridge Vol Fire Co" should be revised to "Town of Malta FPD #1."*

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Response: Comment noted and the change has been made as reflected in Section 1.1 above.

*Comment 7.2: Could the newly collected development fees be directed to the Fire Companies of Malta to help retire the mortgage on the shared fire station?*

Response: The applicants have taken the position in the TSDEIS that any development fees collected will be allocated in the sole discretion of the Town Board collecting the fee in either Malta or Stillwater. The existing legislation states that development fees are intended to be used to improve the quality of life for the Towns' residents as identified by the Town Boards. Any decisions to modify or annul the development fee/agreements scheme in the existing local legislation are outside the SEQRA process as said fees/agreements are not mitigation and are properly considered in the legislative process.

*Comment 7.3: I don't really understand PILOT programs. What I do know is that the fire companies will need continued funding at the current or higher levels in order to provide protection to current and future projects. This is currently in question with the assessment agreement between the Town and GLOBALFOUNDRIES that will see their assessment decrease dramatically over the years.*

Response: The assessment agreement referred to in Comment 7.3 describes the terms of settlement which appear in the March 5, 2012 Town of Malta Meeting Minutes as Resolution #89 and in the Town of Stillwater March 15, 2012 Meeting Minutes as Resolution #19. Both Towns Resolutions contain an Exhibit which outlines the agreed upon depreciation schedule of GLOBALFOUNDRIES' Fab 8.1 within Development Area 1 as it relates to assessment from year 2012 to year 2059. See Appendix E. It also sets forth the per square foot assessment of new technology space within GLOBALFOUNDRIES' campus constructed after May 1, 2012. Therefore, should GLOBALFOUNDRIES decide to construct Fab 8.2, as discussed in the 2013 PDD amendment process, the new square footage of that facility would be assessed at the rates contained within the Resolution #89 of the Town of Malta and Resolution #19 of the Town of Stillwater.

Furthermore, it is important to note that both Towns amended the LFTCPDD in 2012 as part of the settlement agreement which changed the requirement that GLOBALFOUNDRIES pay all taxes that would otherwise be due if the property was not exempt from taxes in favor of the agreed upon depreciation and fixes assessment

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schedule. Each Town designated itself as Lead Agency under SEQRA for the purpose of evaluating the environmental (including fiscal and economic) impacts of both the settlement agreement and the changes to the LFTCPDD necessary as a result of the settlement agreement on their particular Town. On April 2, 2012, the Town Board of Malta passed Resolution No. 98 which sets forth its lead agency status under SEQRA for purposes of evaluating the potential environmental impacts, including economic and fiscal impacts, of the decision to accept the depreciation schedule and fixed square footage contemplated by the LFTCPDD amendment. The Resolution also indicates that the Town Board of Malta held a public hearing on April 2, 2012 at 6:45 pm in Town Hall concerning the PDD amendments as they related to permission for Development Area 1 owner/operators to enter into PILOT agreements in circumstances limited to the terms and conditions of the settlement agreement, including the depreciation schedule and fixed rates. Presumably having found no significant environmental impact under SEQRA for the amendments as they relate to tax assessment in Development Area 1, Local Law No. 4 of 2012 was passed to amend the LFTCPDD in Section 167A-52 C(2)(p), 167A-52 DD(11), and 167A DD(12).

On May 3, 2012, the Town of Stillwater unanimously passed Resolution No. 37 in similar to that of Malta's April 2, 2012 local law. Having received no objections to its lead agency status for evaluation of impacts under SEQRA and following a public hearing, the Stillwater Town Board passed Local Law No. 3 of 2012 (Resolution #37) which amended the LFTCPDD to allow PILOTs in Development Area 1 pursuant to the depreciation schedule and fixed assessments set forth in Appendix E.

Based upon the findings from both Town Boards in 2012, the depreciation and fixed assessment schedule for Development Area 1 was determined to have no significant impact under SEQRA. In short, the present amendments do not give rise to the issue of depreciation as it relates to funds for fire protection or other services and, more importantly, the issue of those impacts has been previously decided.

The proposed tax abatement amendment to the LFTCPDD requested by the applicants specifically seeks the ability for PILOT agreements in Development Areas outside of Development Area 1. In addressing the impacts raised by the present application, it is noted in the TSDEIS that, other than GLOBALFOUNDRIES, no business has sought to become a taxpayer within the LFTC campus under the current legislative framework. As extensively noted in Comment 6.5 above, SCIDA has participated in locating

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significant projects near and around LFTC, but not within it, due to the limitation on PILOT agreements. Without new tenants in LFTC, there will be no fire protection services needed and, therefore, no tax revenues generated. In the event the PILOT agreements are permitted within the rest of the Development Areas, the SCIDA's new UTEP provides that special assessment districts are not exempt from taxation as part of any agreement. There are two PILOTs which currently exist in the Town of Malta for properties not operated by a fully tax-exempt 501c3 organization and neither one exempts Fire District #1 from receipt of its special assessment rate which, in 2015, was 0.828336 per \$1000 of assessed value. Under the GLOBALFOUNDRIES PILOT, Fire District #1 received \$545,086.58 in 2015 for its special assessment levy and will receive income on any new buildings that are constructed on the Fab 8 Campus. Under the American Housing Foundation PILOT, Fire District #1 received \$5,773.50 in 2015. Should other industries be located within LFTC with or without a PILOT, Fire District #1 shall continue to receive its tax revenue as a special assessment district at the annual assessment rate set by the Town Board.

8. Letter dated February 23, 2015 from the Malta LFTC Community Response Board (Carol Henry, Chair)<sup>5</sup>

*Comment 8.1: On behalf of the LFTC Community Response Board, thank you for the opportunity to review the latest supplemental draft environmental impact statement for the Luther Forest Technology Campus. In the ten years since the technology campus was envisioned, GLOBALFOUNDRIES has become a flourishing business and community partner, and Town citizens and other enjoy the fields and trails developed in the campus as part of the community benefits. We acknowledge that the rest of the technology campus has languished in this uncertain business and financial economy, and we agree that it is in the Town's interest to reassess ways to revitalize development within LFTC. In general, we do not object to the introduction of PILOT agreements to attract development in the remaining pods. With judicious use of these agreements, the vision of the technology campus can be achieved over time.*

Response: Comment noted.

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<sup>5</sup> The letter received from the Community Response Board was also read into the record by Carol Henry at the March 2, 2015 SEQRA public hearing. The letter and the public hearing statements are a verbatim match for one another. As such, the response to the comments from the Community Response Board will be memorialized in this section, rather than in Section 2.3 below.

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*Comment 8.2: However, the use of PILOTs should be evaluated per applicant and should be prohibited for some types of businesses.*

Response: The evaluation of eligibility and suitability for a PILOT is performed by the SCIDA pursuant to its UTEP. See Comment 5.4 above.

*Comment 8.3: Campus commercial or day care establishments would directly compete with businesses in the surrounding areas. Allowing them to have a PILOT agreement would give them an unfair advantage over existing businesses outside of LFTC.*

Response: First, the eligibility and suitability for a PILOT is performed by the SCIDA pursuant to its UTEP. See Comment 5.4 above. Second, at present, it is businesses within LFTC which are prohibited from seeking a PILOT. All other businesses within the Towns of Malta and Stillwater may seek a PILOT agreement with the SCIDA because none are prohibited by zoning. Third, as noted in Response to Comment 4.2 above, the evaluation of SEQRA fiscal impacts cannot be based upon competition among resident businesses or a preferred economic master plan.

*Comment 8.4: The applicant seeks the flexibility to create shovel-ready pads for potential owners within the Campus prior to site plan approval. We feel that this is a reasonable request, and all applicants must abide by restrictions, fees and deadlines outlined in Chapter 136 of the Town Code.*

Response: Comment noted.

*Comment 8.5: We understand the need for subdivision approval prior to site plan approval. The applicant and the Town should draft procedures similar to those outlined in Chapter 143 of the Town Code. There should be provisions for stabilization and restoration of the soil disturbance if development is not started in a time frame consistent with current codes.*

Response: Comment noted.

*Comment 8.6: The existing neighborhoods voiced their concerns clearly during the original EIS process about the need for a strong buffer between commercial development and the residential areas. There should be no relaxation of the residential buffers. Our neighbors in Stillwater should be afforded the same protections as the Luther Forest residential neighborhoods. Furthermore, it has been demonstrated that while buffers do assist in securing a visual buffer at ground level, they are not as successful as a noise buffer.*

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Response: Comment noted. The 2003 SFEIS stated that the 400 foot buffer was specific to “the Luther Forest residential neighborhoods” which can be found at the northern and northwestern portions of the PDD area.<sup>6</sup> The applicants seek to have the PDD legislation clarify that the residences located nearly ½ mile (over 2,000 feet) away on Joyce/Knapp Road are not the “Luther Forest residential neighborhoods” for which a 400-ft buffer applies. The applicants have stated that Development Area 4 is too small, in its current configuration, to permit a buffer of that size and that it was not the intent of the original SEQRA findings.

*Comment 8.7: When noise issues arose during the initial operation of GLOBALFOUNDRIES, it demonstrated the elusive nature of noise, its impacts the human ear (volume, frequency) and how topography, weather, foliage and structures interact with the transmission of the noise. We were fortunate that GLOBALFOUNDRIES worked with the Town over a two year period to resolve the noise problems because the problems that surfaced were not adequately addressed in the previous documents. Currently, some monitoring stations are located in depressions that mask the levels. The Town should review the locations and determine the best locations for sound measurements, based upon previous findings. Locations at the PDD property line may not be the best location. Additionally, flexibility for the relocation of monitoring stations should be included as more buildings are constructed and noise patterns change.*

Response: In the May 18, 2004 Statement of Findings,<sup>7</sup> the Town of Malta adopted its Statement of Findings which required that “[p]roject noise levels at the **PDD property line** will not exceed 6 dBA above the baseline, ambient noise levels and/or project noise levels at the **PDD property line** will not exceed 55 dBA during the day or 45 dBA at night.”<sup>8</sup> [emphasis added] All empirical data and findings within the SEQRA record indicate that the PDD property line is the most accurate location to place noise monitoring receptors. However, in the event that the receptors locations prevent the monitors from functioning due to topography or other related geographic conditions, the Town Planning Boards may find an alternative location along the PDD property line.

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<sup>6</sup> Final Environmental Impact Statement, October 16, 2003. p.9.

<sup>7</sup> Identical language for Stillwater can be found in the Town Board’s Statement of Findings, June 14, 2004.

<sup>8</sup> Town of Malta, Statement of Findings, May 18, 2004, p. 14.

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*Comment 8.8: The Campus is surrounded by residential areas where residents are accustomed to the quiet of the forest. Any relaxation of the decibel levels takes away the rural nature of the area. Decibel levels are not linear, but logarithmic so as levels increase, so does intensity.*

Response: Comment noted. The Town of Malta has recently engaged in a SEQRA process to determine the impacts of modifying its noise ordinance for the entirety of the Town, including all of LFTC's neighbors, when it passed a 2012 noise ordinance with decibel levels at 50 dBA during the evening and 60 dBA during the day. From the existing record, there is no environmentally distinguishing factor between LFTC and its neighbors which justifies a more restrictive noise control. As noted, the Town of Stillwater's noise level ordinance is even more liberal. Furthermore, the 2003-2004 SEQRA review, including baseline noise study, does not make empirical findings that the noise levels within LFTC need to be below 50 dBA in the evenings and 60 dBA in the day time. In addition, recommended octave band measurements have been provided the Town of Malta's consultants which are in addition to the 50/60 dBA and provide for additional empirical monitoring by the Towns. The final octave bands shall be provided for by each Town in their Statements of Findings.

*Comment 8.9: Existing town businesses are concerned about the campus commercial additions. There should be some analysis of the impact to existing businesses. It would be counterproductive if the addition of commercial businesses in the campus caused the closure of businesses in the downtown area. If hotels, and commercial service establishments are permitted within the campus, it will create an island where there is no reason to leave and conduct business elsewhere. The Town has worked diligently to develop a sound downtown plan, but it can only succeed if there is traffic from surrounding businesses and neighborhoods.*

Response: As noted in Response to Comment 4.2 above, the evaluation of SEQRA fiscal impacts cannot be based upon competition among resident businesses or a preferred economic master plan. Furthermore, as also noted above, the existing PDD legislation contemplates commercial uses, as well as conference overnight stays.

*Comment 8.10: If the definition of technology and light industrial is expanded, what is the potential environmental impact, such as air, water, and noise? The document discusses the broader impact of traffic, water, and power level, but the document does not clearly state that all environmental controls and level will be enforced. Furthermore, will the proposed industries have different chemicals and operations that are not addressed in the SEQRA record? SEQRA*

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*may be required for individual businesses if their industrial processes and discharges are not sufficiently addressed under the current documents.*

Response: The SEQRA process will be required for each and every business seeking to locate within LFTC, at the earliest possible stage of development as required by 6 NYCRR 617, et seq. The specific metrics for each potential business that could seek to locate within the campus are too wide, varied and speculative to be examined at the zoning stage. Should a business apply for subdivision or site plan approval within LFTC, SEQRA places the burden on the applicant to establish complete compliance with all existing SEQRA thresholds and requirements, or to demonstrate that any differences do not present a significant environmental impact that cannot be mitigated. Specifically, the chemicals and related hazardous substances which are attendant to a site-specific application for development in LFTC will be examined as part of the SEQRA review process prior to approval.

*Comment 8.11: Given the phased development of the property, construction forces should be included in trip thresholds. While the documents endeavor to define preferred traffic routes, it has been observed that commuters find secondary and tertiary routes if the preferred route appears to be inadequate. Further study is needed on these outlying roadways.*

Response: The trip thresholds are representative of typically commuter peak hours (peak of adjacent street traffic) of 7-8 a.m. and 4:30 to 5:30 p.m. Construction traffic was not included in these thresholds since construction traffic generally occurs before the peak hour of adjacent street traffic. A continuing and applicable separate threshold was established for the construction traffic as part of the initial SEQRA record, however permanent mitigation is not suitable for a temporary condition. The traffic assessment completed for the LFTC/GLOBALFOUNDRIES campus included more than 25 intersections which is an extensive study area. This study area was defined as part of the initial scoping document. ITE and NYSDOT typical thresholds for determining the need for detailed analysis include the addition of 100 vehicles on an intersection approach within an hour. Many of the intersections analyzed as part of the base level set of 25 do not meet this threshold.

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### 9. Letter dated March 2, 2015 from Paul Sausville, Malta Town Supervisor<sup>9</sup>

*Comment 9.1: Section 3.0 of the TSDEIS reports that companies are not interested in locating on the Campus because tax abatements were not available. Please identify the SCIDA tax abatement incentives being requested for each business/zoning use in the legislation.*

Response: There are no tax incentives being requested by the applicants at this time. The PDD amendment application solely seeks to remove a part of the LFTC legislation which prohibits owners within Development Areas from applying for tax abatements or PILOTs. However, any future applicant seeking to locate within LFTC who can demonstrate entitlement to tax abatement relief pursuant to the October 21, 2014 SCIDA UTEP (Appendix D) is a potential candidate for relief in the form of a PILOT agreement. The SCIDA's enabling legislation from NYS under Section 874 of the General Municipal Law requires that it establish "a uniform tax exemption policy with input from affected tax jurisdictions . . . and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions." Furthermore, NYS IDAs are required to "consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; whether affected tax jurisdictions shall be reimbursed by the project occupant if an project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity." As reflected in Appendix D and more fully set forth in Comment 6.4 above, the SCIDA has enacted its UTEP in accordance with the directives of the NYS General Municipal Law and is required to base its determinations of entitlement to tax abatement relief on the language and intent of its UTEP. Therefore, there may be a potential pool of candidates who would locate within LFTC but would not be entitled to a PILOTs, such as retail establishments. However, the technology industrial focus of LFTC is intended, and more naturally suitable, to businesses which will create permanent, private sector jobs for the long-term economic development in Malta and Stillwater.

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<sup>9</sup> Similar to the comments from Carol Henry, Supervisor Sausville reviewed his written comments on the record at the SEQRA public hearing. All of Supervisor Sausville's written comments will be addressed in the Response to Written Comment section, and any additional comments he made at the public hearing beyond his written comments will be addressed in the Public Hearing Comments and Responses in Section 2.2 below.

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*Comment 9.2: In Section 3.0 and Appendix D, the TSDEIS cites factors such as land prices and \$16 million of infrastructure costs as reasons why new businesses have not been attracted to the Campus. The TSDEIS further states that LFTCEDC intends to finance infrastructure using revenues generated by the sale of property in the Campus. Please develop a business plan that shows how costs (e.g. infrastructure costs, land costs, debt repayment, tax incentives/abatements, common area maintenance and marketing/administrative costs) will lead to solvency of LFTCEDC and the success of the Campus. Include in the evaluation a review of organizational changes such as takeover of the Campus by the County or State to ensure long-term responsibility and government accountability.*

Response: Neither the Environmental Conservation Law nor the SEQRA regulations permit a lead agency to consider the financial feasibility of a project (or its owner) as part of its EIS process, particularly when public funding is part of the economic framework. While the applicants have taken steps to outline in the TSDEIS the economic realities facing LFTCEDC as it continues to operate its not-for-profit mission of marketing the campus for purposes of economic development, such outline was provided as context in other issues, besides the PDD, which have also contributed to the vacancy on the Campus. However, as demonstrated in Comments 3.2, 6.5 and 6.6 above, the inability to attract potential tenants in LFTC is driven significantly by its unfavorable local tax incentive status. Without the ability to provide local tax incentive relief, it is difficult to even commence discussions with potential tenants about land prices and the extension of utilities into other Development Areas. In fact, the SCIDA noted in Comment 6.6 above its willingness to potentially purchase Development Area 4 if “we would be able to attract potential buyers from a broader spectrum and to offer the types of tax incentives that are an essential element of industrial development in today’s marketplace.”

Furthermore, the request to include an evaluation of potential organizational changes at LFTCEDC or ownership transition to NYS or Saratoga County is outside the scope of SEQRA review. First, the issue is not one that touches or concerns environmental issues and, for the reasons set forth above concerning economic feasibility review under SEQRA, the ownership or management of LFTC is not raised by the application itself. Second, LFTCEDC is a not-for-profit corporation which is largely run by community volunteers and has been charged with the responsibility of marketing the unique campus to potential tenants to create positive economic development within the Towns of Malta and Stillwater.

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*Comment 9.3: Regarding tax incentives, please evaluate benefits, costs and financial impacts on government (school, county, town, state) using evaluation models such as informANALYTICS. Include indirect impacts such as the freeze on the town's sales tax share resulting from the IDA removal of the property from the tax rolls.*

Response: The initial scope of review for the LFTC was set by the Malta Town Board as lead agency in 2003. The methodology of examining the fiscal impacts was created by the Economic Impact Analysis at Appendix D of the original DGEIS which was accepted by the Malta Town Board as lead agency in 2003. At present, the applicants seek to have the PDD legislation permit tax abatement applications to be made for PILOT agreements with the SCIDA for the secondary, ancillary development within LFTC. As such, SEQRA requires that the supplemental EIS process evaluate the "changed circumstances" from the original impacts studied and the impacts raised by the present application. Pursuant to FGEIS of 2004 and the Findings Statement of 2004, the original study set and data from the Economic Impact Analysis formed the basis of thresholds for economic and fiscal evaluations within the Campus which found that the thrust of the economic benefit was to come from the anchor fab tenant in Development Area 1 with all remaining development in LFTC as "secondary or indirect" impacts. The remaining development within LFTC remains secondary and indirect compared to the overwhelming economic impact of the GLOBALFOUNDRIES Fab 8 Campus in Development Area 1.

As noted in Tables 4-3.1 and 4-3.2 of the TSDEIS, the 2013 tax payments received by the taxing jurisdictions under the Empire Zone Program ("EZP") and through GLOBALFOUNDRIES' PILOT include (1) \$592,270.89 in Town taxes; (2) \$525,704.89 in emergency response levies; (3) \$1,532,106.91 in County tax payments; (4) \$10,260.00 for the Malta library; and (5) \$11,083,152.74 in school tax payments. As GLOBALFOUNDRIES continues construction on TDC and, when and if it makes the determination to commence construction of Fab 8.2, the project will further increase tax revenues proportionately.

The information provided in Table 4.3-7 of the TSDEIS indicates that, even with the construction of the Fab 8 Campus by GLOBALFOUNDRIES, there has been no decrease in NYS education aid to the Ballston Spa or Stillwater Central School Districts as a result of the project itself. While it is noted that NYS legislative enactments have affected the Districts' state aid reimbursement, such impacts are not the result of a limitation of

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PILOTs in the PDD or the growth of GLOBALFOUNDRIES. Records demonstrate that spending per student has increased in both school districts with enrollment collectively declining by 117 students, even while 376 GLOBALFOUNDRIES' employees report living within the two districts. Any secondary, indirect economic impacts related to development within LFTC which benefits from a PILOT outside of Development Area 1 pales in comparison to the economic benefit received by the taxing jurisdictions from the location of GLOBALFOUNDRIES.

Specifically, with respect to the school districts, the use of PILOTs would result in the assessed valuation of the projects not charged to municipality for state aid purposes and, similar to the 2004 conclusion, would not reduce state aid calculations for the districts. Alternatively, with the imposition of the NYS 2% "tax cap" in 2011, the PILOT parcels are also removed from the total tax base growth factor in establishing the maximum local revenue level on which the district has to base its percentage rate increase. The result is that, depending upon other growth within the Towns, there may be a net neutral result in the competing ways PILOTs are used to calculate state aid reimbursement and the tax cap. Appropriately, it was noted in the TSDEIS (see FN 20) from the Ballston Spa Central School District officials that because of the annual depreciation of the current GLOBALFOUNDRIES' facilities, pursuant to the settlement agreement noted above, increased revenue from other commercial properties in the Towns would be highly preferential compared to the redistribution of costs to residential owners.

In 2015, the local amount of tax revenue for the parcels owned by LFTCEDC and located in Malta was y \$6,262.23 and the school taxes for the Ballston Spa Central School District were approximately \$25,688<sup>10</sup>. If all the Town of Malta parcels were removed from the tax rolls pursuant to ten-year PILOTs at 100% abatement, the loss to the local share of tax revenue would be approximately \$5,000 using 2015 assessment rates, while the remaining \$1,000 would still be due to the library fund and Fire District #1 as special assessments. The Ballston Spa Central School District would lose \$25,688, assuming the 2014-2015 assessment rates. In place of the removed parcels, the SCIDA would be in a position to offer qualifying candidates ten-year PILOTs for the first five years at 50% to 100% of the added value assessment attributed to new construction and,

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<sup>10</sup> \$8,113.25 of the LFTCEDC school tax obligation was paid to the Shenendehowa School District.

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in years 6 to 10, abatement ranging from 0% to 100% of the added value assessment. For example, a technology manufacturing company could elect to purchase a parcel within LFTC and construct a building for \$25 million of added value assessment. In years one through five, the SCIDA enters into a PILOT with the company for an abatement of 50% and, in years six through 10, the abatement is reduced to 25%. During years one through five and using the current assessment rates, Saratoga County would receive \$380.44, the Ambulance Fund would receive \$62.51, but the library and Fire District would receive their full respective portions of \$24,184 (as noted in the Response to Comment 7.3, the SCIDA UTEP does not exempt ad valorem or special assessment district levies such as the Fire District #1 or the library funds and the Ballston Spa Central School District would receive \$237,533.99, as opposed to the total of \$25,688 it is currently receiving on LFTCEDC's vacant lands. During years six through ten, Saratoga County would receive \$570.93, the Ambulance Fund would receive \$93.77, with the library and Fire District continuing at the same rate, and the Ballston Spa Central School District would receive \$356,300.98.

The current total assessed value of LFTCEDC lands within the Town of Malta is \$1,699,995. If any project becomes titled to the SCIDA as part of a PILOT, the question posed is whether that will have an impact on the sales tax share at the County level. Section 310-48 of the Saratoga County Code provides that, "Commencing on June 1, 2002, that said sum of \$3,000,000 not retained for County purposes shall be distributed to the cities and towns of said County in proportion to their respective populations, determined in accordance with the latest decennial federal census." Published minutes from the January 28, 2010 Sales Tax Distribution Committee Meeting of the Saratoga County Board of Supervisors indicates that "During research, it has come to light that because [GLOBALFOUNDRIES] is an IDA project, it has no impact on the sales tax formula whatsoever, [Chairman Lawler] stated. There is no impact to the Saratoga County sales tax distribution by law, [Chairman Lawler] added. [Chairman Lawler] stated [the County officials] are certain that the assessed value of the [GLOBALFOUNDRIES] project cannot be used in a sales tax distribution formula." Research into the Saratoga County Code and the public records did not reveal any documents which discuss an indirect or direct freeze on Malta's sales tax share if the LFTC lands were removed by the overall assessed values of property within the Town of Malta, other than what is outlined above.

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*Comment 9.4: When Malta agreed to build the 5.5 miles of roads in the Campus, the LFTCEDC agreed to be financially responsible for the road maintenance and future repair of the roads. The debt to-date for this obligation is \$1,544,100. If the debt is not addressed by LFTCEDC, please explain how these expenses will be addressed.*

Response: The debt will be addressed by LFTCEDC and is not subject to environmental review under SEQRA.

*Comment 9.5: The LFTCEDC also agreed to cover electricity costs related to lighting of Campus roads. Please address financial alternatives to cover these costs considering such financing arrangements as a lighting district.*

Response: LFTCEDC will internally consider all financial mechanisms to meet its obligations and commitments, but the issues raised in the comment are not subject to environmental review under SEQRA.

*Comment 9.6: Table 4-3.1 shows the tax payment by GLOBALFOUNDRIES but does not show the depreciation curve and declining tax revenue to government that will extend over 50 years. The assessment reductions should be shown and annual decline in revenues for each taxing district should be tabulated.*

Response: See Response to Comment 7.3 and Appendix E.

*Comment 9.7: The County Economic Development Strategic Plan of March 2014 states that LFTC has the potential for leveraging many of New York's incentives programs. The EIS report that LFTCEDC is not eligible for Start-Up New York incentives. Please discuss the initiatives and efforts underway to ensure that Campus tenants qualify for all State incentives.*

Response: In point of clarity, "LFTC" and "LFTCEDC" are terms that are not used interchangeably in the TSDEIS. While potential tenants who purchase land within the LFTC Campus may be able to leverage some or all of the NYS incentive programs discussed at length in the TSDEIS, LFTCEDC, a not-for-profit corporation engaged in the business of marketing land for sale and brokering transactions is not, itself, eligible to apply for entry into NYS tax incentives programs (See TSDEIS Section 4.3.3). The County Economic Development Strategic Plan indirectly acknowledges that it is the potential site selectors who must apply for programs, with any supportive entity working as a liaison with State officials.

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LFTCEDC has continued to work with officials from HVCC concerning its Start-Up NY program and potential for synergies between the missions of both organizations. LFTCEDC has active and on-going relationships with State economic development officials and routinely seeks the most current information about the available programs being offered at the State and local levels. However, due to the restrictions of each program and the shifting policies at the State level, there is no way for LFTCEDC to ensure that every potential applicant for development within LFTC is going to qualify for all State incentives, as suggested by Comment 9.7. LFTCEDC has neither control of NYS regulatory approval process nor the internal qualifying aspects of a potential business looking to site in the Campus. In all ways, LFTCEDC uses best efforts to maximize the tax incentives at all levels to induce businesses to select LFTC as their new home in Saratoga County. The TSDEIS sets forth the reasons why the applicants seek the removal on the limitation to access PILOTs, as it removes one tool from the toolbox in everything NYS and Saratoga County has to offer.

*Comment 9.8: The proposed amendments add “campus commercial” to the following development areas: 2,3,4,5,6,7,8,9 and 11. This would allow for fast foods, convenient stores, retail stores, and a variety of other commercial uses throughout most of the Campus. This appears to be a major conflict with the Town’s Master Plan and Downtown Plan. Please sponsor a process for reviewing/revising the Town’s Master Plan to ensure the proposal is aligned with the Town’s land use plans.*

Response: See Response to Comment 4.2 above, noting specifically that campus commercial uses are already specially permitted in Development Areas 6, 7 and 8. The inclusion of campus commercial uses in 2004 was done specifically “to reduce environmental impacts by providing services within the Campus.” (Malta Town Code 167A-52 C.2.a) Given that the Town of Malta Master Plan was adopted in August of 2005, the campus commercial uses were already contemplated for LFTC and were an existing build condition within the Master Plan. Moreover, Section 167A-52 W.5.a of the Town of Malta PDD provides for the collection of fees necessary to create and update future Master Plans to address developing conditions. Such fees will be paid upon the development of ancillary space at \$0.12 per square foot.

*Comment 9.9: The County recently prepared the “Economic Development Strategic Plan” (Plan) in March of 2014 which among other things recommends: (1) a dedicated property*

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*manager for the Campus; (2) a new organizational and self-supporting financial model for developing the Campus; and (3) creation of a Manufacturing Technology Education Center (MTEC). Please evaluate the proposed legislation for consistency with the County's Plan.*

Response: The County's Plan initiatives "to make incentives for LFTC more competitive and "smart," include: (1) Broaden eligibility criteria and be more flexible in terms of allowable uses. Most tech parks allow a wide variety of tenants and increasingly encourage mixed-use developments; (2) Ensure that the campus has a dedicated property manager to ensure the needs of tenants are met in a timely manner; (3) Collaborate more to generate opportunities and restore momentum; (4) Package and present a set of business services and access to state incentives and other relevant programs on behalf of potential tenants; and (5) Update the website so it looks like an active and attractive (edited and paraphrased from Page 62 of the Plan). All of these initiatives are part of the LFTCEDC strategy for marketing the Campus and many of demonstrated in the present application and content of the TSEIS. All other ideas in the Plan, including equine synergy and an MTEC, are not necessarily directed at LFTC specifically, but more focused as a Countywide initiative. However, any idea which the County seeks to advance within LFTC would be welcomed for discussion by LFTCEDC in their existing and long-term partnership. Finally, the County's Plan does not form the basis of land use regulations for the Towns of Malta or Stillwater. While instructive and informative, the County's Plan was not created by the legislative processes in the Towns which is necessarily required for support of local legislative enactments.

### 10. Letter dated March 6, 2015 from Lynda Bablin, Town of Malta Resident

*Comment 10.1: I believe that before ANY change to the original PDD is approved by the Town of Malta, LFTC should be forced to pay all arrearages to the Town of Malta and be current with any obligations owed to the town. This would indicate good faith on their part.*

Response: Comment noted.

*Comment 10.2: I do not support any changes to the existing permitted uses within the prescribed PDD. At the time of the approval of the existing PDD, I believe the Town Board understood the need to limit the types of uses within LFTC so as to not adversely affect existing businesses in the town outside of LFTC, and also not to county the "spirit" of the Town's Master Plan. To change the permitted uses now, unless all other conditions remain consistent with those businesses located outside of the LFTC, there will be a negative impact on the existing*

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*businesses outside of LFTC as it relates to competition and conflict with the Town's Master Plan.*

Response: See Response to Comments 4.2 and 9.8 above.

*Comment 10.3: As it relates to Section 3.1.3 Tax Abatement Limitation and PILOTs, I am not supportive of a change to the current restrictions unless certain criteria are in place and the remainder of the tax base can be assured that they will not be burdened with having to supplement funds that would have otherwise been acquired from the future businesses locating within LFTC.<sup>11</sup> If, however, the town is to entertain any tax abatement change to the PDD, and allow for future tax abatements/PILOTs, I believe the following should be considered before doing so: (1) a thorough cost-benefit analysis of community impact should be undertaken before awarding any abatement; (2) provide school boards with formal decision-making power over the abatement of school related portions of property taxes or let school district negotiate PILOTs directly with the developer; (3) create an independent board for abatements which includes which local businesses, private citizens, public safety officials, county officials, school officials and town officials; (4) only allow town to exempt their portion of tax revenue owed with abatements of other portions potentially granted at the discretion of other receiving entities such as counties and schools; (5) for long-term abatements, put in short term reviews to assure compliance, but also leave an option to rescind the abatement if non-compliant; (6) require mitigation fees to cover the cost of fire, police, and ambulance protection at a level based on the overall assessment prior to the tax abatement; (7) the town should be required to provide taxpayers will all information relating to any tax abatement including the value of the project, the statutory basis for the abatement and the basis for calculating the amount of the PILOT payment or abatement; and (8) monitoring abatement performance to ensure a quantified return on investment.*

Response. Comment noted. For responses related to the SCIDA UTEP and decision-making process, see Comment 6.4 above and Appendix D. For responses related to fire protection services and special assessments under a PILOT, see Response to Comment 7.3. For the statutory framework of the SCIDA, see Section 890-h of the NYS General Municipal Law. For the powers and duties of NYS IDAs and the review mechanisms, see Article 18A of the NYS General Municipal Law.

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<sup>11</sup> The letter from Linda Bablin contains approximately two pages of in-depth, detailed history of the debate over whether PILOTs are an effective economic development tool and the history of the EZP. For purposes of the scope of the TSFEIS, the response to comment will focus on her suggestions concerning the considerations that should be part of any PILOT analysis. The complete and unedited version of Ms. Bablin's letter is part of Appendix B.

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### 2.3 PUBLIC HEARING COMMENTS AND RESPONSES

A public hearing on the TSDEIS took place on March 2, 2015 and the transcript of the public hearings is provided in Appendix C. In summary, five (5) people commented during the SEQRA public hearing. Comments from each of the speakers are summarized below along with responses to their comments.

#### 1. Carol Henry, Chair of Community Response Board (CRB)

*Comments 1 through 11: See the CRB letter attached as Exhibit B which was read into the record by Carol Henry.*

Response: See Responses to Comments 8.1 through 8.11 above.

#### 2. Peter Shaw, Malta Ridge Fire Department

*Comment 2.1: How do PILOT programs and tax abatements programs affect fire protection funding?*

Response: See Response to Comment 7.3 above.

*Comment 2.2: Could this possibly be a point where we could review the mitigation fees and the development fees for a public safety fee?*

Response: See Comment and Response to Comment 7.2 above.

#### 3. William Connelly, Beauty Society Salon, Malta Resident<sup>12</sup>

*Comment: How would you ever provide for fire and/or police if you allow tax abatements? How are they going to drive around and find a building? Twenty minutes you're going to find a dead body. I worked on a guy for 20 minutes at Cliff's that took 20 minutes for the ambulance to get there.*

Response: See Response to Comment 7.3 concerning fire special assessment districts under a PILOT.

#### 4. Todd Shimkus, Saratoga County Chamber of Commerce, Chairman

*Comment 4.1: We have in this region an emerging tech sector. Joe Dragone from the school district is doing an incredible job of growing local tech talent base for future employment which*

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<sup>12</sup> The public hearing comments of William Connelly closely mirror the written comments provided by his letter dated December 28, 2014. See Response to Written Comments No. 4.

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*will provide a great opportunity for all our kids and grandkids somewhere down the line. GLOBALFOUNDRIES is absolutely great. We're happy obviously to have them. They have helped stimulate growth within our economy in every sector across Saratoga County and the greater region, but we don't want to rely just on them, and I don't think they want us to rely just on them. The PDD you have in place now was put in place under a whole different set of circumstances, a whole different set of rules, a whole set of different expectations. All of those things have changed, and so this new plan hopefully will help us to adapt to those changing opportunities, changing challenges and give you an opportunity to really support growing our local economy.*

*We have a group formed literally within the last year called our Saratoga Tech Executives Group. It is comprised of a wide range of tech companies; GLOBALFOUNDRIES at the high end in terms of employment, but some startups, as well. Some folks are into software, communications, and semi-conductors. They are all in competition to bring talent to this area and to hire local talent to fill positions and it's interesting to talk to them because you might think that these companies don't want competition for talent – but it is the exact opposite. They believe for GLOBALFOUNDRIES to be successful, for these small startups to be successful, that we have to grow the tech center ecosystem. That's so that people will choose to come here, or students will choose to come back here, not because they know they're going to get a specific job, but they will have opportunities. That's when you know you have a successful tech ecosystem.*

*I think that in order to have that, we need Malta's support. We need PDD amendments that would help attract more companies to provide more opportunities for kids in the future. So, anything you can do to support these efforts, obviously with some modification based on some of the comments that have been made, and but to do your best efforts to give us an opportunity to take advantage of the new opportunities that are here and handle some of the challenge that no one could have predicted 10 years ago.*

Response: Comment noted.

### 5. Paul Sausville, Town of Malta Supervisor<sup>13</sup>

*Comment 5.1: Up until now, the Environmental Impact Statement has been reviewed by our engineer, our planners, and attorneys and it is now time, I think, for the rank and file folks here*

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<sup>13</sup> The public hearing comments of Paul Sausville closely mirror the written comments provided by his letter dated March 2, 2015. See Response to Written Comments No. 9, et seq. To the extent any comments differ between the letter and the public hearing, the public hearing comments will be addressed as Response to Public Comment No. 5.

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*at the Town Board to dig deep into the EIS and begin to set answers to the questions that are important to us.*

Response: Comment noted.

*Comment 5.2: You know, right now, the LFTCEDC is essentially insolvent. Those questions aren't being addressed at the current time and need to be addressed before we begin to march down the road of doing things on a case-by-case parcel basis. I would like to suggest that, in the interest of moving the success of the Campus forward, that we begin to look at the right institution for making the Campus successful and, from my experience, my observations, the LFTCEDDC has not been successful and is not the right institution going forward. I think that the County ought to begin to think about stepping up and assuming the financial obligation that I talked about earlier and it is time for that notion to be discussed publicly and for us to begin to evaluate how that might be successful.*

Response: Comment noted. The financial status of an owner/applicant at the time of the filing of an application to amend the zoning ordinance is not a relevant consideration under SEQRA.

### 6. John Hartzell, Town of Malta Councilman

*Comment 6: In large part, we are at the crossroads of obstruction and construction. I think it's time to be constructive. I assume that the folks in this room understand that there are, in fact, answers to a lot of those questions; that there are other points of view; that there are other factors, there are other facts. For instance, just by way of example, Paul is correct by GLOBALFOUNDRIES property being held by the IDA, all that value does not count towards the Town of Malta receiving its share of sales tax. On the other hand, the fact that it is exempt means that it doesn't count against the school district and the school aid formula because it does not show our district being that much richer. So, there are a number of off-setting considerations that we need to look at.*

Response: Comment noted.

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### 3.0 REFERENCES

- Creighton Manning Engineering, P.C., Summary of Traffic Analysis, Luther Forest Technology Campus. Prepared for LFTCEDC and GLOBALFOUNDRIES, September 3, 2014.
- C.T. Male Associates, P.C., 2003. Draft Generic Environmental Impact Statement (DGEIS) of the Luther Forest Technology Campus, January 16, 2003, Malta Town Board Lead Agency.
- C.T. Male Associates, P.C., 2003. Final Generic Environmental Impact Statement (FGEIS) of the Luther Forest Technology Campus, October 16, 2003, Malta Town Board Lead Agency.
- C.T. Male Associates, P.C. 2008. Supplemental Draft Environmental Impact Statement (SDEIS) for Fab 4X at Luther Forest Technology Campus. Prepared for AMD. March 28, 2008.
- C.T. Male Associates, P.C. 2008. Supplemental Final Environmental Impact Statement (SFEIS) for Fab 4X at Luther Forest Technology Campus. Prepared for AMD. August 1, 2008.
- C.T. Male Associates, P.C. 2011. Environmental Assessment Report for Administrative Building 2 at Fab 8 Campus. Prepared for GLOBALFOUNDRIES February 15, 2011.
- C.T. Male Associates, P.C. 2012. Environmental Assessment Report for TDC at Fab 8 Campus. Prepared for GLOBALFOUNDRIES September 21, 2012.
- C.T. Male Associates, P.C., 2013. Second Supplemental Draft Environmental Impact Statement (SSDEIS) for Fab 8.2 at Luther Forest Technology Campus. Prepared for GLOBALFOUNDRIES, March 7, 2013.
- C.T. Male Associates, P.C., 2013. Second Supplement Final Environmental Impact Statement (SSFEIS) for Fab 8.2 at Luther Forest Technology Campus. Prepared for GLOBALFOUNDRIES, July 29, 2013.
- ESDC, 2014. Empire State Economic Development, Empire Zones; 08/28/2014; <http://esd.ny.gov/businessprograms/empirezones.html>.
- ESDC, 2014. Empire State Economic Development, Empire Zones Program Sunset, Frequently Asked Questions, page 1.
- ESDC, 2014. Empire State Economic Development, Start Up NY, <http://www.startup-ny.com>.
- Malta, 2004. SEQRA Findings Statement for Luther Forest Technology Campus, Malta Town Board, Adopted May 18, 2004, Malta Town Board.
- Malta, 2004. Planned Development District No. 6 of 2004, Luther Forest Technology Campus, filed May 24, 2004 by Malta Town Board with NYSDOS. Modified by Local Law No. 18 of 2007, October 10, 2007; and by Local Law No. 2 of 2007, February 28, 2007.
- Malta, 2005. Town of Malta - Comprehensive Plan 2005.
- Malta, 2006. Town-Wide Generic Environmental Impact Statement. Malta Town Board.

## PROPOSED PDD AMENDMENTS

- Malta, 2008. SEQRA Findings Statement for AMD Development at Luther Forest Technology Campus, Malta Town Board, Adopted August 25, 2008, Malta Town Board.
- Malta, 2008. Local Law No. 7 of 2008, Planned Development District No. 46 of 2004, Luther Forest Technology Campus, filed September 23, 2008 by Malta Town Board with NYSDOS.
- Malta, 2013. SEQRA Findings Statement GLOBALFOUNDRIES Fab 8.2 at Luther Forest Technology Campus, Malta Town Board, Adopted August 19, 2013.
- Malta, 2013. Local Law No. 5 of 2013, Planned Development District No. 46 of 2004. Luther Forest Technology Campus, filed September 3, 2013.
- Malta, 2013. Malta Town Code, Chapters 136 and 143.
- New York State Department of Education, 2013. New York State Report Card; 08/24/2014; <http://www.nysed.gov>.
- New York State Department of Education, 2013. 2012-2013 General Formula Aid Output Resource (GEN), 08/24/2014; <https://eservices.nysed.gov/publications/reports.do>.
- Saratoga County, 2011-2013. Saratoga County Treasurer, 2011-2013 Town Tax Rolls for Malta and Stillwater.
- Stillwater, 2004. SEQRA Findings Statement for Luther Forest Technology Campus, Stillwater Town Board, Adopted June 14, 2004, Stillwater Town Board.
- Stillwater, 2004. Planned Development District No. 4 of 2004, Luther Forest Technology Campus, filed July 8, 2004 by Stillwater Town Board with NYSDOS. Modified by Local Law No. 8 of 2004, December 31, 2004.
- Stillwater, 2006. Town of Stillwater Comprehensive Plan (2006).
- Stillwater, 2008. SEQRA Findings Statement for AMD Development at Luther Forest Technology Campus, Stillwater Town Board, Adopted December 18, 2008, Stillwater Town Board.
- Stillwater, 2008. Local Law No. 3 of 2008, Planned Development District, Luther Forest Technology Campus, filed January 12, 2009 by Stillwater Town Board with NYSDOS.
- Stillwater, 2013. SEQRA Findings Statement for GLOBALFOUNDRIES at Luther Forest Technology Campus, Stillwater Town Board, Adopted September 3, 2013.
- Stillwater, 2013. Local Law No. 2 of 2013, Planned Development District, Luther Forest Technology Campus, filed October 11, 2013 by Stillwater Town Board with NYSDOS.

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### 4.0 ACRONYMS AND ABBREVIATIONS

The following table contains a list of acronyms and abbreviations that are used within this TSDEIS.

#### Acronyms and Abbreviations

AGI	Abbie Gregg, Inc.
AMD	Advanced Micro Devices, Inc.
C-3	Commercial - 3 Town of Malta
Campus	Luther Forest Technology Campus
CDTC	Capital District Transportation Committee
CEG	Center for Economic Growth
CME	Creighton Manning Engineering, P.C.
Corps	United States Army Corps of Engineers
C.T. Male	C.T. Male Associates Engineering, Surveying, Architecture and Landscape Architecture, P.C.
DGEIS	Draft Generic Environmental Impact Statement
EAF	Environmental Assessment Form
EJP	Excelsior Jobs Program
ESDC	Empire State Development Corporation
Fab	Fabrication Clean Room Facility
Fab 8 Campus	GLOBALFOUNDRIES Campus at LFTC
FGEIS	Final Generic Environmental Impact Statement
FHWA	Federal Highway Administration
GEIS	Generic Environmental Impact Statement
HVCC	Hudson Valley Community College
IDA	Saratoga County & Mechanicville-Stillwater Industrial Development Agencies
IRR	Industry Requirements Report
LFTC	Luther Forest Technology Campus
LFTCEDC	Luther Forest Technology Campus Economic Development Corporation
NYCRR	New York State Codes, Rules and Regulations
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
NYSDOS	New York State Department of State
NYSDOT	New York State Department of Transportation
NYSDPS	New York State Department of Public Service

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NYSECCC	New York State Energy Conservation Construction Code
NYSEG	New York State Electric and Gas
NYSERDA	New York State Energy, Research & Development Authority
NYSHPO	New York State Historic Preservation Office
OPRHP	Office of Parks, Recreation, and Historic Places
PDD	Planned Development District
PILOT	Payment in lieu of taxes.
QEZE	Qualified Empire Zone Enterprise
R&D	Research and Development
SCSD #1	Saratoga County Sewer District No. 1
SCWA	Saratoga County Water Authority
SDEIS	Supplemental Draft Environmental Impact Statement
SSDEIS	Second Supplemental Draft Environmental Impact Statement
SFEIS	Supplemental Final Environmental Impact Statement
SEDC	Saratoga Economic Development Corporation
SEQRA	State Environmental Quality Review Act
START- UP NY	SUNY Tax-Free Areas To Revitalize And Transform Upstate New York Program
STEP	Saratoga Technology Energy Park
SUNY	State University of New York
SWPPP	Stormwater Pollution Prevention Plan
The Board	Town of Malta Town Board
TDC	Technology Development Center
TSDEIS	Third Supplemental Draft Environmental Impact Statement

# PROPOSED PDD AMENDMENTS

## APPENDIX A

# PROPOSED PDD AMENDMENTS

## **APPENDIX B**

# PROPOSED PDD AMENDMENTS

## APPENDIX C

# PROPOSED PDD AMENDMENTS

## **APPENDIX D**

# PROPOSED PDD AMENDMENTS

## **APPENDIX E**