EXCELSIOR ENERGY CENTER

Case No. 19-F-0299

1001.12 Exhibit 12

Construction

Contents

Appendices

Exhibit 12: Construction

This Exhibit will track the requirements of Stipulation 12, dated July 6, 2020, and therefore, the requirements of 16 New York Codes, Rules and Regulations (NYCRR) § 1001.12.

12(a) Quality Assurance and Quality Control Plan

This Exhibit contains preliminary quality assurance and quality control (QAQC) procedures demonstrating how the Applicant will monitor and assure conformance of Project installation with the applicable design, engineering and installation standards and criteria.

The Applicant will have a construction team at the Project Area to handle materials, construction, and quality control during construction of the Project. The Engineering, Procurement, and Construction (EPC) Contractor will manage local subcontractors to complete construction. An example QAQC Plan for the Project is included as Appendix 12-1; however, the EPC Contractor, yet to be selected, will prepare a Final QAQC Plan for the Project that will be submitted to the Secretary or the Siting Board.

Throughout the construction phase, ongoing coordination will occur between the Project development and the construction team. The Applicant will maintain a full-time construction manager to collaborate daily with the EPC Contractor. The construction manager will help to coordinate Project activities, including ongoing communication with local officials, citizens groups, and landowners. The construction manager will also maintain the following responsibilities:

- Project Plan of the Day
- Safety and environmental performance;
- Schedule, cost, and quality performance;
- Revenue performance
- Monthly management meetings;
- Overall Project direction;
- Administration of contracts; and
- EPC contractor guidance and quality control.

The Applicant's construction manager will maintain full authority and responsibility for the EPC Contractor, all subcontractors, and associated quality control measures. A breakdown of responsibilities and quality assurance can be found in Appendix 12-1.

The construction manager will also maintain construction site safety under the Applicant's "ZERO Today" philosophy as described in Exhibit 18 of this Application. The Applicant will conform to the requirements of the Occupational Safety and Health Administration (OSHA), the United States Environmental Protection Agency (USEPA), and other applicable regulations in New York State to ensure the safety of personnel and the public. The appropriate safety training will be required of all personnel working on the Project.

In addition to the construction manager, there will be a number of personnel with various levels of accountability to ensure timely, safe, and efficient use of resources and labor. Each supporting personnel has specific responsibilities related to the Project. Detailed descriptions of roles and responsibilities can be found in Appendices 12-1 and 12-2. Below is a list of support personnel and a brief description of their accountabilities in relation to the Project.

- **Project Engineer** – Provides support and quality control to the engineering team for the Project. Communicates requests for information and engineering change notices to the construction team should there be any questions with field construction. Timely resolution of any engineering inquiry is imperative to drive the Project schedule.
- **Project Controls** – Tracks cost controls, risk, and capital forecasting in relation to the Project. Monitors updates to the Project schedule and reports on effects to the Project and its associated costs.
- **Operations Plant Lead and Start-Up Operations Transition** – Typically brought in near the end of construction to ensure a quick, safe, and efficient transition from the construction team to the operations team. This ensures the end of construction and transition into commissioning activities are completed smoothly.
- **Civil/Environmental** – Interfacing with permitting to ensure the requirements have been met. Identification and resolution of deficiencies. Oversight of compliance with environmental requirements. Maintaining daily coordination of the civil construction and activities associated with the installation of the solar panel arrays. Review and quality assurance of work in accordance with design standards. Monitor safety compliance, implement quality control, perform inspections and assurances of mechanical completion. An Environmental Monitor, as described in other sections of this Application, will also be retained, will be present onsite and will perform the duties required by the certificate conditions approved by the Siting Board.

- **Electrical** – Coordination and monitoring of electrical contractor's work. Monitoring and coordination of all electrical and ground testing of the solar panel arrays and inverters. Monitor safety compliance, assessment of deficiencies and their associated resolutions.
- **Substation** – Coordination and monitoring of substation contractor's work. Maintain daily coordination of the substation construction. Monitoring and coordination of electrical and ground testing of the substation. Monitor safety compliance, assessment of deficiencies and their associated resolutions.
- **Logistics and Materials** – Ensure the efficient delivery of Project equipment and materials on site and in accordance with the Project schedule.
- **Commissioning** – Manage the testing and inspection of the electrical, mechanical, and communication systems associated with the Project.
- **Site Coordinator** – Management of weekly performance metrics, logging or contractor documents and drawings, coordination with road contractor, and maintaining jobsite safety.
- **Site General Support** – Assist and support various support personnel.
- **Site Administrator** – Management and transmittal of Project documents. Assistance with the business management and administrative duties of the Project Manager and other associate support staff.

A description of necessary qualifications for the positions listed above along with a copy of a sample EPC Contractor's Solar Project Construction Quality Program can be found in Appendix 12-1. The EPC Contractor will maintain all requirements or similar requirements to those listed in this document, as well as abiding by the standard of the Applicant's development and construction personnel. The EPC Contractor will provide a Quality Program with the requirements or very similar requirements listed in this section and the example document.

Refer to Appendix 12-2 for the Applicant's Major Duties & Accountability Matrix for Project personnel.

Accountabilities and Oversight

The Applicant and its contractors and subcontractors are required to maintain the highest quality controls during the development, construction and operation of the Project. The Applicant will have a team of personnel in place as listed above and in 12-1 to maintain the daily operation and quality of the construction of the Project. Additionally, the EPC Contractor will maintain documentation, conformance, inspection, and testing of work completed at the Project to ensure

that all work has been completed in accordance with Project specifications. The comprehensive QAQC Plan through the EPC Contractor in conjunction with the quality oversight of the Applicant's team of personnel will ensure that work adheres to the highest possible quality and safety metrics throughout the Project development, construction, and operation.

Project Organization

The EPC Contractor will provide an effective organizational structure to ensure a responsible construction team with a commitment to quality and safety. The effective structure will contain appropriate personnel to facilitate the construction of the Project, including managers, engineers, superintendents, inspectors, foremen, and quality personnel. Each employee has the responsibility to implement quality processes in every aspect of the construction process. Non-conforming work with the established level of quality and Project specifications will be corrected appropriately.

Process Controls

Process controls ensure that work is completed in a safe, consistent, and quality manner. An efficient use of Project Controls such as Project meetings, daily planning meetings, and monthly management meetings help to address responsibilities and ensure the timely construction of the Project. The topics of discussion of these meetings range from daily construction activities to safety and emergency agendas to the resolution of on-site construction challenges.

Design Controls

Plans and drawings shall be thoroughly reviewed to ensure completeness of construction. The engineering team shall clarify instances of construction that require further information for completion. Design deviations must first be accepted and approved by the Engineer of Record prior to construction of that Project Component.

Document Control

Project documents will be collected, stored, transmitted, and submitted in a controlled and defined manner. Project closeout documentation will be provided to the Applicant as a Project deliverable. Specific reporting and timelines will be established between the Applicant and the EPC Contractor prior to the start of construction.

Training

Internal and external trainings for personnel to ensure the consistency and completeness of job site training efforts. Training records shall be kept for Project personnel for the duration of

construction. Employees must have safety training and abide by the regulations as set forth by OSHA and other relevant New York State Safety regulations.

Subcontractor Evaluations

Subcontractors will be assessed on various factors including performance, safety, capability, and quality of work. This continual information gathering can help to assess the subcontractor's suitability for present and future work. Subcontractors are subject to audit and performance review throughout the development and construction process.

Material Management

Materials delivered or supplied for the use of construction of the Project will be in quality compliance with manufacturer and Project specifications. The handling and storage of materials shall be in accordance with manufacturer recommendations to ensure that there is no compromise in the quality of the material.

Inspection and Testing

Inspection and testing shall be completed in a controlled manner in accordance with manufacturer, engineering, and Project specifications. Both internal and external quality checklists will be established and used as well as the potential for third-party testing contractors/ Inspection and testing documentation will be generated and stored to assure the quality of all materials, systems, and Project Components.

Calibration

The accuracy of tooling and equipment is necessary to ensure that work is performed with technical requirements. Calibrations will be completed in accordance with applicable standards and shall be documents to maintain a record of calibration results.

Nonconformance

Materials, work, and products are subject to inspection and testing to determine the level of conformance with manufacturer, engineering, and Project specifications. All non-conforming Project Components shall be subject to rejection, repair, reworking, and replacement. When required, an evaluation of the resolution will be decided collaboratively with the EPC Contractor and the Applicant.

Auditing

Quality audits should be performed to measure the effective application of the quality program and to drive continuous improvement efforts. Findings in the audit process shall be used to drive efficiency and further quality control efforts as the Project progresses.

Project Delivery

The Project shall be constructed according to the provided plans, designs, manufacturer specifications, engineering standards, contract standards, expectations, and any certificate permitting conditions. Constant alignments meetings with the Applicant and the EPC Contractor shall take place to assure that all expectations are being met. Additionally, testing and inspections will assure that quality standards and expectations are being met. The EPC Contractor shall deliver Project Components taking every precaution to ensure that employees and the general public stay safe throughout construction. Public safety remains a high priority for the Applicant.

Before the Project becomes fully operations, the Operation and Maintenance (O&M) staff will be integrated into the construction phase. The construction manager and the O&M staff manager will work together continuously to ensure a smooth transition from construction through solar farm commissioning and, finally, operation.

12(b) Company Official Statement

(1) Protection of Underground Facilities

The Applicant and its contractors will abide by the requirements contained in Public Service Law § 119-b, as implemented by 16 NYCRR Part 753, regarding protection of underground facilities to assure public safety and to prevent damage to public and private property.

(2) Pole Numbering and Marking Requirements

The Applicant and its contractors will comply with pole numbering and marking requirements implemented by 16 NYCRR Part 217, if required.

12(c) Preliminary Plans to Avoid Interference with Existing Utility Systems

Utility information within the Project Area was collected by the Applicant. Existing/operating utility systems, both above and below ground, are being identified and designated as electric, communication, natural gas, etc. The Empire Pipeline, a 24-inch diameter natural gas pipeline, runs parallel to the NYPA electric transmission line and through the Project Area. The Empire Pipeline is a subsidiary of National Fuel Gas Corporation. The pipeline and NYPA electric

transmission line are identified on Figure 4-2 and the Preliminary Design Drawings in Appendix 11-1. Collection lines will need to cross the rights-of-way (ROWs) for both the transmission line and the Empire Pipeline. The transmission line and pipeline ROWs and easement requirements are detailed below. Coordination with the owners of this transmission line and Pipeline will continue during the Project's design. The Applicant and/or EPC Contractor will also submit a request for information with Dig Safely New York to receive identification of all documented buried utilities within the Project Area. Safety of all personnel and the prevention of damagers to existing/operating utilities is a top priority of the Applicant.

The Applicant will continue to collaborate with all utility companies, including the municipal water lines, within the Project Area to ensure minimal interference. The Project design intends to avoid impacts to existing water mains in public ROWs, as shown on the preliminary design drawings (Appendix 11-1). Measures to minimize interference where avoidance is not possible include horizontal directional drilling (HDD) instead of trenching, relocation of Project components (e.g. relocating collection lines to avoid interference with a well) and crossing of existing utilities at 90-degree angles. When necessary, the Applicant will establish a crossing agreement for any permanent crossing of Project Components with existing utilities. Crossing agreements will be negotiated and established as a last resort to avoid interference with existing/operating utilities.

The Applicant does not expect to have permanent crossings with transmission lines, fiber optic lines, and natural gas and/or oil pipelines, with the exception of the Empire Pipeline and NYPA electric transmission line. Certain electrical distribution lines and municipal water lines will be crossed, and the Applicant will coordinate with applicable authorities concerning the safe methods to be implemented for these crossings. Each permanent crossing would be subject to site-specific engineering and construction requirements. The Applicant will adhere to all requirements set forth by Dig Safely New York, all applicable engineering coders and guidelines associated with each permanent utility crossing and will work with the utility companies to ensure that any interference with existing/operating utilities is avoided or minimized for any permanent crossings. Refer to the Preliminary Design Drawings in Appendix 11-1 for preliminary plans and details on utility crossings.

National Fuel's Empire Pipeline

National Fuel has been consulted regarding the pipeline easements, restrictions, setbacks, separation distances, utility crossing and nearby installation requirements, recommended protective measures, and communication and coordination requirements. Refer to Appendix 12-

4 for National Fuel's Empire Pipeline Encroachment Manual that was provided as part of the Applicant's consultation efforts. Work proposed within the right of way (ROW) of both National Fuel's Empire Pipeline and NYPA Transmission Line, detailed in the following section, consists of open trench installation of underground collection lines. See sheets C.304, C.336 and C.338 of the Preliminary Design Drawings in Appendix 11-1 for a depiction of these crossings.

Empire Pipeline's ROW is 50 feet wide unless otherwise stipulated. A minimum separation distance of 25 feet must be maintained between the pipeline, cathodic protection, and other permanent facilities and structures. Temporary storage sheds or buildings shall not be located within 25 feet of the pipeline.

Underground utilities which cross the Empire Pipeline shall be installed a minimum of 12 inches below the pipeline. Power lines less than 600 volts installed via open trench shall be encased in non-metallic conduit or be covered with treated lumber. Power lines exceeding 600 volts installed via open trench shall be encased in non-metallic conduit covered by a minimum of three inches of concrete. Utilities shall be installed at right angles (not parallel) to the pipeline within the pipeline ROW. Sandbag padding shall be installed between the Empire Pipeline and foreign crossings. Utility crossings shall be approved by National Fuel and the crossings shall be permanently marked within the ROW.

Heavy equipment is not to be moved across the pipeline ROW without notifying the General Foreman at National Fuel.

Grading may be permitted within the ROW, however a minimum of 36 inches of grade, or 48 inches in agricultural areas, must be maintained above the pipeline. The finish grade shall be field verified by a National Fuel inspector.

Tree clearing and vegetation management is not anticipated within the pipeline ROW; however, should it be deemed necessary, approval must be obtained from National Fuel prior to commencement of the activity and the following requirement would apply:

- National Fuel must be notified at least three days prior to the commencement of tree clearing activities.
- Trees and vegetation plantings exceeding 5 feet in height are not permitted within the pipeline ROW.
- Brushes and vegetation below 5 feet in height may be placed within 10 feet of the pipeline.

- Areas disturbed by tree clearing or planting must be graded, seeded, mulched, and properly restored. Upon completion of restoration within the ROW, a National Fuel representative shall complete a site walkthrough with the Applicant or the Applicant's representative to ensure restoration is satisfactory.

The Applicant will continue to coordinate with National Fuel regarding potential impacts within the pipeline ROW due to construction of the Project. The Applicant will provide National Fuel with the following information in order to obtain encroachment rights within the pipeline ROW:

- A cover letter detailing the Project and the Applicant's contact information;
- Three sets of drawings for the portion of the Project within the pipeline ROW, which will detail:
    - Existing and proposed grades and the pipeline elevation;
    - Ground profile for grade changes;
    - Vehicle information for hauling or traveling across the ROW.

Construction plans for areas within the ROW will be submitted to National Fuel for review and approval prior to commencement of construction. The Applicant will allow up to four weeks for review of the Project by National Fuel. Refer to the Empire Pipeline Encroachment Manual for the General Forman's contact information, as well as contact information for Dig Safely New York. Preliminary details on the Applicant's proposed pipeline crossing are included on site plan drawings C.304, C.336, and C.338 in Appendix 11-1.

NYPA Transmission Line

NYPA has been consulted regarding land use permit applications for work within the ROW. Refer to Appendix 12-5 for NYPA's Land Use Permit Application and Instructions that were provided during the Applicant's consultation efforts. The Applicant will complete the application process and receive approval from NYPA prior to the start of construction. The permit application will include a detailed scope of work, a full set of construction drawings, aerial photography of the intended area, excavations/disturbances over underground features, a health and safety plan, COVID-19 affirmation, and any other appropriate information. The Applicant will continue to consult with NYPA as applicable leading up to the application submittal.

12(d) Procedures to Address Public Complaints

The Applicant has proposed a formal Complaint Resolution Plan (Appendix 12-3) that will address potential public complaints, including noise-specific complaints, during the construction and operation of the Project. The Complaint Resolution Plan lists specific procedures for where to submit a complaint and the information required to properly resolve the complaint. The Complaint Resolution Plan includes a general complain form as well as a noise-specific complaint form, both of which can be submitted by mail to the Applicant or delivered in person to the temporary construction office. The Applicant will keep a thorough log of each complaint and its associated resolution. The complaint log will be maintained by the Applicant and, upon request, can be sent to the New York State Department of Public Service (NYSDPS) within seven business days.

A Project Representative will make efforts to respond to reasonable inquiries within 72 hours (during normal business hours) of the receipt of an inquiry. A record of the steps taken to resolve each complaint shall be kept by the Applicant. This record will include complaints received, resolutions of said complaints, and unresolved complaints.

No fewer than two weeks prior to the commencement of construction, the Applicant will publish a summary of the Complaint Resolution Plan in newspapers, including local community and general circulation newspapers, as will serve substantially to inform the public of such Complaint Resolution Plan. A list of these newspapers has been established and identified in the Applicant's Public Involvement Program (PIP) Plan. The Complaint Resolution Plan will be provided to the Town of Byron. The Complaint Resolution Plan will also be posted on the Applicant's website and will be available to the public at the temporary construction office.

In the case that a resolution cannot be delivered within 60 days, a timeline and measures that could be taken will be provided to the complainant including using the complaint resolution procedures adopted by the New York State Public Service Commission (NYPSC). The complaint resolution process is limited to reasonable and objectively practical complaints.

A copy of the Complaint Resolution Plan can be found in Appendix 12-3 of this Application. The Plan and protocol provide further details in addressing and resolving public complaints throughout the construction and operation of the Project.

12(e) Stakeholder Communication

At least 14 days prior to the commencement of the Project construction date, defined as the anticipated beginning of unlimited and continuous construction of the Facility, but not including tree-clearing activities relating to testing or surveying (such as geotechnical drilling and meteorological testing), the Stakeholder List shall be notified as follows:

- Provide notice by mail to host and adjacent landowners within 2,500 feet of a proposed solar collector array or proposed switchyard, or within 500 feet of other Project components, and persons who reside on such properties (if different from the landowner);
- Provide notice by mail to owners and operators of water wells within 500 feet of the final layout;
- Provide notice to the Town of Byron and Genesee County officials and emergency personnel;
- Publish notices in The Batavia Daily News, Rochester Democrat & Chronicle, The Batavian, and the Genesee Valley Pennysaver for dissemination;
- Provide notice for display in public places, which will include, but are not limited to, the Town of Byron Town Hall, at least one library in the Town of Byron, at least one post office in the Town of Byron, the Project website, the Project construction trailers/offices; and,
- File notice with the Secretary for posting on the NYSDPS Document and Matter Management website.

Notices listed above will contain the following information:

- A map of the Project Site;
- A brief description of the Project;
- The construction schedule and transportation routes;
- The name, mailing address, local or toll-free number, and email address of the Project Development Manager and Construction Manager
- The procedure and contact information for registering a complaint; and
- Contact information for the Secretary to the NYPSC staff and Commission.