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### 2.2.3 Consultation with New York State Agencies

~~Each contract awardee shall~~~~Proposers must agree, if awarded a contract, to~~ consult with certain New York State agencies prior to the submission of its Construction and Operations Plan (the “BOEM COP”) and Site Assessment Plan (the “BOEM SAP) for during planning and development of the Offshore Wind Generation Facility, and, if applicable, for the Article VII application for including the transmission radial line to the on-land interconnection point (collectively, the “Major Permit Applications”). The intention of these consultations is to provide the agencies with a greater understanding of the Project including how the Awardee has translated the mitigation measures and underlying objectives outlined in the Environmental and Fisheries Mitigation Plans in Project’s Major Permit Applications, and inform the contract awardee about important resource considerations and the permitting approach early in the process, and to inform the approach with feedback from stakeholders and New York State agencies in an effort to reduce uncertainty, improve transparency, and minimize conflicts. Earlier informal consultations are advised to narrow issues and streamline the formal process, including ongoing monitoring of Awardee’s implementation of the Environmental and Fisheries Mitigation Plans. It is understood that the Awardee will continue to pursue science-based data collection, studies and other activities outlined in the Environmental and Fisheries Mitigation Plan post-award, and that the mitigation measures outlined therein may evolve accordingly. At a minimum, consultation will be required with the following agencies (collectively the “NYS Agencies)at the following times:

1. The New York State Department of State (DOS) will be consulted with respect to a project’s consistency with the policies set forth in the State’s Coastal Management Program;
2. The New York State Department of Environmental Conservation (DEC) will be consulted with respect to assessment and mitigation of potential environmental impacts, including but not limited to, water quality, air quality, benthic communities, fish, fisheries and wildlife impacts of the Project;
3. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) will be consulted with respect to the assessment and mitigation of effects on sites of historic or archeological significance;
4. The New York State Department of Public Service (NYDPS) will be consulted with respect to a Project’s electrical interconnection and any applicable regulatory requirements under the Public Service Law;
5. The New York State Office of General Services (OGS) will be consulted with respect to a Project’s electrical interconnection involving State land; and
- ~~5-6.~~ NYSERDA will be consulted as a point of contact with respect to a Project’s general consistency with the New York State Offshore Wind Master Plan and stakeholder feedback.

More specifically, the required consultation will consist of the following steps:

- ~~1.~~—At least 3090 days prior to submitting its Major Permit Applicationsa proposed Site Assessment Plan (SAP) to BOEM, a contract awardee will have conducted consultations with each of the NYS Agencies, including providing a detailed accounting of how the mitigation measures outlined in the Environmental and Fisheries Mitigation Plans are included in Project’s Major Permit

Applications. The Contract Awardee shall submit copies of its Major Permit Applications to the NYS Agencies concurrently with its submission to BOEM and, if applicable, the NYS PSC. submit the draft proposed SAP to DOS, DEC, OPRHP, NYDPS, OGS, NYSERDA, and any other potentially involved state agency, to commence the formal consultation process with respect to the SAP as required under the contract. Each agency will provide to the contract awardee the agency's initial comments on the draft SAP—either jointly or individually—within 30 calendar days of receipt, allowing time for discussion and consideration of the draft SAP in response to any Entity's concerns prior to submission of the SAP to BOEM. The contract awardee then must meet or engage with those agencies that request a meeting at reasonable times and intervals in an effort to attempt to resolve any issues prior to the contract awardee's submission of the SAP to BOEM.

- 2.1. If a contract awardee has already submitted its SAP to BOEM at the time of its Proposal under this RFP or foresees that complying with this timing requirement may not be practicable due to federal timing requirements for submission of a SAP, the contract awardee should so state in its Proposal and propose an alternative process for consultation with the agencies. This consultation requirement does not obviate or replace the federal Coastal Zone Management Act regulatory requirement in 15 CFR Part 930 and in the event of conflicting timeframes, the federal regulations will prevail.
2. If a Contract Awardee has already submitted its Major Permit Applications at the time of its Proposal under this RFP, or foresees that complying with this timing requirement may not be practicable due to timing requirements for submission of its Major Permit Applications, the Contract Awardee should so state in its Proposal and propose an alternative process for consultation with the NYS Agencies with respect to the Major Permit Applications.
3. At least 120 days prior to submitting a proposed Construction and Operations Plan (COP) to BOEM, a contract awardee will submit the draft proposed COP to DOS, DEC, OPRHP, NYDPS, OGS and NYSERDA, to commence the formal consultation process with respect to the draft COP as required under the Contract. Each agency will provide to the contract awardee the agency's initial comments on the draft COP—jointly or individually—within 30 days of receipt, allowing time for discussion and consideration of the draft COP in response to any Entity's concerns prior to contract awardee's submission of the COP to BOEM. The contract awardee then must meet or engage with those agencies that request such a meeting, at reasonable times and intervals in order to attempt to resolve any issues prior to the contract awardee's submission of the COP to BOEM. If a contract awardee has already submitted to BOEM a COP at the time of its Proposal under this RFP, or foresees that complying with this timing requirement may not be practicable due to federal timing requirements for submission of a COP, the contract awardee should so state in its Proposal and propose an alternative process for consultation with the agencies with respect to the COP. This consultation requirement does not obviate or replace the federal Coastal Zone Management Act regulatory requirement in 15 CFR Part 930 and in the event of conflicting timeframes, the federal regulations will prevail.
- 3.—The requirements and processes set forth in paragraphs 1 and 2 above will apply to any component (or draft of a component) of a SAP or a COP, respectively, that a contract awardee intends to submit to BOEM in advance of the entire draft SAP or COP, including, but not limited to, any required surveys or documentation required under the National Environmental Policy Act. Thus, the contract awardee will submit draft SAP components to the agencies 90 days in

~~advance of submission to BOEM and will submit draft COP components to the Entities 120 days in advance of submission to BOEM. This consultation requirement does not obviate or replace the federal Coastal Zone Management Act regulatory requirement in 15 CFR Part 930 and in the event of conflicting timeframes, the federal regulations will prevail.~~

4.3. Proposers are directed to reference Section 8.1, where the treatment of confidential information is discussed. The agencies will not disclose information generated by the agencies (such as comments on draft materials) that they determine contains confidential trade secret information provided by a contract awardee to third parties. Notwithstanding an assertion by a contract awardee that particular information constitutes confidential trade secret information exempt from FOIL, the agencies will make their own determinations as to how to comply with the law and whether a FOIL exemption applies. In order to do so, the agencies may request further information from a contract awardee about contract awardee's asserted justification for withholding designated information. Any agreement on the part of any agencies to exempt certain information from FOIL disclosure shall not bind any other agency and shall not diminish a contract awardee's obligation to make non-proprietary Site and Environmental Data available to the public. This consultation requirement does not obviate or replace the federal Coastal Zone Management Act regulatory requirement in 15 CFR Part 930 and in the event of conflicting timeframes, the federal regulations will prevail.