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## REVISED DOMESTIC CONTENT WAIVER DETERMINATION FOR THE SOMERS SOLAR PROJECT

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### PURPOSE

This determination by the Power Authority of the State of New York (“NYPA” or “Authority”), on behalf of NYPA, and its wholly owned subsidiary, New York Renewable Energy Development Holdings Corporation (“NYRED”), and NYRED’s wholly owned subsidiary Somers Solar, LLC, is hereby made pursuant to New York State Public Authorities Law (“PAL”) § 1005 (27-a)(1), revising the *Domestic Content Waiver Determination for the Somers Solar Project* issued on September 29, 2025, available at <https://www.nypa.gov/Somers-Solar> (the “Initial Waiver Determination”), partially waiving the requirement to procure domestic content for the Somers Solar project.

### BACKGROUND

On May 3, 2023, Chapter 56 of the Laws of 2023 became law as a part of the 2023-2024 Enacted State Budget, and included among its provisions Part QQ that amended Section 1005 of the PAL by adding a new subdivision 27-a granting NYPA authority to plan, design, develop, finance, construct, own, operate, maintain and improve, either alone, or jointly with other entities through the use of public-private agreements, renewable energy generating projects in New York State.

PAL § 1005 (27-a)(f) authorizes the Authority to exercise and perform all or part of its powers and functions under PAL § 1005 (27-a) through one or more wholly owned subsidiaries. On November 18, 2024, the Authority incorporated NYRED as a wholly owned subsidiary under the New York State Business Corporation Law to exercise and perform all or part of its powers and functions provided for in PAL § 1005 (27-a).

In February 2025, NYRED acquired Somers Solar, LLC and all interests in the Somers Solar project from Clean Peak LLC, a Delaware limited liability company, which is an affiliate of CS Energy, LLC (“CS Energy”). CS Energy and Somers Solar, LLC are negotiating a contract for the construction of the Somers Solar project and working towards commencing commercial operation in 2027.

PAL § 1005 (27-a)(1) requires that the components and parts of the project shall be produced or made in whole or substantial part in the United States, its territories or possessions (the “Domestic Content Requirement”); however, NYPA’s President and CEO, or their designee, may waive these requirements if they determine that: (1) the requirements would not be in the public interest; (2) the requirements would result in unreasonable costs; (3) obtaining such infrastructure components and parts in the United States would increase the cost of a renewable

energy generating project by an unreasonable amount; or (4) such components or parts cannot be produced, made, or assembled in the United States in sufficient and reasonably available quantities or of satisfactory quality. PAL § 1005 (27-a)(1) further requires that such a waiver determination must be made on an annual basis no later than December thirty-first, after providing notice and an opportunity for public comment, and such determination shall be made publicly available, in writing, on the authority's website with a detailed explanation of the findings leading to such determination.

The Somers Solar project is the first project that NYRED has acquired and therefore presented the first opportunity for the domestic content analysis and determination required by PAL § 1005 (27-a)(1), which was completed via the Initial Waiver Determination. After issuance of the Initial Waiver Determination, additional supply chain constraints have arisen that required that NYPA revisit the analysis and conclusions contained therein. A notice of a revised preliminary domestic content determination was published in the New York State Contract Reporter on December 17, 2025, to solicit public comments. No comments were received.


#### REVISED DOMESTIC CONTENT ANALYSIS FOR THE SOMERS SOLAR PROJECT

The Initial Waiver Determination must be revised with respect to two components of the Somers Solar project: (1) the solar photovoltaic modules, and (2) the SCADA system. The revised analysis and new preliminary conclusions for these two components are set forth in the table below for public notice and comment. For components and parts not listed below, the Initial Waiver Determination will remain in effect and will not be modified by this action.

<b>Component or Part</b>	<b>Preliminary Domestic Content Determination</b>
Solar Photovoltaic Modules	Domestic Supply Partially Available – Partial Waiver Required. The modules that were initially specified and considered in the Initial Waiver Determination are no longer available from the manufacturer within the time allowed under the project schedule. The supplier has offered an alternative that would include 60% of the modules being manufactured in the United States, and 40% of the modules being assembled in the United States, using both imported and domestically-manufactured sub-components. This alternative preserves the project schedule, increases plant efficiency, and lowers the capital costs associated with the project while maintaining a significant amount of domestic manufacturing and assembly, helping the project meet federal domestic content percentages for tax credit purposes. As such, a partial waiver for these components is required to the extent that what is described above does not constitute being made in “substantial part” in the United States pursuant to PAL § 1005 (27-a)(1).
SCADA System	Domestic Supply Partially Available – Partial Waiver Required. The Supervisory Control and Data Acquisition (SCADA) system is manufactured in the United States; however, the system includes several subcomponents that are manufactured outside of the United States, in the Netherlands, Finland, and Germany. Taken together, the vendor estimates that 85% percent of the system’s subcomponents are domestically manufactured. As such, a partial waiver for this component is required to the extent that what is described above does not constitute being made in “substantial part” in the United States pursuant to PAL § 1005 (27-a)(1).

REVISED DOMESTIC CONTENT WAIVER DETERMINATION FOR THE SOMERS SOLAR PROJECT

In accordance with PAL § 1005 (27-a)(1), NYPA, on behalf of NYPA and NYRED, hereby issues this Revised Domestic Content Waiver Determination, partially waiving the Domestic Content Requirements as set forth in the table above.

  
 Justin Driscoll (Jan 6, 2026 14:19:58 EST)

Justin E. Driscoll  
 NYPA President and CEO

Date: 01/06/2026