



Building Better Homes Program
Zero Emissions Homes for Healthier Communities

Program Opportunity Notice (PON) 5765

\$10,000,000 Available

NYSERDA reserves the right to extend and/or add funding to the Solicitation should other program funding sources become available.

Applications accepted continuously through December 31, 2025, by 3:00 PM Eastern Time

New York State Energy Research and Development Authority (NYSERDA) is accepting applications from home builders and developers to support the design and new construction of zero emissions (all-electric) homes through the Building Better Homes Program (Program). The goal of this Program is to reduce overall greenhouse gas emissions associated with the operation of newly constructed homes that will provide healthy, comfortable, and safe living environments for each home’s occupants. Home builders and developers (Applicants) can request financial support for the design and construction of zero emissions new homes and townhomes located in New York State, as well as for the training of staff and subcontractors as necessary to achieve those goals. Through their voluntary participation in this Program, builders and developers will be empowered to deliver newly constructed homes that will not use fossil fuels. Once accepted, Applicants will be expected to promote those attributes as a part of their sales presentation to prospective home buyers, and to the broader marketplace.

To expand capacity of home builders and developers to design, construct, and market zero emissions single-family homes and townhomes, financial incentives and access to technical support and expertise are offered for the following:

- Zero Emissions Home Design or Re-design,
- Passive House-focused training for the Applicant’s staff and their subcontractors,
- The new construction of homes that meet the requirements as detailed throughout this PON,
- Publicity and promotion, independently and through NYSERDA’s website at www.nyserda.ny.gov.

Applicants should apply for support through the NYSERDA portal. Once their application is accepted, NYSERDA will issue an award letter to the Applicant that summarizes the agreement and identifies all committed funding. All agreements will end no later than two years following the date the application was submitted to NYSERDA, or when all work assigned under the agreement has been completed, whichever occurs first. Applicants must provide their firm’s experience with their target markets as part of their engagement with NYSERDA, including historic production and demographics associated.

Application Submission: To access the support available through the Building Better Homes program, an application must be submitted through the NYSERDA portal as detailed in the Application section of PON 5765. Electronic submission is preferable. NYSERDA will also accept proposals by mail or hand-delivery if electronic submission is not possible. First-time applicants should select [Apply Online](#) to complete a registration form. Once you have established a NYSERDA New Construction Program portal account, please log in directly at <https://nyserda-portal.force.com/login>.

No communication intended to influence this procurement is permitted except by contacting Michael Schmidt (Designated Contact) e-mail to MichaelNC@nyserda.ny.gov (for technical questions). If you have contractual questions concerning this solicitation, contact James Cowman (Designated Contact) at (518) 862-1090, ext. 3652 or by email at Jim.Solicitations@nyserda.ny.gov. Contacting anyone other than the Designated Contacts (either directly by the Applicant or indirectly through a lobbyist or other person acting on the Applicant’s behalf) in an attempt to influence the procurement: (1) may result in an Applicant being deemed a non-responsible offerer, and (2) may result in the Applicant not being awarded a contract.

All Applications must be received by 3pm Eastern Time on the date noted above. Late, faxed, or emailed Applications will not be accepted. If changes are made to this solicitation, notification will be posted on the “Current Opportunities” section of NYSERDA’s website (<https://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

I. Introduction

The Building Better Homes Program is intended to expand the capacity of builders and developers to construct and market zero emissions (all-electric) single-family homes and townhomes, with enhanced support available for homes that will rely on geothermal systems to support space conditioning and domestic hot water production. For the purposes of this Program, zero emissions homes are defined as newly constructed and exceptionally energy-efficient homes that will not use fossil fuels for any purpose other than for emergency back-up electricity generation.

Financial incentives are offered for the following activities:

- Zero Emissions Home Design or Re-design,
- Passive House-focused training for the Applicant's staff and their subcontractors,
- The new construction of single-family homes and townhomes that meet the requirements as detailed throughout this PON will be eligible to request a per home incentive,
- Support for the marketing and promotion of the zero emissions new homes that are being designed and constructed by the Applicant.

Based on the Applicant's commitment and NYSERDA's approval, an Award Letter will be issued to the Applicant to confirm the requested incentives will be available to the Applicant once the Program requirements have been met, and for the specified period. Payment of those incentives will be available once the Applicant has submitted the deliverables associated with that incentive and NYSERDA has completed review and approved those submissions.

Sectional Outline:

- [Section II. Glossary of Terms](#)
- [Section III. Eligibility, Activities, and Categories available for support](#)
- [Section IV. Application Process](#)
- [Section V. General Conditions](#)
- [Section VI. Attachments for Reference](#)

II. Glossary of Terms

Applicant - The home builder or developer who is responsible for the management and construction of a project seeking access to NYSERDA's support and incentives.

Zero Emissions Home - A home that excludes all fossil fuels from the building systems and equipment qualifies as a Zero Emissions Home. Building systems and equipment at a minimum refers to building heating, ventilating, and air conditioning (HVAC), domestic hot water (DHW), kitchen, laundry, and all other appliances. Projects that rely on a fossil fuel-fired generator solely for emergency use may qualify as a Zero Emissions Home if fossil fuel use is excluded from all other building systems and equipment, at NYSERDA's sole discretion.

Single-family and town homes, dwelling units: A single dwelling unit provides completely independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

US Environmental Protection Agency (EPA), Department of Energy (DOE), Phius (Passive House Institute US), Passive House Institute (PHI), National Green Buildings Standard (NGBS), International Living Futures Institute (ILFI) - These organizations publish and administer programs and standards that Applicants select and rely on to confirm the required the design, re-design, or new construction of single-family homes or townhomes will meet Building Better Homes Program requirements.

Certified Rater, Home Energy Rater, Phius Rater (Rater), Phius Verifier, PHI Verifier - The Applicant hires one or more of these qualified parties to provide the design review, energy modeling, verification and testing necessary to ensure certification of individual dwelling units will be achieved by the Applicant, based on their chosen third-party performance standard.

Approved Rating Provider (Provider) - Providers are recognized by the EPA as qualified to perform oversight of Raters because they represent an EPA-recognized Home Certification Organization (HCO). Raters must be affiliated with a Provider, and the Provider is responsible for oversight, training, certification, quality assurance, quality control services, and other reporting requirements in support of their affiliated Raters.

Home Certification Organization (HCO) –The HCO must be recognized by the EPA as qualified to complete the review and approval of energy modeling and related documentation when the Applicant has elected to meet a relevant EPA ENERGY STAR program. RESNET is recognized by the EPA as a qualified HCO, and RESNET-accredited Providers represent RESNET as their Approved Rating Provider.

Certified Passive House Consultant/Designer (CPHC/D) - The Applicant hires the CPHC/D to provide modeling, verification and testing as necessary to verify the project is completed in accordance with the Applicant's chosen Passive House performance standard, with support of the Phius Rater, Phius Verifier, or PHI Verifier.

III. Eligibility, Activities, and Categories available for support:

To be eligible to receive the financial incentives available to support the Design, or Re-design, or new construction of a Zero Emissions home or townhome, the home's systems and appliances must be all-electric, meeting the definition provided in Section II of this PON. The home(s) must be designed and constructed to be clean and resilient, reducing energy use while eliminating the use of fossil fuels. The home(s)' resilience must be supported through design interventions that address forward-looking climate conditions, as well as active resilience measures, passive survivability, and adaptation. The newly constructed home(s) or townhome(s) must be in New York State, be certified to one of the following listed 3rd party standards that has been selected by the Applicant, and the home must also meet the additional criteria as noted:

- EPA ENERGY STAR Single Family New Homes (SFNH) National v3.2,
- EPA ENERGY STAR NextGen Certified Homes and Apartments National v1.0,
- Department of Energy (DOE) Zero Energy Ready Home (ZERH) Single Family Version 2.1,
- National Green Buildings Standard (NGBS) at Emerald level,
- Phius (Prescriptive, CORE, or ZERO),
- Passive House Institute (Classic, Plus, or Premium),
- International Living Futures Zero Energy at the 'Ready Audit' stage of certification,
- International Living Futures Zero Carbon at the 'Ready Audit' stage of certification.

NYSERDA, at its sole discretion, determines an Applicant's eligibility for support or financial incentives.

A. Zero Emissions Design and Re-design Support

Builders and developers who maintain *production home designs* they intend to construct multiple times may access up to \$4,000 to offset the incurred cost for securing the design(s) of zero emissions homes, or to offset the incurred cost for securing the re-design(s) of their existing production home design(s) to ensure the new homes they intend to construct will meet the zero emissions goal. To be eligible for this support, the design(s) or re-design(s) must be for a home that will be zero emissions (all-electric); and must also be design-certified or reviewed as necessary to ensure that at least one of the listed 3rd party standards will be met for any new homes that will be constructed based on the design. The Applicant must confirm the design or re-design is intended to

support the repetitive, production building of homes, not simply to support the construction of a single custom-built home.

Deliverables for Design or Re-design Support:

- PDF copies of all completed design or re-design documents,
- To support the incentive payment being requested, the Applicant must submit documentation to confirm the hours worked, bill rate(s), and associated costs incurred by the Architect or designer needed to complete the design or re-design associated with these deliverables; with a copy of the contract, if applicable, and the invoice submitted by the Architect or designer to the Applicant.
- Attestation from the Registered Architect of record confirming:
 - The date range when the design or re-design work was completed,
 - That the design or re-design meets Building Better Homes performance requirements,
 - That the home design or re-design supports the repetitive, production building of homes,
 - If applicable, approval as Design Certified by the 3rd party standards organization.

B. Passive House Training

The Applicant may request support for training associated with Passive House standards for their own staff, as well as for their subcontractors. The intent is to increase the understanding and knowledge of construction practices and technical solutions needed to deliver highly efficient zero emissions homes that feature high-performing envelopes, which will contribute to maintaining indoor spaces that are comfortable, survivable, and less prone to freezing pipes or other property damage than a code compliant building in the event of a power outage during extreme temperatures. Projects designed to Passive House standards include passive and active resiliency measures; are more likely to have been designed and be built in a manner that will adapt to future climate conditions; and will be better able to withstand and recover from climate-change related shocks.

Incentives are available to offset the incurred costs for New York State (NYS) residents to attend NYSERDA-approved training, up to a maximum of \$2,000 per person with a per applicant lifetime cap of \$30,000. The Applicant may submit requests for support of alternative training for consideration if they are focused on Passive House-levels of performance and will achieve similar outcomes in comparison to one of the listed trainings. The Applicant may submit a request for training support of staff or subcontractors who do not reside in NYS but who perform work on projects located in NYS. NYSERDA, at its sole discretion, will determine eligibility to receive financial incentives for those alternative trainings or for non-NYS residents based on the information submitted to NYSERDA by the Applicant

Approved Trainings and Certifications include:

- Phius Certified Consultant Training and Exam, \$2,100 per person,
- Phius Certified Builder Training and Exam, \$2,100 per person,
- Phius CORE Prescriptive Path Training, \$250 per person,
- WUFI Passive - Single Family Training, \$450 per person,
- Phius Intro to THERM Workshop, \$450 per person,
- Phius Certified Rater Training & Exam, \$900 per person,
- Passive House Institute Passive House Fundamentals, \$200 per person,
- Passive House Institute Navigating Building Certification, \$200 per person,
- Passive House Institute Passive House Planning Package Online Course, \$400 per person
- Passive House Institute Certified Passive House Tradesperson (\$3,000 per person.)
- PH-Designer Training, \$2,295 per person,
- PHPP Modeler, \$495 per person,
- Thermal Bridging Calculations, \$395 per person.

Deliverables that must be submitted to support NYSERDA's payment of the per person incentive include:

- Completion Certificate for each eligible person who has completed an approved training,
- Exam results and related documentation, if applicable.

C. Zero Emission Home Incentives

NYSERDA offers an incentive of up to \$8,000 per single-family home, and up to \$5,000 per townhome to support the construction of single-family homes and townhomes that meet the Building Better Homes performance requirements, including certification to one of the 3rd party standards listed at the beginning of this section and verification by the relevant 3rd party consultant or verifier. To be eligible to request and to receive an incentive, the (approvable) application must be submitted prior to issuance of the building permit. Additionally, the permit must be secured prior to the effective date of the proposed changes to 19 NYCRR Part 1240 published by the Department of State in a [Notice of Rule in Development](#) codifying the zero emissions new construction requirements established in Energy Law section 11-104(6)(b). Homes located in a [disadvantaged community](#) (DAC) will be eligible for the higher incentive amount from the incentive schedule below.

Zero Emission Home Incentive Schedule		
Construction Type	Per Dwelling Unit Incentive Non-DAC location	Per Dwelling Unit Incentive Located in a DAC
Single Family	\$4,000	\$5,000
Single Family with GSHP*	\$7,000	\$8,000
Townhome	\$2,000	\$3,000
Townhome with GSHP	\$4,000	\$5,000

*Ground source heat pump (GSHP)

To be eligible to request and to receive the Zero Emissions Home Incentive, the home's design must employ strategies that address forward-looking climate conditions, including a wider range of operating temperatures, increased incidences of flooding on site, extended power outages, and other extreme events. Resilient strategies must include raising living spaces and critical system components above the 2080 future floodplain for projects located in New York City and above the 500-year flood levels for all other projects. Strategies can also include, but are not limited to, mechanical systems that can accommodate future climate conditions; community resilience-enhancing strategies, such as connection to district systems and reduction of vulnerability of the area surrounding the site to extreme heat; areas of refuge that incorporate HVAC systems that remain operable during power outages; passive survivability during extended power outages; and active resiliency strategies, such as satisfying critical loads for an extended duration through use of energy storage solutions, potentially in combination with renewable energy generation. The home should support passive survivability for an extended period under extreme wind loads and temperatures and ensure the home's mechanical systems will not be subject to freezing temperatures for that same duration. The Applicant should work with their design team to document how these additional resiliency attributes and performance criteria.

Deliverables required to secure the per dwelling unit incentive include:

- Building Permit,
- Certificate of Occupancy,
- Documentation as needed to confirm the additional requirements and criteria listed just above, and that included within the listed standards at the beginning of Section III, have been met,
- Proof of certification to the listed 3rd party standard selected by the Applicant.
- Executed Data Release Authorization Form for each completed home.

This Program relies on the design review, quality assurance, quality control, and verification protocols that are required by the listed 3rd party standards and performed by their qualified representatives who are responsible for verification and certification.

NYSERDA or NYSERDA-designated staff may elect to complete additional reviews of the project, including technical review of the project documents or site visit(s). NYSERDA may elect to request and review the energy model, certification reports, and checklists to verify the project has met the minimum performance threshold associated with the 3rd party standard selected by the Applicant. If NYSERDA determines the submitted

deliverables are incomplete or missing information, the deliverables will be rejected and returned to the Applicant for appropriate corrective action. Failure to meet the minimum required performance threshold and all requirements of the certification may result in termination of the project and its associated funding commitment.

Site visits may be requested by NYSERDA or a NYSERDA-designated staff, at NYSERDA's option. If NYSERDA elects to attend a site visit, the following requirements will apply:

- The Applicant and their technical representative(s) are required to attend the site visit. These representatives must have detailed knowledge of the project and must be prepared to answer any project-related questions that arise.
- NYSERDA or a NYSERDA-designated staff may ask to see the construction drawings while on site to verify the planned installation of any components that cannot be visually inspected because either it has been covered or installation has not commenced.
- If severe violations of the Building Better Homes program requirements are discovered during the site visit, NYSERDA reserves the right to withhold payment of the incentives for the number of homes of which the performance cannot be verified.

Failure to meet these requirements may result in termination of the project.

D. Incentives to support the sale of Zero Emissions Homes

Builders and developers who intend to construct Zero Emissions Homes that will meet the requirements as needed to receive the Zero Emissions Home Incentives offered through this PON may also request financial incentives to support the marketing and sale of those Zero Emissions Homes. NYSERDA will provide an incentive to offset 50% of the incurred cost for the marketing and promotion of sales or rentals of those homes. To be eligible for this support, the Applicant must market and promote the zero emissions attributes of their homes and comply with the marketing requirements or guidance associated with their chosen 3rd party standard (as described earlier in Section III) that will confirm their home(s) will meet the requirements associated with this PON. The maximum allowable incentive payment available to an Applicant (inclusive of any sub-entity where they hold controlling interest) to support the marketing and sale of Zero Emissions Homes will be \$50,000 annually, with a \$100,000 lifetime cap.

Deliverables required to support payment requests of the incentive of 50% of the incurred costs include:

- PDF copies of all completed marketing materials, screen shots of social media posts, or any other documents that effectively convey the marketing activities associated with incurred costs for the marketing identified by the Applicant,
- Documentation identifying the invoiced billing rate(s), associated costs incurred by the Applicant to execute their marketing strategy, or copies of invoices that confirm the incurred costs associated with social media or other marketing strategies,
- Data Release Authorization Form
- Attestation from the Registered Architect of record confirming:
 - The date range when the design or re-design work was completed,
 - That the design or re-design meets Building Better Homes performance requirements,
 - That the home design or re-design supports the repetitive, production building of homes,
 - If applicable, approval of the marketing materials by the 3rd party standards organization.

IV. Application Process

Online submission of an application is preferable, via NYSEDA's online portal at https://portal.nyserda.ny.gov/Core_Registration_Page?programName=New_Construction. Applicants are invited to request *Zero Emissions Design or Re-design Support*, *Passive House Training*, and *Zero Emissions Homes Incentives* for homes located within a single project or subdivision within a single application. Applicants may submit multiple applications for multiple projects or subdivisions that are unrelated to another application. Requests for the *Zero Emissions Homes Incentives* for additional homes within a subdivision that are associated with a previously submitted and approved application can be submitted as a new application or a modification to the existing application can be requested.

The Application will require the following information to be provided and steps to be completed:

- Online submission of company information, including the officer or representative who has the authority to execute contracts on behalf of the company, the Applicant's primary point of contact for project management, and the point of contact(s) for the energy consultant or designer who will support the project's certification to the chosen 3rd party standard.
- The Applicant should identify the requested incentives for each Incentive Category (including but not limited to number of designs and applicable certifications, training courses and number of attendees, advertising requested incentives, and site information for all requested home incentives).
- Review and accept the Building Better Homes Terms and Conditions.

The Applicant should submit their application, monitor status of their application, submit documentation and deliverables associated with their project, and perform other program-related activities through the NYSEDA portal. Applicants must select and identify the energy and design consultants who will be supporting their project at the time the application is submitted. The Applicant may assign access to their project in the portal once they have initiated the application by identifying additional Project Roles (contacts) on the project application, and by designating read-only access or read-write access. Read-write access will allow the Applicant to collaborate with their energy and design consultants to complete submission of the application. The Applicant must identify their third-party quality assurance provider at the time of application, or no later than during the scoping session.

A team of individuals reviews each application and responds to inquiries related to applications, eligibility, and intake. Applicants are encouraged to electronically sign their application in the portal. Alternatively, they may print the Certification Statement, sign it, then scan and upload the signed document to the portal as an attachment. Applicants that are unable to submit a project application electronically may request a hard copy application. Inquiries regarding submission of an application or requests for assistance should be directed to NYSEDA at NewConstructionProgram@nyserda.ny.gov or by calling 1-800-284-9069. After receiving emailed confirmation that the Application has been received, all project-related correspondence between the Applicant and NYSEDA should occur through the NYSEDA portal, unless otherwise directed.

The project application will progress through each status shown below:

Project Application Flow



1. Unsubmitted Status

The project application is generated in and submitted through the NYSEDA portal. Unsubmitted status is reached once an Applicant generates the application.

2. Submitted Status

The project application moves to submitted status once the Applicant has submitted the application and any documents to the portal, inclusive of the Applicant's acceptance of the Terms and Conditions (Attachment A).

3. Under Review Status

Upon receipt of a project application, program staff will move the application to under review status. At this time, the application will move into the queue for technical review.

3.1 Technical Review

Once the project application has been received, the project will undergo an administrative and technical review, inclusive of a scoping session with the Applicant and their project team. NYSERDA or its designee will schedule a scoping session with the Applicant and their project team, including their chosen energy and design consultants. The intent of the scoping session is to discuss general project information, and to review program requirements and responsibilities for each party, and to confirm that the project can achieve all Program requirements. The scoping session may also identify additional documents required to allow the project to be established in NYSERDA's financial systems. Knowledgeable representatives from both the Applicant and their project team are required to attend the Scoping Session. If a project application has missing or inaccurate information or documents, the Applicant will be asked to provide the correct information in the portal.

3.2 State Historical Preservation Act Compliance and State Environmental Quality Review Act Compliance (SEQR)

Applicants requesting incentives to support the construction of a zero emissions home will be required to work with NYSERDA to ensure compliance with the State Historical Preservation Act.

When the incentives being requested target whole building performance, incorporating several design attributes (measures) that contribute to that whole building performance, the potential environmental impacts associated with those single-family homes and townhomes are limited due to their project size.

Program rules require that systems installed in single-family and townhome projects be within the SEQR Type II thresholds as further defined below:

- Heat Pump Systems completed with program support must not exceed 5 million Btu's per hour,
- Heat Recovery systems completed with program support must not exceed 10 million Btu's per hour,
- Closed-cycle earth heat exchange systems completed with program support must not exceed 1 million Btu's per hour.

Applicants requesting incentives to support the construction of zero emission homes that will be constructed in New York City applications shall:

- Confirm that the Applicant has filed a City Environmental Quality Review (CEQR) or that the project was included on a CEQR that was created by another entity.
- If the Applicant has the CEQR number, the Applicant or PEC can submit it through the NYSERDA portal, allowing the CEQR documentation to be located on the city portal.
- If the CEQR number is not available, the Applicant or PEC must submit a copy of the CEQR documentation through the NYSERDA portal.
- If neither is available, the Applicant must provide a letter confirming the CEQR was not required by New York City.

4. Pending Approval Status

When the project application has passed the administrative and technical review, the application will be moved to pending approval status. In this status, the purchase order is finalized and funding for the application is set aside. Final approval of the project application is at NYSERDA's sole discretion.

5. Approved Status

When the project application has been approved by NYSERDA, the Applicant will receive their project Award Letter via email notification and saved to the portal. While in approved status, the Applicant may submit a project cancellation request, project extension request, project modification request, or project incentive payment request.

5.1 Project Cancellation Requests

Requests to cancel a project must be done through the portal by submitting a request for cancellation to NYSERDA. Should an Applicant decide to move forward with a project after cancellation, a new application must be submitted, and the incentives and requirements in effect at the time the new application is submitted will apply.

5.2 Project Extension Requests

To request an extension, the Applicant must submit a project extension request through the NYSERDA portal. NYSERDA will approve extensions on a limited case-by-case basis. Project extensions may be granted for legitimate and verifiable reasons which are beyond the control of the Applicant.

5.3 Project Modification Requests

To request a modification to an approved project, the Applicant must submit a project modification request through the NYSERDA portal. A project modification request must state the original project award amount, the proposed certification standard, and the unit count, as well as the reason for the change. NYSERDA will review the request, and may elect to calculate, apply, and approve the modification and any applicable adjustment to the project award amount at NYSERDA's sole discretion. If NYSERDA approves any modification to the initial commitment of funding, a modified Award Letter will be provided.

5.4 Project Incentive Payment Requests

Payment of incentives will be available based on the Applicant's submission of the required deliverables. When the complete set of deliverables have been submitted, the Applicant must provide emailed notification through the NYSERDA portal directed to NewConstructionProgram@nyserda.ny.gov, the Shared Services contact, and the Primary NYSERDA Project Manager as listed in the Project Roles section of the portal. The deliverables will be reviewed by NYSERDA and when all deliverables have been approved, the payment will be processed. Applicants and their consultants are expected to complete quality control reviews of their work and submit high-quality deliverables and associated work products. If NYSERDA determines the submitted deliverables are incomplete or missing information, the deliverables will be rejected and returned to the Applicant for appropriate corrective action. Failure to meet the requirements of the Program may result in termination of the project.

6. Authorization to Access and Share Utility Use and Related Data

The Applicant agrees and authorizes their utility's sharing of the Applicant or customer's information and/or project-level information with New York State Department of Public Service Staff and NYSERDA, including its agents or authorized representatives, consistent with NYSERDA's New York State Public Service Commission and statutorily authorized responsibilities, including, but not limited to supporting market development initiatives, and other evaluation and measurement activities. (For clarity, the term project level includes the information based on the scope of the project, including, but not limited to, aggregated and anonymized whole building, building or subsets of the project.)

The Applicant agrees and authorizes the sharing of the Applicant or customer's information and/or project-level information with New York State Department of Public Service Staff and appropriate local utility, including its agents or authorized representatives, in carrying out its responsibilities under New York State Public Service Commission orders. (For clarity, the term project level includes the information based on the scope of the project,

including, but not limited to, whole building, building or subsets of the project.) The Applicant shall commit to a good faith effort to secure a signed Data Release Authorization Form from the homebuyer at the time of closing.

7. Completed Status

The project has achieved completed status once construction is complete, all deliverables have been accepted, and final payment has been approved by NYSERDA.

V. General Conditions

GENERAL CONDITIONS

Proprietary Information - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your application. Review should include whether it is critical for evaluating an application, and whether general, non-confidential information, may be adequate for review purposes.

The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the Applicant wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 <https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/About/Contact/NYSERDA-Regulations.ashx>. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

Omnibus Procurement Act of 1992 - It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises, as bidders, subcontractors, and suppliers on its procurement Agreements.

Information on the availability of New York subcontractors and suppliers is available from:

Empire State Development
Division for Small Business
625 Broadway
Albany, NY 12207

A directory of certified minority- and women-owned business enterprises is available from:

Empire State Development
Minority and Women's Business Development Division
625 Broadway
Albany, NY 12207

State Finance Law sections 139-j and 139-k - NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <https://online.ogs.ny.gov/legal/lobbyinglawfaq/default.aspx>. Applicants are required to answer questions during application submission, which will include making required certification under the State Finance Law and to disclose any Prior Findings of Non-Responsibility (this includes a disclosure statement regarding whether the Applicant has been found non-responsible under section 139-j of the State Finance Law within the previous four years).

Tax Law Section 5-a - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf). Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contracting and filed with NYSERDA. See, ST-220-CA (available at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf> .

Contract Award - NYSERDA anticipates making multiple awards under this solicitation. NYSERDA anticipates a contract duration of two years from the time of application, unless NYSERDA management determines a different structure is more efficient based upon Applications received. A contract may be awarded based on initial applications without discussion or following limited discussion or negotiations pertaining to the Statement of Work. Each application should be submitted using the most favorable cost and technical terms. NYSERDA may request additional data or material to support applications. NYSERDA may at its discretion elect to extend and/or add funds to any project funded through this solicitation. NYSERDA reserves the right to limit any negotiations to exceptions to standard terms and conditions. Applicants should keep in mind that acceptance of all standard terms and conditions will generally result in a more expedited contracting process. NYSERDA expects to notify applicants in approximately four weeks from receipt of an application whether your application has been selected to receive an award. NYSERDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSERDA agreement.

Accessibility Requirements - NYSERDA requires contractors producing content intended to be posted to the Web to adhere to New York State's Accessibility Policy. This includes, but is not limited to, deliverables such as: documents (PDF, Microsoft Word, Microsoft Excel, etc.), audio (.mp3, .wav, etc.), video (.mp4, .mpg, .avi, etc.), graphics (.jpg, .png, etc.), web pages (.html, .aspx, etc.), and other multimedia and streaming media content. For more information, see NYSERDA's Accessibility Requirements on the [Doing Business with NYSERDA page](#) or download [NYSERDA's Accessibility Requirements \[PDF\]](#).

Limitation - This solicitation does not commit NYSERDA to award a contract, pay any costs incurred in preparing an application, or to procure or contract for services or supplies. NYSERDA reserves the right to accept or reject any or all applications received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSERDA's best interest. NYSERDA reserves the right to reject applications based on the nature and number of any exceptions taken to the standard terms and conditions of the Attachment A - Building Better Homes Program - Terms & Conditions. NYSERDA reserves the right to disqualify Applicants based upon the results of a background check into publicly available information and the presence of a material possibility of any reputational or legal risk in making of the award.

Disclosure Requirement - The Applicant shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States and shall describe circumstances for each. When an applicant is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSERDA after the award of a contract, NYSERDA may exercise its stop-work right pending further investigation or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Applicants must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

Vendor Assurance of No Conflict of Interest or Detrimental Effect - The Applicant shall disclose any existing or contemplated relationship with any other person or entity, including any known relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Applicant or former officers and employees of NYSERDA, in connection with Applicant's rendering services as proposed. If a conflict

does or might exist, please describe how your company would eliminate or prevent it. Indicate what procedures will be followed to detect, notify NYSERDA of, and resolve any such conflicts.

The Applicant must disclose whether it, or any of its members, or, to the best of its knowledge, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

Public Officers Law – For any resulting awards, the Contractor and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Commission on Ethics and Lobbying in Government, or its predecessors (collectively, the "Ethics Requirements"). Applicants are reminded of the following Public Officers Law provision: contractors, consultants, vendors, and subcontractors may hire former NYSERDA employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of NYSERDA may neither appear nor practice before NYSERDA, nor receive compensation for services rendered on a matter before NYSERDA, for a period of two years following their separation from NYSERDA service. In addition, former NYSERDA employees are subject to a "lifetime bar" from appearing before any state agency or authority or receiving compensation for services regarding any transaction in which they personally participated, or which was under their active consideration during their tenure with NYSERDA.

Any awardee will be required to certify that all of its employees, as well as employees of any subcontractor, whose subcontract is valued at \$100,000 or more who are former employees of the State and who are assigned to perform services under the resulting contract, shall be assigned in accordance with all Ethics Requirements. During the term of any agreement, no person who is employed by the contractor or its subcontractors and who is disqualified from providing services under the contract pursuant to any Ethics Requirements may share in any net revenues of the contractor or its subcontractors derived from the contract. NYSERDA may request that contractors provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Commission on Ethics and Lobbying in Government, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Commission on Ethics and Lobbying in Government. NYSERDA shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed would be in conflict with any of the Ethics Requirements. NYSERDA shall have the right to terminate any contract at any time if any work performed is in conflict with any of the Ethics Requirements.

Due Diligence – NYSERDA, at its discretion, may conduct broad due diligence to validate any or all elements of an application and to assess applicants' prospects of success, including gathering information to assess a proposal relative to any of the topics listed in evaluation criteria, whether or not such topic is explicitly addressed in a proposal. NYSERDA may conduct due diligence on some or all proposals based on NYSERDA's current guidelines at the time of a review. NYSERDA staff may follow up with Applicants to request additional information or clarification regarding applicant's proposal, including questions regarding applicant's business prospects and resources, whether or not those questions are specifically related to the elements of the proposal. Additionally, customized due diligence may be conducted by internal or external staff or contractors based on questions on any proposal raised by NYSERDA staff and/or the Scoring Committee. Due diligence may include (but is not limited to): interviews of independent references and background checks of team members; assessment of prior business experience of any team member associated with a proposal; research on intellectual property claims; customer and partner reference checks; market research on the applicants' target market and any other related or possibly competitive technology or market area; research to validate any assumptions on current or future revenues, costs, capital needs, and financing prospects for Applicant's business, including similar (or unrelated) technologies, processes, or competitive solutions; or any other research that could reasonably inform the evaluation of a proposal, or the prospects for commercial success of the Applicant's business (whether directly related to, or unrelated to the specific elements in a proposal). Due diligence may include discussions with Applicant's former and current business partners, employees, investors, customers, and competitors. Due diligence may be conducted by NYSERDA personnel or contractors including members of the scoring committee, before, during, or

after a scoring process, and prior to finalization of a contract award, any information gleaned in diligence may be used to score or re-score a proposal or apply a program policy factor.

EO 16 Protocols – Pursuant to Executive Order No. 16 issued on March 17, 2022, all vendors responding to bids or contracting with New York State must certify, using the form provided as part of this solicitation, their status with regard to conducting business operations in Russia, and that any such business operations in Russia conducted on behalf of the vendor are determined to be permitted under any of the allowable exemptions. The term vendor is intended to encompass bidders prior to contract award, contractors who have received a contract award, contract assignees, or contractors for whom an extension to an existing contract is being pursued. Exemption decisions are in NYSEERDA's sole discretion and are final decisions. NYSEERDA reserves the right to solicit additional materials or information regarding the responses or materials provided by a vendor.

Pursuant to Executive Order No. 16, all vendors will be vetted to ensure that they are not on the federal sanctions list at <https://sanctionssearch.ofac.treas.gov/>. There is no waiver or exemption process for vendors appearing on the federal sanctions list.

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case sanctions are lifted during a solicitation, or after award in the case of some solicitations.

VI. Attachments for Reference

- Attachment A - Building Better Homes Program - Terms & Conditions
- Tenant Data Release Authorization Form
- Owner Data Release Authorization Form