



Case 15-E-0302

**Clean Energy Resources Development and Incentives
“Build-Ready” Program
Implementation Plan**

Filed by

Staff of the New York State Energy Research and Development Authority

January 12, 2021

Table of Contents

<i>Introduction</i>	<i>1</i>
1. Potential Project Site Identification	3
1.1 Identify Potential Project Sites	4
1.2 Creation and Maintenance of Site Log	4
1.3 Preliminary GIS Screening	5
2. Desktop Screening	5
2.1 Information Gathering	6
2.2 Community Engagement	7
2.3 Develop Project Financial Proforma	8
2.4 Negotiation and Execution of Site Control Agreement	8
3. Preliminary Assessment and Design	9
3.1 Engineering Design	9
3.2 Environmental and Land-Use Diligence	10
3.3 Interconnection Application and Studies	10
3.4 Community Engagement	11
4. Detailed Assessment and Design	11
4.1 Project Schedule	12
4.2 Engineering Design	12
4.3 Interconnection Process	12
4.4 Environmental Studies	13
4.5 Land-Use and Site Control	14
4.6 Community Engagement	14
5. Secure Permits, Approvals and Agreements	15
5.1 Environmental and Land-Use Approvals and Agreements	15
5.2 Interconnection Agreement	16
5.3 Site Control	16
5.4 Community Engagement	16
6. Auction	17
6.1 Step One – Prepare Project for Auction	18
6.2 Step Two – Eligibility Application	19

6.2.1	Financial and Operational Qualifications	19
6.2.2	Permit-Compliance Record and Commitments	19
6.3	Step Three – Bid Evaluation	20
6.4	Execute Transfer	21
6.5	Post-Transfer Community Engagement and Project Monitoring.....	21

Introduction

The Accelerated Renewable Energy Growth and Community Benefit Act (the “Act”) authorizes the New York State Energy Research and Development Authority (“NYSERDA”) to establish and administer the Clean Energy Resources Development and Incentives “Build-Ready” Program.¹ The Build-Ready Program identifies sites in New York State that may be suitable for development as large-scale renewable energy projects (“Build-Ready Projects” or “Projects”), and advances those sites for eventual publicly-noticed competitive solicitation to private developers. NYSEDA has formed a team of professionals (the “Build-Ready Team”) dedicated to implementing these objectives.

The Build-Ready Program prioritizes the development of sites that commercial developers might elect not to pursue due to complicated development challenges, including those on existing or abandoned commercial sites, brownfields, landfills, former industrial sites, and other abandoned or underutilized sites.² To optimize the benefits of the Program, NYSEDA will not pursue sites that private developers are known to be interested in. As described herein, NYSEDA’s Build-Ready Team will carry Projects through an increasingly-detailed set of steps, in a manner similar to how commercial developers assess and develop sites, to de-risk Projects by addressing all relevant issues and uncertainties. In doing so, the Program will ensure that at the point of auction Projects are financially sound and will solicit sufficient interest from the private sector to construct, maintain and operate a Project long-term. Additionally, the Program emphasizes host-community engagement and seeks to support jobs and other benefits for disadvantaged communities.

More specifically, the Act requires NYSEDA to “locate, identify, and assess” potential Build-Ready sites using a non-exclusive list of assessment criteria that includes: (i) “natural conditions at the site that are favorable to renewable energy generation;” (ii) “current land uses at or near the site;” (iii) “environmental conditions at or near the site;” (iv) “the availability and characteristics of any transmission or distribution facilities on or near the site;” (v) “the potential for the development of energy storage facilities at or near the site;” (vi) “potential impacts of development on environmental justice communities;” and (vii) “expressions of commercial interest in the site or general location by developers of major renewable energy facilities.”³ The Act also requires NYSEDA to prioritize “previously developed sites, existing or abandoned commercial sites, including without limitation brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, or otherwise underutilized sites.”⁴

These Protocols implement NYSEDA’s statutory mandates and systematize the close collaboration with relevant State agencies and host communities that will be required to expeditiously obtain necessary approvals and permits. In addition to obtaining formal approvals, NYSEDA will cultivate cooperative relationships with host communities to ensure that Build-

¹ New York Public Authorities Law (“PAL”) § 1900–1905.

² PAL § 1902(1)(b) (“In making [its] assessment the authority shall give priority to previously developed sites, existing or abandoned commercial sites, including without limitation brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, or otherwise underutilized sites.”).

³ PAL § 1902(1)(a).

⁴ *Id.* § 1902(1)(b).

Ready Projects are customized to each community’s needs and priorities, including consideration of environmental justice impacts. While potential Project sites can be proposed by State, regional, and local agencies as well as private companies, communities, elected officials and other stakeholders, the Build-Ready Team will strive at every stage of the development process to ensure that any prospective Build-Ready Projects will deliver benefits directly to the local communities in which they are built.

Although these Protocols focus on the screening and development of Project sites for solar-PV facilities, the Build-Ready Team will adapt these Protocols where appropriate to investigate and develop other types of renewable-energy projects that are consistent with NYSERDA’s statutory authority.

As depicted on the below graphic, the major stages in the Build-Ready Program are: (1) Potential Project Site Identification; (2) Desktop Screening; (3) Preliminary Assessment & Design; (4) Detailed Assessment and Design; (5) Secure All Approvals and Permits; and (6) Auction. Although these stages are presented as discrete steps, the stages of development will necessarily overlap and be adapted based on the characteristics and development needs of a given Project, as well as the optimal point in the development process to auction a Project to a private developer. These Protocols address each of these stages in order.



1. Potential Project Site Identification

NYSERDA's Build-Ready Team will generally identify potential Build-Ready sites via nominations from other State agencies, identification through the Build-Ready Team's ongoing State-wide top-down screening endeavor, through connections developed by the Program's State-wide site "prospecting"⁵ agents, and nominations from local officials, private companies, or interested landowners. Regardless of how a site is identified, each potential site will be screened using Geographic Information System ("GIS") technology and other renewable industry software to determine its baseline suitability for renewable energy development.

Site Identification Priorities – The Build-Ready Team will generally prioritize and target sites in the following categories (in no particular order):

- ◇ State- and municipally-owned sites;
- ◇ New York State Department of State's Brownfield Opportunity Areas Program sites;⁶
- ◇ New York State Department of Environmental Conservation ("NYSDEC") remediation sites (Brownfield Cleanup Program, Environmental Restoration Program, State Superfund Program, and Voluntary Cleanup Program);
- ◇ NYSDEC Reclaimed Mine Land sites;
- ◇ USEPA's RE-Powering America's Land⁷ and Resource Conservation and Recovery Act (RCRA)⁸ sites;
- ◇ New York State Independent System Operator ("NYISO") Gold Book annual report documenting Generator Deactivations;⁹
- ◇ Airport sites;
- ◇ Sites identified by local governmental agencies to attract other forms of industrial or commercial development;
- ◇ Industrial sites; and
- ◇ Underutilized greenfield sites.

⁵ Site "Prospecting" agents are competitively selected contractors who support the Build-Ready Program by seeking to identify potential Build-Ready sites for consideration, and related real-estate services.

⁶ <https://www.dos.ny.gov/opd/programs/brownFieldOpp/index.html>

⁷ <https://www.epa.gov/re-powering>

⁸ <https://www.dec.ny.gov/chemical/8486.html>

⁹ <https://www.nyiso.com/documents/20142/2226333/2020-Gold-Book-Final-Public.pdf/>

1.1 Identify Potential Project Sites

As a general matter, the Build-Ready Team will identify potential Project sites in the following ways:

- ◇ Sites proposed by New York State agencies that include former commercial, industrial, or other abandoned/underutilized sites;
- ◇ Sites identified as part of NYSERDA's ongoing top-down State-wide screening endeavor, which identifies sites that fit into the above categories and are otherwise suitable for renewable energy development;
- ◇ Sites identified through connections and networks developed by the Build-Ready Program's State-wide team of site prospecting agents, and
- ◇ Sites nominated through the Build-Ready Site Nomination Request for Information ("RFI") system, which promotes local community engagement by soliciting nominations from interested local officials, community members, and private companies. For sites nominated through the RFI system, the Build-Ready Team will schedule a preliminary discussion (typically a phone call) with the person or entity that nominated the site to better understand the opportunity, address any programmatic questions, and complete a Project intake form.

1.2 Creation and Maintenance of Site Log

Once a potential Project site is identified, the Build-Ready Team will log the site and generate a brief description. Site logs will include, as applicable:

- ◇ Contact information of the person or entity submitting the RFI;
- ◇ Project site location and address/parcel number;
- ◇ Contact information for the site owner;
- ◇ Interest in hosting renewable energy facility;
- ◇ Site ownership entity type (e.g., Private, State, Federal, Municipal, County);
- ◇ Recent land use of site;
- ◇ Other development interests for the site;
- ◇ Estimated number of acres available for consideration;
- ◇ Known environmental conditions;
- ◇ A map of the site;
- ◇ Known site constraints or considerations; and
- ◇ Any applicable GIS files.

1.3 Preliminary GIS Screening

The Build-Ready Team will analyze multiple data sets using GIS tools such as ArcMap to quickly identify potentially-suitable Project sites, and to exclude sites unsuitable for renewable energy development based on geographic conditions.¹⁰ For simplicity, these Protocols use conditions pertinent to Solar-PV facilities as a template. The Build-Ready Team will adapt these Protocols to assess and develop other types of renewable energy projects where appropriate and consistent with NYSERDA's statutory authority.

Preliminary GIS screens provide an indication of the potentially buildable area, which informs relative project size and potential site challenges. This preliminary screening, at minimum, will include the consideration of:

- ◇ Proximity to necessary transmission and distribution electrical infrastructure;
- ◇ NYISO Load Zone;
- ◇ Protected areas (includes any national, State, or local lands set aside for environmental, historic, or other types of preservation);
- ◇ Non-usable portions of transportation corridor parcels (e.g., roadways);
- ◇ U.S. Fish and Wildlife Service National Wetlands Inventory and NYSDEC Wetlands with 100' buffer;
- ◇ Areas within FEMA's 100-year floodplain;
- ◇ All areas exceeding 15% slope;
- ◇ Areas of between 7 and 15% slope with a NW, N, or NE aspect;
- ◇ New York State Agriculture and Markets' Mineral Soil Groups 1-4;
- ◇ U.S. Department of Agriculture – National Resources Conservation Service Soil Survey Geographic database; and
- ◇ Land Cover (e.g., forested, agricultural).

The Build-Ready Team will adjust these parameters as appropriate. Project sites deemed suitable for further investigation based on the preliminary screening will be advanced to the more-detailed Desktop Screening phase.

2. Desktop Screening

Once a potentially-viable Project site is identified, the Build-Ready Team will begin a step-wise procedure to further evaluate potential sites to determine their suitability for the Program. This process begins with Desktop Screening of potential sites, which identifies sites that appear particularly suited for development through the Build-Ready Program, while eliminating unsuitable sites that pose significant development challenges (e.g., excessive costs, interconnection obstacles, etc.) that either cannot be overcome through judicious investment of the

¹⁰ For simplicity, these Protocols use conditions pertinent to solar PV facility as an example.

Build-Ready Program's limited resources or for which the risk landscape becomes insurmountable. The Desktop Screening stage will also incorporate host-community¹¹ engagement and education as part of the core mission of the Program.

The Desktop Screening process focuses on issues such as Project location and local considerations, physical factors, environmental factors, electrical infrastructure, and an evaluation of whether to prioritize a Project based on the Build-Ready Program and its goals. Because the Program is designed to de-risk potential Projects that a private developer might not otherwise pursue and auction them as soon as practicable, the Build-Ready Team will consider auctioning a Project at an earlier phase of development where appropriate, sometimes as early as the Desktop Screening stage. The Build-Ready Team will continuously evaluate the optimal point to auction a Project depending on considerations such as developable acreage and interconnection constraints.

2.1 Information Gathering

The Build-Ready Team will assemble publicly-available information to further characterize potential Project sites and evaluate their suitability for the Program. This process will vary based on a Project's particular characteristics but will generally involve:

- ◇ GIS assessment using tools such as ArcMap, NYSDEC Environmental Resource Mapper, and Google Earth¹² to evaluate a potential site's suitability for renewable energy development, focusing particularly on mapping environmental features (e.g., wetlands and waterways, threatened and endangered species, cultural resources, and other environmentally sensitive areas), electric transmission lines and interconnection points, and other topographic features. The Build-Ready Team will also utilize the NYSDEC's GIS tools to identify potential environmental justice areas.¹³
- ◇ Consultations with State and federal agencies, regional/local economic development entities, electric utilities and related resources.
- ◇ Real-estate diligence such as identification and gathering of publicly-available information such as deeds and property tax records to establish site ownership. This diligence will also include a preliminary screen for local moratoriums and other land-use challenges.
- ◇ Where appropriate, contacting the landowner to explain the Build-Ready Program and ascertain preliminary interest in potential future use of the site for renewable energy development. To focus on de-risking projects that private developers might not otherwise pursue, the Build-Ready Team will proactively investigate whether there is ongoing, active interest in a given site by a commercial developer(s). If it is determined that such interest exists, NYSERDA will withdraw from further interaction for a sufficient period of time to allow both the site owner and commercial developer(s) to advance development.¹⁴

¹¹ As used herein, the term "host community" refers generally to elected and non-elected officials, boards, and the general public, as appropriate.

¹² NYSERDA is currently investigating other potential GIS tools to optimize its GIS capabilities.

¹³ <https://www.dec.ny.gov/public/911.html>.

¹⁴ <https://www.nyserdera.ny.gov/-/media/Files/Publications/Fact-Sheets/build-ready-commercial-fact-sheet.pdf>

Based on the above information, the Build-Ready Team will evaluate whether the proposed Project site aligns with Program objectives.

2.2 Community Engagement

Throughout the development process, the Build-Ready Team will continue to actively and regularly engage with local municipal officials, IDAs, Regional Economic Development Councils, community groups, and other interested parties in each region in an effort to gather updated feedback and keep stakeholders apprised of significant Project developments.

Regardless of any prior communication with members of the local community in which a potential Project site is located, the Build-Ready Team will contact the municipal and county officials, as well as any local and/or county Industrial Development Agencies (“IDA”) associated with the nominated site. While exact timing of such outreach will vary for each Project depending on the type of site ownership and the source of the site nomination, the Build-Ready Team will seek to engage with the local community as early in the process as possible. Through those conversations, the Build-Ready Team will endeavor to balance the desire for early engagement with the need to avoid creating unreasonable expectations and unnecessary disruptions. Regardless of the specific situation, the Build-Ready Team will follow the general process described below.

For Projects that meet the minimum site requirements identified above, the Build-Ready Team will reach out via phone call to the highest elected official of the host community (Supervisor or Mayor, or their appointed designee). Where the Build-Ready Team has pre-existing relationships with other relevant officials, such as a Director of Planning, those officials may be the first point of contact. During that call, the Build-Ready Team will provide an overview of the Build-Ready Program, identify the Project site under consideration within their jurisdiction,¹⁵ summarize the review conducted to date, and gather initial feedback on preliminary Project design and community interest in hosting such a facility. The Build-Ready Team will also seek to understand any other known development interests on the site, how the Project fits within the long term comprehensive plan or vision for the community, whether the host community has any technical assistance needs, whether there are other large scale renewable energy projects already proposed in the area, and what types of benefits the community is interested in exploring.

The Build-Ready Team will conduct similar outreach with the local government agencies and/or county IDAs to provide similar information and gather information about a Project site’s history and optimal development pathways. For example, an IDA may be willing to assume site control, help secure brownfield cleanup grants, and/or negotiate Payment in Lieu of Taxes (“PILOT”) agreements on behalf of the host community. In addition, initial calls with IDAs, and with local planning department staff, are an opportunity to obtain feedback on other sites in the area that could be Build-Ready candidate locations. The Build-Ready Team will also contact relevant Regional Economic Development Councils and other interested parties in each region to gather feedback regarding how the Project may fit within existing or planned regional economic

¹⁵ If the site is privately owned and the landowner has asked that the interest in the site to remain confidential, the site will not be revealed initially. Otherwise, NYSERDA will disclose the site on the call.

development efforts, better understand the background of specific sites and local positions on renewable energy projects, help make connections with other potentially interested local and regional stakeholders, and keep them abreast of NYSERDA's interest in a particular site.

2.3 Develop Project Financial Proforma

Based on the preliminary information gathered to date, the Build-Ready Team will begin developing a Project-specific Financial Proforma. The Proforma will include preliminary nameplate capacity, energy yield projections based on meteorological data and other factors, order of magnitude level cost estimates for capital and operating costs, projected land costs, PILOT rates, host-community benefits, etc. The Project Proforma will be an iterative document that will be updated throughout the Project development process with more refined inputs and assumptions to track that the Project is trending in a cost-effective trajectory at auction.

2.4 Negotiation and Execution of Site Control Agreement

Depending on the particular circumstances of a given site, the Build-Ready Team will typically use one of the following agreements to obtain an exclusive right to investigate and develop a site:

- ◇ Memorandum of Understanding for State-Owned Properties – The Build-Ready Team has developed a Memorandum of Understanding (“MOU”) for State-owned and/or operated sites to facilitate their study and potential development prior to NYSERDA entering into a lease-option agreement or other formal agreement. The MOU is a non-binding preliminary document that provides for information-sharing and states that, if preliminary analysis indicates that a site is suitable for development under the Program, the parties will negotiate in good faith to enter into mutually agreeable site-control documents such as a lease-option agreement, described in greater detail below.
- ◇ Lease-Option Agreement – In most cases involving non-State-owned property, NYSERDA will seek to enter into a Lease-Option Agreement (“LOA”) that grants the Build-Ready Team the exclusive right to conduct a detailed assessment of the site and an option to lease all or a portion of the site. An LOA is a binding contract between NYSERDA and the landowner that will provide the Build-Ready Team with an appropriate opportunity to comprehensively evaluate a Project site and, if the option is exercised, negotiate a long-term site lease or transfer of ownership for a renewable facility. The LOA is designed to protect the Program's investment in a Project while giving certainty to the site owner. Although individual agreements will contain site-specific conditions, LOAs in general will contain terms and conditions that are acceptable to developers, aid developers in obtaining financing and investment, and facilitate any PILOT application and the transfer of Projects to developers.¹⁶
- ◇ Site-Access Agreement – In some instances, a landowner may be reluctant to enter into an LOA, but still be willing to allow NYSERDA to perform some level of due diligence on a

¹⁶ As used herein, the terms “developer” and “private developer” refer generally to private-sector off-takers that will bid on and purchase Projects. The type of developer will necessarily vary depending on various factors, including when in the project-development cycle a Project is auctioned.

site. In those cases, NYSERDA will negotiate a more limited site-access agreement to permit only specific activities to be performed that require physical presence on the property (e.g., Phase I environmental site assessment, site walkover, wetland delineation, etc.). The appropriate scope of a site-access agreement will be determined on a case-by-case basis, and the limited protection provided by the agreement will result in a similar limit to the resources invested in the site.

3. Preliminary Assessment and Design

This stage of Project development involves a more comprehensive assessment of nominated sites and the initiation of engineering design, environmental diligence, land-use diligence, and interconnection studies. Many of these analyses will occur simultaneously, and so the order in which the following tasks is presented below is not intended as a strict timeline. The principal goal of the Preliminary Assessment and Design stage is to identify and address potential development hurdles to ensure that Projects carried into the later phases have a higher probability of success. This stage will include consideration of the following:

3.1 Engineering Design

- ◇ Preliminary Conceptual Design and Alternatives Analysis – Define the initial buildable area, determine the maximum electric generating capacity of the Project, and provide important equipment details needed to support the interconnection application process. The Build-Ready Team will also analyze alternative Project design layouts and equipment options to optimize generation output and minimize capital and operating costs.
- ◇ Preliminary Review of Potential Points of Interconnection – Building on the previously gathered information for the project’s proximity to transmission and distribution electrical infrastructure, and to the extent more detailed information is available, evaluate the potential Points of Interconnection (“POI”) to compare the most cost-effective combination of nameplate capacity and POI type. Where adequate information is not available to readily assess, a pre-application¹⁷ may be submitted to the NYISO to obtain such information. Additionally, if a potential site is not in close proximity to a load pocket or if the project is likely to be interconnected on a congested line identified in the NYISO 2019 CARIS report,¹⁸ a preliminary energy deliverability study will be performed.
- ◇ Preliminary Cost Estimate of Generation and Interconnection Facilities – Perform feasibility-level engineering estimates for capital and operating costs. The cost estimate will include civil work, foundations, major equipment, engineering, construction-management costs, and interconnection facilities.

¹⁷ <https://www.nyiso.com/documents/20142/1403912/Small-Generator-Pre-Application-Request-Form-and-Instructions-060319.pdf/ba64cc45-67b9-d028-7b71-1c5dbb0809fb>

¹⁸ <https://www.nyiso.com/documents/20142/2226108/2019-CARIS-Phase1-Report-Final.pdf/bcf0ab1a-eac2-0cc3-a2d6-6f374309e961>

- ◇ Preliminary Design/Engineering Plan – Using the above analysis, summarize the design and engineering work needed for further development of the proposed Project, including land surveys, studies, and desktop/field tasks for the next phase of development.

3.2 Environmental and Land-Use Diligence

- ◇ Critical Issues Analysis – Identify any critical environmental issues that might affect development of a renewable energy facility. This work requires a detailed review of available databases and mapping services to review issues such as wetlands, soils, geology, sensitive vegetation and wildlife, historical resources, site contamination, cultural and archeological resources, land-use, socio-economic factors, and public health and safety. Building on the results of the Desktop Screening study, the Build-Ready Team will also consult with the NYSDEC’s Office of Environmental Justice during this phase to identify potential environmental justice concerns and strive towards constructive solutions.
- ◇ Phase I Environmental Site Assessment and Environmental Risk Analysis – Review historic site records, conduct a walk-through of the site, and analyze any existing remedial obligations for the site to identify potential contamination and determine how it may impact development. This step is particularly critical because many Build-Ready Projects will be developed on brownfield and other former industrial sites with known or assumed contamination.
- ◇ Land-Use Diligence Survey – Review property tax, easements, rights-of-way, local zoning and ordinances, including setbacks or environmental buffers, and other local property records to identify any critical land-use issues that must be addressed during Project design.
- ◇ Preliminary Permitting Plan – Based on the results of the above studies, develop a high-level planning document to identify the permitting and environmental review needed for a given Project. This plan will provide a complete list of permits and approvals anticipated, with estimated review times for each. In particular, the preliminary permitting plan will make an initial determination as to whether the Project will be permitted by the Office of Renewable Energy Siting (“ORES”)¹⁹ or through the more traditional permitting process, which would require the Build-Ready Team to obtain a different set of permits and approvals from the agencies identified in the Preliminary Permitting Plan. For non-ORES Build-Ready Projects subject to review under the State Environmental Quality Review Act (“SEQRA”),²⁰ NYSERDA will follow SEQRA regulations to determine the “lead agency” for the purpose of conducting the environmental review.²¹

3.3 Interconnection Application and Studies

- ◇ Interconnection Application – Pending adequate site control or landowner permission, initiate the interconnection process by submitting a formal interconnection request to

¹⁹ See N.Y. Exec. Law § 94-c.

²⁰ 6 NYCRR Part 617.

²¹ See 6 NYCRR § 617.2(v).

NYISO. NYISO will provide feedback and assist in coordinating a scoping meeting with the connecting transmission owner. The subsequent interconnection studies and process will vary depending on the proposed point(s) of interconnection and the size of the proposed facility. Projects proposed at 20 MW and below typically proceed through the NYISO Small Generator Interconnection Procedures (“SGIP”);²² larger facilities proceed through the NYISO Large Facility Interconnection Procedures (“LFIP”). Both SGIP and LFIP will require subsequent studies, and the initial conversations with NYISO will ensure the appropriate steps are taken. Given the length of time required to complete these studies, the Build-Ready Team will prioritize the interconnection application and study process in order to minimize delay and swiftly advance potential Projects.

3.4 Community Engagement

- ◇ Ongoing Community Engagement – During this phase, the Build-Ready Team will continue to engage with local stakeholders by beginning informal discussions regarding community needs and host-community benefits that will inform the development of the Preliminary Public Engagement Plan, including the local taxing jurisdictions’ desire to negotiate a PILOT agreement and any known or potential conflicts with local laws. The Build-Ready Team will also continue to work with host communities to assess the need for additional benefits, such as workforce development and training, assistance with accessing federal or State grants to clean up contaminated sites, technical support, or other community improvements, giving special attention to environmental justice communities and providing job and other opportunities to disadvantaged communities.
- ◇ Preliminary Public Engagement Plan – Develop a comprehensive program to foster local understanding of the importance of renewable energy and the value the proposed Project can bring to local communities, consistent with the permitting requirements identified in the Preliminary Permitting Plan. Such plan shall include multiple opportunities for public input, including in-person or virtual community engagement sessions, to solicit feedback from members of the community. The Preliminary Public Engagement Plan will be drafted to achieve the explicit goal of the Build-Ready Program: to engage communities throughout the design and development of renewable energy Projects to ensure the associated benefits packages are customized to each community’s needs and priorities. The Build-Ready Team will provide the host community with a copy of the draft Plan and seek input on its content, timing, and scope to inform the final Public Engagement Plan.

4. Detailed Assessment and Design

This stage marks the transition from identifying and investigating potential Projects to advancing those Projects with a high probability of success and committing significant financial and personnel resources, so that the Build-Ready Team can focus on developing only those Projects consistent with the goals and priorities of the Build-Ready Program. The goal of this stage is to

²² Some projects proposed at 20 MW and below are not subject to NYISO jurisdiction, such as certain generation facilities with no wholesale sale and certain net metering arrangements. See NYISO Open Access Transmission Tariff § 32.1.1.1. Although these Protocols focus on NYISO jurisdictional Projects, the Build-Ready Team will adapt these Protocols where appropriate to develop project consistent with the requirements of the interconnecting utility.

advance the planning of feasible Projects in a thoughtful, cost-effective manner that eliminates or mitigates any risks identified in the Preliminary Assessment and Design stage. In addition, all of these assessment and design tasks will be advanced with the intent to make the Project eligible to produce Tier 1 Renewable Energy Certificates (“RECs”), so as to allow the Build-Ready Team to bundle a Project with a Tier 1-REC Agreement at the time of auction. This stage will include consideration of the following:

4.1 Project Schedule

- ◇ Arrange preliminary plans as detailed above to develop a coordinated Project Schedule that prioritizes aspects of the process with the longest timelines and that present the greatest risk. The Project Schedule is an iterative document that will define the activities that will be carried out in parallel and which should await completion of other aspects of the development and change as needed.

4.2 Engineering Design

- ◇ Civil Design – Establish buildable area that meets State and local land-use planning requirements. Civil design will include an evaluation of stormwater management during construction and operation; requirements for temporary, emergency, and permanent access roads; site security features like fencing and lighting; and mitigation of potential visual impacts through landscaping or the orientation of Project features on the site. In certain cases, civil design may include activities necessary to de-risk Project sites that involve surface and subsurface contamination, particular underground features such as old foundations, pipelines or utilities, and potential constraints to equipment delivery to the site.
- ◇ Electrical Design – Update the electrical design configuration pursuant to the resulting interconnection studies to support the advancement of the interconnection request process, refine the proposed Project equipment specifications or equipment envelope to allow for updated Project cost estimates, and refine expected electrical output and production profiles.

4.3 Interconnection Process

- ◇ Diligently pursue interconnection rights (e.g., Energy Resource Interconnection Service “ERIS” and Capacity Resource Interconnection Service “CRIS”) by following the defined stepwise path set forth by NYISO. As a practical matter, the interconnection process often represents the longest and most expensive aspect of developing renewable energy facilities, and so the Build-Ready Team will prioritize these tasks where appropriate. During this stage of development, the Build-Ready Team will:
 - Finalize applicable interconnection process system studies;²³

²³ These studies will include, as applicable, the Feasibility Study, System Impact Study, System Reliability Impact Study, Facility Study, Deliverability/Class Year Study and Coordinated Electric System Interconnection Review.

- As applicable, request Capacity Resource Interconnection Service rights via NYISO’s Expedited Deliverability Study or Class Year process; and
- Complete an energy deliverability study, as appropriate for the locale of the project.

4.4 Environmental Studies

- ◇ Environmental Consultation – Projects with a nameplate generating capacity of 25 MW or more will be required to seek a permit through ORES for new construction or expansion.²⁴ New projects with a nameplate capacity between 20 and 25 MW will have the option to opt-in to the ORES permitting process.²⁵ Projects with a nameplate capacity of less than 20 MW will follow the traditional permitting process and be subject to SEQRA regulations.²⁶ Both permitting pathways carry specific requirements for pre-application studies, consultations and approval processes. If a Project is in the 20–25 MW range, the Build-Ready Team will assess both pathways to determine the most favorable approach based on cost, schedule and other relevant considerations. Consultation will follow with ORES and other agencies, where appropriate and depending on which entity will issue the relevant permits,²⁷ along with relevant federal regulatory agencies, to identify and address environmental permitting concerns and facilitate the seamless transfer of approvals and permits. These consultations shall begin as soon as practicable. Where potential environmental justice impacts have been identified, consultation with NYSDEC will include members of the Office of Environmental Justice to identify specific measures to avoid, minimize, and (if necessary) offset potential impacts on environmental justice communities. Where appropriate based on site conditions and existing remedial obligations, the Build-Ready Team will initiate a pre-application meeting with NYSDEC to streamline an application into the Brownfield Cleanup Program or if remediation under such program is underway or has already been completed work with NYSDEC and involved parties to identify the appropriate measures to be taken under the existing site management plan(s).²⁸
- ◇ Phase II Site Assessment – Depending on the results of the Phase I assessment at the Project site, define the nature and extent of environmental contamination at the site and develop a remedial plan to address site contamination.
- ◇ Pre-Application Studies – Coordinate and conduct all pre-application studies and agency/municipal consultations identified in the Preliminary Permitting Plan. Depending on specific site conditions and the permitting authority, such studies will typically include: a wetlands delineation and jurisdictional determination, water resources and aquatic ecology study, New York State threatened or endangered species biological surveys,

²⁴ N.Y. Exec. Law § 94-c(2)(h).

²⁵ N.Y. Exec. Law § 94-c(4)(g).

²⁶ 6 NYCRR Part 617.

²⁷ Facilities permitted by ORES (i.e., those defined as “major renewable energy facilities” under N.Y. Exec. Law § 94-c(2)(h), as well as those facilities eligible to opt-in to the ORES process under § 94-c(4)(g)), will typically require consultations with both ORES and NYSDEC; non-ORES Projects will require consultation only with NYSDEC staff.

²⁸ See 6 NYCRR Part 375-3.

archaeological resources consultation and study, traffic and noise studies, visual impacts assessment, and environmental justice study.²⁹ Where applicable, the Build-Ready Team will submit all pre-application studies to the associated agencies depending on the Project's permitting pathway (i.e., ORES or non-ORES), and publish a notice of intent to file an application where required.³⁰

4.5 Land-Use and Site Control

- ◇ Complete all land surveys (including ALTA survey) to refine buildable area and aid in civil design;
- ◇ Complete all geotechnical investigations to address constructability concerns, taking necessary precautions to avoid or mitigate potential to encounter subsurface contamination or other hazards;
- ◇ Identify all applicable local zoning provisions and consult with local permitting authorities as necessary to ensure compliance therewith; and
- ◇ Identify additional easements or other agreements needed to facilitate construction and interconnection.

4.6 Community Engagement

- ◇ Public Engagement Plan – Execute all relevant aspects of Public Engagement Plan to cultivate cooperative relationship with local officials and community members. Although activities will vary, this phase will typically include holding regular meetings with local officials and community members to further refine community needs and hosting public information sessions to educate the community on the benefits of renewable energy Projects.³¹ In addition to discussing formal PILOT and Host Community Agreements, the Build-Ready Team will work with the host community to finalize or provide updates on other desired benefits, such as workforce development and training, federal or State grants to clean up contaminated sites, and job or other opportunities for disadvantaged communities.
- ◇ PILOT – Following discussions with local taxing jurisdictions, if appropriate, apply for and negotiate PILOT agreement with the local and/or county IDA to make the Project more financeable to private developers. In addition to real property tax efficiencies and certainties gained through a PILOT, NYSERDA may also seek other IDA tax incentives available for Project development, including exemptions from New York State sales and use tax as well as mortgage-recording tax. To obtain these financial incentives, the Build-

²⁹ These studies will form the backbone of an application in ORES, 18 NYCRR § 900-2 (draft), and an environmental impact review under the State Environmental Review Quality Act, 6 NYCRR Part 617.

³⁰ *See, e.g.*, 18 NYCRR § 900-1.3(d)–(h) (draft) (requiring applicant to public a notice of intent and submit identified studies to ORES and NYSDEC for review prior to filing a complete application).

³¹ At a minimum, this phase of community engagement will meet all requirements for formal consultations with local agencies and meetings with community members required by ORES, as well as all record-keeping and retention requirements associated with such meetings. *See* 18 NYCRR §900-1.3(a)–(c) (draft).

Ready Team will apply to the IDA for a PILOT Agreement and other forms of financial assistance, conforming its application to the IDA’s Uniform Tax Exemption Policy (“UTEP”) and applying for a deviation where necessary. UTEP deviations typically require notice to (and perhaps consent of) each affected local tax jurisdiction. The Build-Ready Team will also participate in all public hearings required for the IDA to approve the financial assistance package. The Build-Ready Team will negotiate with the IDA to eliminate or minimize any conditions to the IDA’s approval of assignments to facilitate Project transfer to a developer.

- ◇ Host Community Agreement – Begin formal negotiations on Host Community Agreements (“HCAs”) to provide additional community benefits to the municipality in which a Project is located. This process will include representatives of local governments and community stakeholders. Although HCAs will vary by Project, HCAs typically provide for payments to the host community to mitigate the impact (e.g., temporary use of roadways) of a renewable energy Project and provide reimbursement for costs incurred in connection with the municipality’s review and support of a Project. Payments may be designated to fund local economic development programs, environmental initiatives, infrastructure improvements, and other areas of public importance as informed by community feedback gathered throughout implementation of the Public Engagement Plan. In addition to financial compensation, HCAs may also address road-use concerns, mitigation measures required by ORES or through the SEQRA process, the developer’s obligations upon decommissioning of a Project, a complaint-resolution process, job training or other opportunities for disadvantaged communities, and any other measures specific to the concerns of the host community. In negotiating an HCA, the Build-Ready Team will take into account the amount of PILOT payments to the host community and other affected taxing jurisdictions. If a Project reaches this stage of development prior to auction, the Build-Ready Team will typically complete negotiations on a PILOT and HCA prior to exercising the option in an LOA and prior to completing the auction to a private developer.

5. Secure Permits, Approvals and Agreements

During this stage of development, the Build-Ready Team will secure all permits and approvals, including applicable environmental permits, land-use approvals, and interconnection agreements to facilitate the auction and transfer of the Project to a private developer. This stage will include:

5.1 Environmental and Land-Use Approvals and Agreements

- ◇ ORES Projects – For Projects permitted by ORES, complete all outstanding pre-application requirements,³² finalize all exhibits documenting environmental studies conducted in the Detailed Assessment and Design stage,³³ and submit a complete application conforming to all regulatory requirements to ORES.³⁴ The Build-Ready Team will also submit any outstanding federal permit applications.

³² 18 NYCRR § 900-1.3 (draft).

³³ 18 NYCRR § 900-2 (draft)

³⁴ 18 NYCRR § 900-1.4 (draft).

- ◇ Non-ORES Projects – For Projects not permitted by ORES, complete and submit all permit applications and supporting materials to the relevant State, local, and federal agencies, as outlined in the Permitting Plan. The Build-Ready Team will aim to complete all environmental review required by SEQRA during this stage of development, regardless of whether NYSERDA is serving as the lead agency under SEQRA.

5.2 Interconnection Agreement

- ◇ Complete all outstanding interconnection-related tasks including payment of fees to NYISO, completing Class-Year Study where applicable, and requesting the Interconnection Agreement to be tendered. The Build-Ready Team will also evaluate the value in negotiating and/or executing an interconnection agreement prior to the auction of the project. If executed prior to auction, the interconnection agreement should include a provision eliminating or minimizing the consents required for the transfer of Build-Ready Projects to private developers. When appropriate, if the longest lead time stretching out a project's ability to achieve commercial operation is likely the interconnection facilities construction schedule, the Build-Ready Team will evaluate whether to pursue the ability for the project owner to self-build the connecting transmission owner's interconnection facilities or enter into an engineering and procurement agreement to reduce the time for the Project to achieve commercial operation and avoid negotiating/executing an interconnection agreement.

5.3 Site Control

- ◇ Where appropriate, negotiate with the landowner(s) any remaining aspects of long-term lease or transfer of site ownership, as necessary, in order to exercise the option in the Lease-Option Agreement.
- ◇ For Projects that include a PILOT or other financial-assurance mechanisms through an IDA, execute a sublease with the IDA under which NYSERDA (or a subsidiary limited liability company created to hold Project assets) enters into a sublease-leaseback agreement with the IDA so that the Project site is leased back to NYSERDA. To facilitate the transfer of the Project to a private developer after auction, the IDA sublease should contain provisions that eliminate or minimize any conditions to the IDA's approval of an assignment to a private developer.

5.4 Community Engagement

- ◇ Continue execution of the Public Engagement Plan to ensure that local officials and community members are kept apprised of major Project developments.
- ◇ Execute PILOT and secure all formal financial assistance mechanisms from the IDA and execute HCA with the host community.

6. Auction (Bid Sale Via Competitive Solicitation)

In this final stage, the Build-Ready Team will prepare a Project for sale to a private developer, execute a competitive solicitation for RECs produced by the Project, and transfer the Project to the winning bidder-developer.

The Build-Ready Team will execute this stage of the process in three steps. First, the Build-Ready Team will prepare a Project for sale and competitive solicitation by making final updates to the Project's Financial Proforma, preparing a data room for a Project with all relevant due diligence materials (i.e. permits, approvals, agreements, due diligence), and assessing the Project's market value to set the Project's fixed Offer Price. Second, the Build-Ready Team will vet prospective bidder-developers based on their technical and financial qualifications. Only those bidder-developers that meet the Build-Ready Team's minimum qualifications will be given access to Project documentation and be allowed to submit a bid. Third, the Build-Ready Team will create a competitive solicitation and evaluation process through which a Scoring Committee will assess proposals from pre-qualified bidder-developers. Although the precise scoring criteria may vary depending on the nature of the Project, this evaluation will generally include (i) a commitment from the bidder-developer to pay the Build-Ready Team's fixed Offer Price, (ii) the bidder-developer's Tier-1 REC Bid Price for the RECs produced by the Project, (iii) consideration of the proposers experience and ability in developing projects, considering any unique or unusual aspects of the project, and (iv) the incremental economic benefits offered by the bidder-developer to New York State. The Build-Ready Team will evaluate bids according to the scoring matrix for the Project, select a winning bidder, and execute all necessary agreements and closing documents to transfer the Project to the winning private developer.³⁵

To reiterate, the Build-Ready Team will execute the sale and transfer of Projects using a three-step solicitation process, consisting of:

- 1) Step One – Prepare Project for Auction: A preparative step in which the Build-Ready Team will make any final changes to the Project's Financial Proforma, prepare a data room with all relevant Project information, and set the fixed Offer Price for the Build-Ready Project.
- 2) Step Two – Eligibility Application: A qualifying step through which prospective bidders must demonstrate their technical and financial qualifications to bid on and purchase a Build-Ready Project. Only eligible bidders determined to meet the minimum Eligibility Qualifications will be provided access to the Build-Ready Project data room and any other relevant information collected during Step One and be permitted to submit a formal bid under Step Three.
- 3) Step Three – Bid Solicitation and Evaluation: A competitive solicitation step in which the Build-Ready Team will circulate a formal solicitation package to prospective bidders that meet the Eligibility Qualifications, and then evaluate bid proposals submitted by eligible bidder-developers based on price and non-price factors. Because bidder-developers must commit to pay the Build-Ready Team's fixed Offer Price for a Project, the price component

³⁵ Depending on the nature of a Project, a competitive auction could occur earlier in the development timeline, such as after Desktop Screening or Preliminary Assessment and Design. In such cases, the Build-Ready Team will modify these competitive auction protocols where appropriate.

of the Bid Evaluation step will focus on the REC price that bidder-developers offer as part of their bid, with the lowest REC price receiving the highest score for this criteria. Because this evaluation of bid price incorporates NYSERDA's existing framework for annual Tier-1 REC solicitations, the Build-Ready Team will generally align the Build-Ready scoring criteria with the CES Orders, CES Final Phase 1 Implementation Plan and subsequent CES Final Implementation Plans to the extent practicable.³⁶

6.1 Step One – Prepare Project for Auction

The Build-Ready Team will assume the primary responsibility for issuing and executing a competitive auction. The Build-Ready Team will prepare a Project Information Memorandum that provides an overview of the Project and summarizes the auction procedures and scoring criteria. The Project Information Memorandum will include information such as the Project location, size and indications of project development maturity (i.e. stage of interconnection permitting, status of site control and host community benefits, PILOT agreement etc.). The Project Information Memorandum will be made available to the public to notify interested bidder-developers of the Eligibility Qualifications and pending auction through NYSERDA listserv emails and posting in the New York State Contract Reporter. The Build-Ready Team will also assemble all Project documentation in a data room for review by qualified bidders that meet the minimum Eligibility Qualifications, outlined below. Finally, the Build-Ready Team will assess the value of the Project and set a fixed Offer Price for the Project, which bidder-developers must commit to as part of their final bid submission. As noted previously, only bidder-developers that meet the Build-Ready Team's minimum eligibility criteria, described in Step Two, will be provided access to detailed Build-Ready project information.

In order to streamline the auction and transfer process, the Build-Ready Team will establish minimum Eligibility Qualifications as part of the Eligibility Application such that a Technical Evaluation Panel ("TEP") will not be required to evaluate prospective bidder-developers. For those bidder-developers that do not meet the minimum qualification criteria but nonetheless wish to participate in a competitive solicitation, the Build-Ready Team may convene a TEP, similar to the TEP outlined in the CES Final Phase 1 Implementation Plan, to evaluate the bidder-developer's ability to undertake a Build-Ready Project.³⁷

Prior to the first competitive auction undertaken in accordance with these Protocols, the Build-Ready Team will issue a draft Request for Proposals (RFP), including the minimum eligibility qualifications used to pre-qualify prospective bidder-developers and the detailed scoring criteria used to select a winning bidder-developer. The Build-Ready Team will seek comments and feedback on these materials from potential bidder-developers and other industry stakeholders to refine the solicitation and auction process.

³⁶ Order Adopting Modification to the Clean Energy Standard,

³⁷ Clean Energy Standard, Final Phase 1 Implementation Plan, Case No. 15-E-0302 (March 24, 2017). As explained therein, it is commonplace in the industry to utilize the expertise of independent evaluators who possess unique proficiency in the evaluation of energy generation projects. The Build-Ready Team will utilize a similar process to employ competitively selected confidential independent evaluators to serve on the TEP and evaluate prospective bidder-developers for the Step Two process for each auction.

6.2 Step Two – Eligibility Application

The Build-Ready Team will evaluate each bidder’s eligibility to participate in a Build-Ready auction using the following metrics:

6.2.1 *Financial and Operational Qualifications*

The principal goal of the Build-Ready Program is to accelerate the development of renewable energy projects in New York State and to assist in meeting the Climate Leadership and Community Protection Act’s ambitious climate and energy goals. A bidder-developer’s threshold financial qualification is critical to determining whether the entity has the financial resources and security to bring a Project to completion and long-term operation.

Accordingly, a prospective bidder-developer must demonstrate that it has the capital and financing to take a Build-Ready Project from auction to final development, through construction and delivering electricity to the grid. Relevant considerations include the bidder’s existing capital, debt, credit rating, and demonstrated ability to obtain firm financing to fully develop, construct, operate and maintain a Project. Also relevant is the quality and experience of the engineering, procurement, and construction teams, the quality and detail included in the construction plan and timeline, and the strength of the asset-management and operations & maintenance teams. In general, a prospective bidder-developer will be required to demonstrate concrete experience with successfully financing, constructing, and operating a renewable energy generation facility of comparable size.

6.2.2 *Permit-Compliance Record and Commitments*

Completing the commercial development process and successfully operating a renewable energy facility will require a bidder-developer to comply with several sets of legal requirements, including the terms of all permits and approvals secured by the Build-Ready Team as part of the Program. In addition, successfully transferring a Project to a bidder-developer may require approvals from relevant permit-issuing authorities, which may consider a transferee’s financial trustworthiness, commitment to accept all permit terms, and the bidder-developer’s permit-compliance record.³⁸ The Build-Ready Team will also require that bidder-developers accept the terms of any PILOT and/or HCA associated with a Project in order to ensure that communities in which a Project is built will directly benefit from the development. Finally, the Build-Ready Team will require bidder-developers to identify any material modifications they would request before closing.

Bidders that meet the minimum Eligibility Qualifications will be given access to the Project documentation arranged in the data room and be permitted to submit a bid for the Project. After completing the Eligibility Application phase, the Build-Ready Team will circulate a formal solicitation package to prospective bidders that meet the Eligibility Qualifications.

³⁸ 18 NYCRR § 900-11.2(e), (f) (draft); 16 NYCRR § 621.11(c); *see also* Application For Permit Transfer and Application for Transfer of Pending Application, https://www.dec.ny.gov/docs/permits_ej_operations_pdf/trsfer.pdf.

6.3 Step Three – Bid Evaluation

By way of background, the PSC’s Order Adopting the Clean Energy Standard, issued on August 1, 2016, along with subsequent orders and implementation plans issued under Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (“CES Orders”) authorize NYSERDA, as central procurement administrator, to offer long-term contracts to generators for the purchase of Tier 1 RECs, in the form of Tier 1 NYGATS certificates. Under the Orders, NYSERDA seeks to accomplish the Renewable Energy Standard’s objective by contracting with suppliers for the Tier 1 RECs created by eligible generation resources.³⁹ The Orders also outline competitive evaluation considerations, which include price and non-price components. Under the most recent Order Adopting Modifications to the Clean Energy Standard, the Tier-1 REC evaluation criteria include Bid Price (70%), Project Viability, Operational Flexibility, and Peak Coincidence (20%), and Economic Benefits (10%).⁴⁰

Although the Build-Ready Program will not incorporate the entire Tier-1 REC evaluation criteria and scoring matrix, the Build-Ready Team will generally align its evaluation criteria with the CES Orders, CES Final Phase 1 Implementation Plan and subsequent CES Final Implementation Plans where applicable and to the extent practicable. Specific evaluation criteria will be provided in the relevant solicitation documents for the Build Ready sites.

With respect to the Bid Price, Build-Ready bidder-developers will be required to commit to purchase the Project at the fixed Offer Price set by the Build-Ready Team, thereby ensuring that the Build-Ready Program remains revenue-neutral. Because each bidder-developer will have agreed to purchase the Project at a fixed Offer Price, the Bid Price component of the evaluation matrix will reflect the Index or Fixed REC prices submitted by each bidder-developer, with the lowest REC price receiving the maximum “weight” available in the Bid Price component. Because this evaluation mirrors NYSERDA’s existing framework for evaluating price in Tier-1 REC solicitations, the Build-Ready Team will align their evaluation of Bid Price with the most recent CES Orders and Implementation Plans.

With respect to non-price factors, the Build-Ready Team will also incorporate the Economic Benefits component of the Tier-1 REC evaluation criteria outlined in the most recent CES Orders and Implementation Plans. By incorporating the Tier-1 REC evaluation criteria, the Build-Ready Team will give additional weight to proposals based on the degree to which each Bid Proposal demonstrates that Incremental Long- and Short-Term Economic Benefits will accrue to New York State because of the development, construction/modification, and operation of the Project by the

³⁹ Directives pertaining to NYSERDA’s RES Central Procurement role are contained in the February 22, 2017 [Order Approving the Phase 1 Implementation Plan](#) and the [Final Phase 1 Implementation Plan](#) filed by NYSERDA on March 24, 2017, the November 17, 2017 [Order Approving the Phase 2 Implementation Plan](#) and the [Final Phase 2 Implementation Plan](#) filed by NYSERDA on December 18, 2017, and the December 14, 2018 [Order Approving the Phase 3 Implementation Plan](#) and the [Final Phase 3 Implementation Plan](#) filed by NYSERDA on January 11, 2019, and the August 13, 2020 [Order Approving the Phase 4 Implementation Plan](#) and the [Final Phase 4 Implementation Plan](#) filed by NYSERDA on September 14, 2020. The March 9, 2017 [Order on the Value of Distributed Energy Resources](#) further clarifies the treatment of certain distributed energy resources such resources under the CES and their eligibility to participate in NYSERDA’s long term procurements for RECs.

⁴⁰ The October 15, 2020 [Order Adopting Modifications to the Clean Energy Standard](#) contains relevant amendments to the Tier 1 REC procurement and evaluation process.

prospective bidder-developer. In particular, the Build-Ready Team will award additional weight to bids that document Long-Term Economic Benefits to New York State that will be realized in part or in full by disadvantaged communities.

Because Build-Ready Projects will be developed internally by NYSERDA, many non-price considerations that make up the Project Viability, Operational Flexibility, and Peak Coincidence component of Tier-1 REC solicitations are not applicable to Build-Ready solicitations. In particular, consideration of issues such as site control, interconnection, permitting, and resource assessment do not apply in the Build-Ready context and therefore will not be incorporated into the Build-Ready evaluation criteria. At this point, the Build-Ready Team envisions that consideration of the qualifications of particular bidder-developers will be incorporated into the Step Two Eligibility Qualifications, as outlined above, rather than as a non-price consideration in the Bid Evaluation. However, the Build-Ready Team may revisit this decision based on feedback from bidder-developers and other stakeholders.

By aligning the Build-Ready evaluation criteria with the CES Orders, CES Final Phase 1 Implementation Plan and subsequent CES Final Implementation Plans to the extent practicable and appropriate, the Build-Ready Team will benefit from NYSERDA's experience implementing CES program and avoid the need to update both protocols separately. At the same time, the Team will retain the flexibility to modify the precise scoring criteria where appropriate based on the nature of a given Project and the Build-Ready Team's experience implementing the Program. Should further refinement be made to the CES, the Build Ready program would adopt these changes as appropriate. In addition, the Build-Ready Team will consult with the Department of Public Service Staff on Build-Ready evaluation criteria where appropriate.

6.4 Execute Transfer

Once a winning bidder-developer is selected and approved, the Build-Ready Team will execute the transfer of a bundled Project and close on the transaction.⁴¹ This process will include:

- ◇ Transferring all site-control documents, including (as applicable) the long-term lease, relevant deeds through a purchase and sale agreement, and any sublease executed with the local IDA or other taxing jurisdiction to transfer the PILOT and other financial assurances;
- ◇ Transferring all permits and approvals needed to develop the Project;
- ◇ Transferring the HCA; and
- ◇ Executing all financial closing documents.

6.5 Post-Transfer Community Engagement and Project Monitoring

Where appropriate, the Build-Ready Team will maintain an ongoing, informal relationship with the host community post-transfer to ensure that the host community is comfortable with the Project's development, and to provide any technical assistance requested. In addition, to the extent

⁴¹ NYSERDA is currently investigating whether and how to form a limited liability holding company to facilitate the transfer of all permits, property rights, approvals, and agreements to a private developer. The Build-Ready Team will effectuate the transfer of Build-Ready Projects in accordance with NYSERDA's lawful authority.

that the Build-Ready Team has partnered with the host community on initiatives outside of a formal HCA, such as workforce development and training activities, the team will continue to support the community and follow through on any commitments. Where appropriate, the Build-Ready Team will also continue to work with the host community to jointly promote the Project through press releases, public presentations, workshops, and/or other promotional activities that convey to the public the tangible benefits that can be realized by hosting renewable energy projects.

Where appropriate and consistent with the terms of all Project transfer agreements, the Build-Ready Team will continue to exercise oversight over a transferred Project to ensure that the Project reaches commercial operation. The need for and extent of such oversight may vary depending on the nature of the Project.

* * *