

Appendix B

RFQL 5897 – Applicant Certification Form and Commitment to Open Access

The Applicant’s Application will be considered incomplete unless the required signature is provided.

Applicant Name: _____

I, the undersigned certify that I am an Officer or otherwise authorized representative of the Applicant (“Authorized Agent”), that I am authorized to commit my organization to the Application, and that all statements herein are true and accurate. Terms capitalized but not defined herein have the meanings assigned in RFQL 5897.

I understand that NYSERDA reserves the right to request additional information to confirm or clarify the information reported in Applicant’s Application, and I agree to provide any such information promptly. I also understand that NYSERDA or its authorized agents may audit any Applicant to verify the accuracy of any information included as part of the Application submitted by the Applicant. I further understand that NYSERDA must be notified promptly of any material change in the information provided in any Application submitted by the Applicant. I understand that failure to provide information as requested by NYSERDA, to allow an audit, or to accurately complete NYSERDA’s evaluation of any Application submitted by the Applicant may disqualify the Application from consideration.

I understand that confidential information about any Application submitted by the Applicant may be shared with New York State and federal agencies who have jurisdiction over the permitting of the Port Site and the Potential Port Site Activities and Upgrades.

I confirm that Applicant, and the directors, employees and agents of Applicant and any parent company of Applicant are, to the best of the Applicant’s knowledge, not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction involving conspiracy, collusion or other impropriety with respect to offering on any contract or have been the subject of any debarment action.¹

¹ Any exceptions to this representation must be described in detail.

I certify that the above information, and all information submitted in connection with State Finance Law §139-j and §139-k, as applicable, is complete, true, and accurate. I affirm that I understand and will comply with NYSERDA's procedures under §139-j(3) and §139-j(6)(b) of the State Finance Law, as applicable.

I certify that [select 1 via X]:

as of the date of submission of Applicant's Application (i) Applicant is not subject to an Exclusivity Agreement as that term is defined in the RFQL, and (ii) Applicant will not enter into any Exclusivity Agreement through the Release Date as that term is defined in the RFQL.

as of the date of submission of Applicant's Application (i) Applicant has unwound or will unwind within 30 days, any pre-existing Exclusivity Agreements, and will withdraw its Application if unable to do so, and (ii) Applicant will not enter into any Exclusivity Agreement through the Release Date as that term is defined in the RFQL.

I understand that the above certification does not stand in place of the requirements of Section 2878 of the New York State Public Authorities Law. In accordance with Section 2878, Applicant warrants, under penalty of perjury, that its Application was arrived at independently and without collusion aimed at restricting competition.

I further certify that Applicant will use its proposed pricing structure submitted in response to RFQL Section III(F)(4) (as such structure may be modified with NYSERDA's consent as noted in the RFQL) in connection with all arrangements related to proposals for the Phase II RFP that propose to utilize the Port Site.

Authorized Agent Name: _____

Authorized Agent Title: _____

Authorized Agent Signature: _____

Date of Signature: _____