



NY Green Bank
A Division of NYSDA

NY Green Bank

Construction & Back-Leveraged Financing for
Ground-Mounted Solar Generation Systems
Targeting Corporate & Industrial End Users

Request for Proposals

(Ongoing Solicitation)

RFP No. 7

Version 1.1 - May 2017

1 Introduction

1.1 Opportunity & Overview

NY Green Bank (“**NYGB**”) invites solar developers (“**Proposers**”) to propose solar transactions where the Proposer seeks a construction loan and back-leveraged debt financing from NYGB for photovoltaic (“**PV**”) solar projects¹ in New York State (“**NYS**”; each a “**Project**”) employing tax equity that meets the following key eligibility requirements (“**Key Requirements**”):

- (a) Will generate revenue² by selling net energy metering credits to commercial, industrial or institutional power users under NY Public Service Law § 66-j (“**NYPSL § 66-j**”)³;
- (b) Use Tier 1 technology⁴ including panels, inverters and racking;
- (c) Are in the advanced stage of development (commonly described as near “shovel ready”);
- (d) Are 500 kW to 2 MW⁵ in size, ground-mounted, canopy-mounted or non-residential rooftop Projects at a single location; and
- (e) Meet the terms and conditions laid out in the either of the term sheets included in Attachments B and C.

The submission process for this Request for Proposal (“**RFP**”) No. 7 has three phases:

- (a) Phase 1, Proposal: Proposer submits a detailed Project description as described in Section 4.1.
- (b) Phase 2, Submission of Agreements & Fee: Upon invitation by NYGB, Proposer submits contracts, agreements and other supporting documentation and requirements as described in Section 4.2. The Proposer will also be requested to make an in-person presentation.
- (c) Phase 3, Due Diligence, Documentation & Approval: All remaining due diligence, engineering review, underwriting and documentation as described in Section 4.3.

This RFP is intended to apply to all qualifying solar projects, both now and in future, as long as the RFP remains active. In particular as the valuation of distributed energy generation continues to evolve in NYS, NYGB encourages developers of eligible solar projects to submit Proposals for consideration, reflecting distributed energy markets at the relevant time.

All submissions pursuant to this RFP (each a “**Proposal**”) involving the utilization of third-party tax equity are eligible for NYGB construction and back-leveraged loans (“**Back-Leveraged Loans**”) under the terms described in Section 2 and in the term sheets included in Attachments B and C (the “**Back-Leveraged Term Sheets**”). The first term sheet is for senior secured construction financing converting to a back-leveraged term loan (the “**Single Project Term Sheet**”), and the second term sheet is for senior secured construction financing converting first to an aggregation loan facility for each Project secured by the assets of the Borrower, then converting to a consolidated term loan financing multiple Projects (the “**Project Portfolio Term Sheet**”). To the extent that a Proposal does not require a construction loan, NYGB will review Proposals that only require back-leveraged financing. Please see Attachment A for structure charts. The Back-Leveraged Term Sheets address a partnership flip structure and do not contemplate an inverted lease structure.

¹ NY Public Service Law § 66-j solar project definition can be reviewed at <http://codes.findlaw.com/ny/public-service-law/pbs-sect-66-j.html>, see “Solar electric generating equipment” in Section 1(d).

² When identifying revenues available to support any proposed back-leveraged debt financing, a Proposer should also consider the New York State Public Service Commission (“**PSC**”) “Order on Net Energy Metering Transition, Phase One Value of Distributed Energy Resources, and Related Matters” issued on March 9, 2017 (Cases 15-E-071 and 15-E0082).

³ Or subsequent applicable laws, regulations or administrative proceedings.

⁴ See http://about.bnef.com/content/uploads/sites/4/2012/12/bnef_2012-12-03_PVModuleTiering.pdf.

⁵ Which may change subject to future laws, regulations or administrative proceedings.

NYGB will entertain multiple Proposals under this RFP from the same or related Proposers, although each Proposal will be evaluated as a separate transaction. If it receives multiple Proposals from the same or related Proposers, NYGB will process the Proposals in the order in which they are received. For the avoidance of doubt, a Proposal for a portfolio of projects is considered as one Proposal.

NYGB encourages those that decide not to make a Proposal at this time due to the requirement of this RFP for Projects to be in an advanced stage of development to continue development of their projects, targeting areas which would enhance their ability to meet the requirements delineated in this RFP in the future. NYGB reserves the right to supplement or close this RFP at any time. If NYGB supplements or closes this RFP, details will be posted at www.greenbank.ny.gov/Working-with-Us/Propose-an-Investment.

Market participants developing solar projects not utilizing NYPsL § 66-j and not seeking construction and back-leveraged debt financing should consider submitting proposals requesting NYGB financial participation under “Clean Energy Financing Arrangements, Request for Proposals”, an ongoing solicitation known as “**RFP No. 1**”, rather than under this RFP. Residential solar projects (including megawatt aggregations that meet the minimum size limits of this RFP) are not eligible under this RFP and should also be considered for submission pursuant to RFP No. 1.

Electronic submission of Proposals is required. [Instructions to Submit Proposals](#) can be found on the “**RFP Resources**” page on our website. This RFP will remain open, and Proposals will be evaluated on a rolling basis, as received. The purpose of an ongoing RFP process is to ensure that all potential NYGB clients and counterparties have an opportunity to propose transactions and financing arrangements, as market needs develop and change over time. Each submission will be reviewed in accordance with an evaluation of the completeness and quality of Proposals in addressing all the matters described in [Section 3 \(Specific Eligibility Criteria\)](#) and [Section 4 \(Proposal Contents\)](#). This competitive selection process will be applied consistently to all complete RFP submissions.⁶

As an ongoing solicitation, Proposers may resubmit Proposals if circumstances change, or if the initial Proposal does not address this RFP in a complete manner. Any commonly used formats (e.g., Microsoft Word, PowerPoint, Excel and Adobe PDF) in commercial submissions are welcome. Proposers can expect the initial response following NYGB’s receipt of a Proposal generally within two weeks from the date of such receipt.

NYGB believes that, as a general matter, the time to complete the review, due diligence, documentation and approvals of proposed Projects pursuant to this RFP could take up to 20 weeks but will make every effort to accelerate the process. NYGB hopes to achieve the following approximate schedule (to be adapted for Project portfolios):

| Phase | Task | Schedule (Weeks) |
|----------------|--|------------------|
| 1 | NYGB Review of Proposer’s Phase 1 submittal and Phase 2 invitation issuance, if applicable | 2 |
| | Proposer submittal of Phase 2 materials | 4 |
| 2 | NYGB review of Phase 2 materials | 3 |
| 3 | NYGB due diligence, documentation, approvals | 10 |
| Closing | Confirmation of satisfaction of Conditions Precedent and closing/funding | 1 |
| Total | | 20 |

Direct communication and engagement between NYGB and potential clients and counterparties is permitted, prior to proposal submittal and after NYGB’s evaluation of a Proposal. If you have questions or seek further engagement, please contact InvestmentRFPs@greenbank.ny.gov (including “RFP No. 7” in the subject line). If you have questions regarding the Securities and Exchange Commission Municipal Advisor Rules, please see [Section 5.3 \(General Conditions – Municipal Advisor Rules\)](#).

⁶ Subject to the Office of State Comptroller Rule (Part 206 to NYRR Title 2) (the “**Comptroller Rules**”) and consistent with NY Green Bank Operations & Procedures Manual.

Please note that failure to respond to each phase of this RFP in a complete manner by addressing all the matters requested for each phase will render NYGB unable to take further action on a Proposal.

1.2 RFP Objectives

Commercial, industrial and other institutional organizations⁷ (“**C&I**”) offer a substantial market opportunity as purchasers of electricity produced by solar projects. However, the economic viability of, and ability to finance, solar projects serving C&I customers are often constrained given:

- (a) A fragmented market of C&I project developers;
- (b) Relatively small transaction sizes on a per project basis;
- (c) Lack of a sizeable portfolio of individual projects and pipeline of such projects that is actionable in the near term;
- (d) Lack of standardization (documentation, financial analysis, project underwriting, etc.);
- (e) High transaction soft costs (legal, engineering, consulting, etc.) as a percent of project cost; and
- (f) Lack of public credit rating for many C&I organizations as purchasers of the solar electricity or net energy metering credits, resulting in a burdensome counterparty credit underwriting process for each relatively small transaction.

Under this RFP, NYGB seeks to overcome the above constraints and support the acceleration of solar deployment benefitting the C&I market by offering debt financing under terms that result in a standardized portfolio of single Projects and aggregated Projects that will attract private sector lenders as financial participants with NYGB. Key elements of this RFP include:

- (a) A request for proposals from a broad underserved target market to create financing scale needed to “crowd in” broad private financial market participation;
- (b) A standardized approach to: (i) documentation; (ii) project financial analysis; and (iii) engineering and consulting, such that the analysis and underwriting is more efficient for developers, NYGB and future private market financing participants;
- (c) Substantially reduced transaction soft costs through a standardized approach and the utilization of a consistent set of lawyers, engineers and other consultants – all experienced in these types of transactions - on a negotiated program basis;
- (d) A Net Energy Metering Contract (“**NEMC**”) counterparty credit underwriting approach that includes a review of creditworthiness but also takes into account the ability to sell net energy metering credits to another C&I buyer if a current NEMC counterparty no longer meets its payment or contractual obligations. Critical elements of this aspect of the underwriting methodology are: (i) Proposer’s (or a designated party’s) ability to contract with a new NEMC counterparty if necessary; and (ii) likely future value to a new counterparty of net energy metering credits (see Section 3.2); and
- (e) A phased and clearly defined RFP submission process streamlining the transaction approval process and timeline.

Through this RFP, NYGB seeks to: (i) accelerate the deployment of solar energy in a manner that supports a significant segment of the target C&I market; and (ii) provide a financing framework that will be utilized in the future by tax equity investors and private sector lenders.

⁷ Institutions includes municipalities, non-profits, educational and other similar organizations.

1.3 Background

NYGB is a division of the New York State Energy Research and Development Authority (“**NYSERDA**”) and acting as a \$1.0 billion State-sponsored specialized financial entity focused on mobilizing greater clean energy investment and projects within NYS. NYGB is structured and operated in a manner comparable to private investment funds and financing entities, including with respect to being self-sustaining, covering its own costs of operation and entering transactions on market terms. NYGB is a key component of New York’s Clean Energy Fund (“**CEF**”).⁸ The CEF is a \$5.3 billion commitment, and part of Governor Andrew M. Cuomo’s Reforming the Energy Vision (“**REV**”) strategy to advance clean energy growth and innovation and drive economic development across the State, while reducing ratepayer collections. For more information on the CEF and REV strategy, see www.nyserdera.ny.gov/About/Clean-Energy-Fund and <https://rev.ny.gov/>.

The key elements of NYGB’s mission are collaborating with private sector participants, implementing structures that overcome market barriers and address financing gaps in current clean energy financing markets, and transforming those markets by enabling greater scale, new and expanded asset classes and increased liquidity. Consistent with this mission and its investment criteria, NYGB’s key goals are to:

- (a) Attract private sector capital into clean energy markets in NYS;
- (b) Be self-sustaining; and
- (c) Reduce greenhouse gas (“**GHG**”) emissions.

NYGB’s activities in pursuit of its goals are specifically aimed at motivating faster and more extensive implementation of clean energy investments within NYS, fostering greater energy choices, reducing environmental impacts and delivering more clean energy benefits per public dollar spent for all New Yorkers.

Market barriers vary across different technologies and market participants, although a number of particular financing issues generally constrain growth in the clean energy sector, including lack of transaction standardization, deficient scale and volume, less understood project sponsors and counterparty credits, insufficient data on underlying loan and technology performance, and underdeveloped or nonexistent capital markets for clean energy projects. These barriers are a few of many that limit private sector capital investment, for both equity and debt, into otherwise attractive renewable energy and energy efficiency projects, resulting in gaps in the clean energy finance market.

To address existing barriers, NYGB follows several important operating principles:

- (a) NYGB enhances private sector market participation by providing financial products designed to scale markets for renewable energy and energy efficiency projects;
- (b) NYGB collaborates, rather than competes, with market participants that are already making progress in, or can demonstrate an ability to engage, the market but where that progress is constrained by the lack of available financing;
- (c) NYGB works with its clients and counterparties to leverage their capital and institutional capabilities –with a focus on “wholesale” markets (that is, not providing funding directly to consumers/homeowners);
- (d) NYGB generally structures and prices its financial products consistent with commercial approaches to credit quality and risk, earning a return on investment to preserve and grow its capital base; and
- (e) NYGB recycles its capital into new clean energy projects when income is generated and as investments mature or are realized, maximizing the impact of its capital across multiple deployments.

⁸ Created pursuant to the “Order Authorizing the Clean Energy Fund Framework”, issued and effective January 21, 2016, Cases 14-M-0094 et al. (the “**CEF Order**”).

NYGB’s long-term objective is to provide a bridge to a vibrant, sustainable, growing and efficient private sector clean energy financing market, across all types and sizes of projects. NYGB seeks to operate in areas where there is market interest, but limited access to capital.

More information about NYGB can be found at www.greenbank.ny.gov.

2 NYGB Approach to Financing Structure & Pricing

NYGB operates as a self-sustaining entity, pricing investments to cover its operating expenses and portfolio default risk, and to preserve its capital base. In so doing, NYGB intends to serve as both a prudent custodian of ratepayer funds and an agent for greater private investment in the clean energy sector in New York State. Pricing for the Back-Leveraged Loans will reflect the underlying transaction credit risk and level of standardization and scale NYGB seeks to facilitate, with the goal of creating investments in which private sector lenders will ultimately be willing to participate at the agreed pricing levels. NYGB investment terms will be determined by credit risk and exposure assumed by NYGB and other investment participants. For NYGB products, upfront and ongoing fees generally apply as described in the Back-Leveraged Term Sheets.

NYGB intends to issue Back-Leveraged Loans for both Projects and portfolios of Projects which involve tax equity commitments. The Back-Leveraged Loans consist of:

| Single Project | Portfolio |
|--|---|
| Credit Facility which is to be used for funding a portion of Project Costs and secured by “Borrower” (as defined in the Back-Leveraged Term Sheets) and Project assets. At the completion of construction, the security interest in the Project assets will be released to facilitate the entry of the tax equity and the portion of the construction loan not taken out by the Tax Equity will convert to the back-leveraged term loan. | Construction loan facility used for funding a portion of Project Costs and secured by Borrower and Project assets. |
| | An aggregation loan facility takes out the portion of the construction loan not taken out by the Tax Equity for each Project and is secured by the assets of the Borrower. At the completion of construction of each Project, the security interest in the Project assets will be released to facilitate the entry of the tax equity. |
| | When all Projects are in operation, the back-leveraged term loan takes out the aggregation loan and is secured by the assets of the Borrower. |

3 Eligibility Requirements

3.1 Eligibility

As described in [Section 1.1](#), the Key Requirements must be satisfied for submissions pursuant to this RFP. In completing a Proposal, Proposers are encouraged to pragmatically review the status of all agreements and not overstate progress to date (which would quickly become apparent in Phase 2 in any event). Consistent with NYGB’s objective of accelerating the pace of solar development in NYS, eligibility requirements are designed to demonstrate shovel-ready Projects appropriate for near-term financing and to allow Proposers to make a self-determination if they meet the eligibility requirements, thus conserving resources for all parties.

Phase 1 requirements are listed below in this [Section 3.1](#). Of these requirements, those marked with an asterisk (*) and **bolded**, are threshold eligibility requirements (the “**Threshold Requirements**”). NYGB will not consider Projects that do not meet the described Threshold Requirements. For all other requirements, contracts do not have to be finalized or executed although the more advanced they are, the greater the weight that will be given to them in the evaluation process. First drafts of agreements, especially those which have not been

subjected to a negotiation process between the parties, will be given limited weight as they will be considered early stage.

For single Projects, NYGB will determine eligibility based on evaluation of the criteria set out below. For portfolios, all Projects in the portfolio must be identified and for at least one Project NYGB must be able to determine eligibility based on evaluation of the following criteria. Subsequent Projects in the portfolio will be evaluated on the same basis as described in this RFP. The treatment of these evaluation criteria in Proposals is described in more detail in Section 4:

- 3.1.1 ***CESIR or Interconnection Arrangements:** Completion of the Coordinated Electric System Interconnect Review (“CESIR”). NYGB views completion of the CESIR as a threshold matter for demonstrating an advanced stage of development and readiness for financing discussions. Accordingly, it will not consider Proposals for Projects which do not have a completed utility CESIR and notification, which is defined as the utility completion of the CESIR and receipt by the Proposer of the notification to that effect issued by the utility.
- 3.1.2 ***Completed & Submitted Application for NY-Sun Incentives** (See www.nyserda.ny.gov/All-Programs/Programs/NY-Sun): NYGB views the NY-Sun Incentive Program application to be a threshold requirement for determining that a Project is in advanced development. Recognizing that some Projects may not apply to the NY-Sun Incentive Program, NYGB will waive this requirement for those Proposals that contain a statement that the Project will not be applying under the NY-Sun program.
- 3.1.3 ***Site Control:** Site control is critical to the development of a successful Project. Therefore, the Proposer must demonstrate how it controls or will control the Project site for at least the duration of the NEMC.
- 3.1.4 **Permits:** Proposers that have met the requirements for the NY-Sun Incentive Program will have submitted all necessary permits, approvals and certificates required for construction of the Project to the appropriate agencies. Therefore, approval of a NY-Sun application will demonstrate an advanced stage of Project development with regard to permitting. For Projects not applying for the NY-Sun Incentive Program, confirmation that all permit applications have been completed, addressing all requisite aspects and submitted to all jurisdictional agencies, is required.
- 3.1.5 ***NYS Environmental Quality Review Act (“SEQRA”) Analysis (as Needed):** All Projects that include the installation of PV panels with total panel surface area exceeding 4,000 square feet will be subject to further SEQRA analysis. For such Projects, the Proposer must provide a short form Environmental Assessment Form (“EAF”) directly to NYGB in Phase 2 along with any other SEQRA materials prepared for other permitting or approval agencies relevant to the Project.
- 3.1.6 ***Municipal Moratorium:** NYGB may decide to defer consideration of the Proposals for Projects which are located in towns with solar moratoriums.
- 3.1.7 ***Property Tax Exemption:** The loss of the property tax exemption will affect Project economics. NYGB will need confirmation that the property tax exemption will continue to apply to the Project.
- 3.1.8 **Equipment Supply:** NYGB will judge a Project to be in an advanced development stage if all major equipment (including but not limited to panels, inverters and racking) is identified, is “Tier 1” and is subject to finalization of a purchase order with vendors. Executed agreements do not have to be in place. If equipment supply is part of an Engineering, Procurement & Construction (“EPC”) contract, these eligibility requirements will be evaluated as part of Section 3.1.9.
- 3.1.9 **Construction Contracts:** Advanced development stage Projects will have well defined and negotiated contracts for the installation of equipment, balance of plant (“BOP”) or EPC arrangements. The status of such construction contracts will be evaluated in determining the development status.

- 3.1.10 NEMC Arrangements: NYGB will only consider Projects with a well-developed NEMC. All revenue arrangements must comply with NYPSP § 66-j. The NEMC counterparty must have a public rating (see Section 3.2.1) or alternatively, the revenue arrangements must meet the requirements of Section 3.2.2.
- 3.1.11 O&M Arrangements: O&M arrangements should be well developed and include pricing and providers with demonstrated expertise and capabilities to fulfill their responsibilities.
- 3.1.12 Management & Administration Arrangements: Management and administration arrangements should be well developed and include pricing and providers with demonstrated expertise and capabilities to fulfill their responsibilities.
- 3.1.13 Equity Commitment: NYGB will evaluate the level of equity invested by the sponsor ("**Sponsor**" (as defined in the Back-Leveraged Term Sheets)) and tax equity to be invested in the Project including its sources and the debt-to-equity ratio. The amounts of equity planned, the debt-to-equity ratio and the strength of the equity commitment at the time of the Proposal will all be addressed in determining eligibility. The level of Sponsor equity will also be an evaluation factor. Projects with equity required but without sources identified may, depending on the status of other eligibility requirements, be eliminated from further consideration by NYGB as not being at a sufficiently advanced stage of development.
- 3.1.14 Debt Term: For single Projects, NYGB intends to limit the term of any offered Back-Leveraged Loan to at least one (1) year prior to the termination of the NEMC but no later than ten (10) years from the commercial operation date ("**COD**"). For portfolios, the limits will be the same based on the last Project included in the portfolio. If the NEMC(s) are longer in term than 10 years, then full amortization may not be required.
- 3.1.15 Key Financial Terms Including Debt Service Coverage Ratio ("**DSCR**"): In its initial evaluation, NYGB intends to review the Proposer's models (as submitted per Section 4.1.1.5) to evaluate the quarterly DSCRs for the proposed Back-Leveraged Loans. Proposals for single Projects and portfolios of Projects are expected to have a minimum P50 DSCR of at least [1.35x]⁹. NYGB will give greater weight to transactions with higher DSCRs. In recognition of seasonality and the constraints imposed by a maximum term of 10 years, NYGB will entertain alternative principal amortization schedules and/or reserves to meet acceptable DSCRs. NYGB may consider a mandatory refinancing for some level of principal repayment provided sufficient term remains under the NEMC to allow for such a refinancing. Due to the cash flow issues arising from seasonality, NYGB will evaluate quarterly DSCRs over both trailing and projected 12-month periods in addition to comparing the NEMC pricing with market forecasts.
- 3.1.16 Assignment: As part of its security package for the Back-Leveraged Loans, NYGB intends during construction to take a first-priority security interest in all assets of the Project company and the Borrower including all contracts and agreements. NYGB will release the security interests in all assets of the Project company subject to the intercreditor rights of the tax equity provider. As part of its Phase 2 contract review, NYGB will seek to confirm that contracts have provisions for step-in rights and the assignment of major contracts and agreements to NYGB.
- 3.1.17 Reserves: In addition to an appropriately sized debt service reserve, NYGB will generally require the establishment of a one-year O&M reserve, together with an appropriate inverter replacement reserve.
- 3.1.18 Independent Engineer ("**IE**"): Proposer should be prepared to support the complete data request that comes with the preparation of an IE report which will be completed following the Phase 2 submittal and prior to approval of any Back-Leveraged Loan. In some cases, if the Proposer has retained an IE, NYGB may accept the IE report prepared by Proposer's IE subject to a reliance letter, provided that such report meets the requirements of NYGB.

⁹ Square brackets denote NYGB maximum or minimum levels as appropriate by the context but NYGB may exercise some flexibility regarding these values depending on the parameters of the transaction.

- 3.1.19 Multiple Proposals: If the Proposer contemplates making multiple Proposals, indication of such intent should be included in the Phase 1 Proposal, and the Proposer should state whether the same equity parties will be participating in all the proposed Projects.
- 3.1.20 Prevailing Wages: If the Project is considered a public work covered by Article 8 of the NY Labor Law or a building service agreement covered by Article 9 thereof by reason of the involvement of a public entity as host or RMNCA Counterparty, then Borrower, Project Company and Sponsor will, during the construction of the Project, comply (and cause each contractor and subcontractor to comply), and will certify compliance, with all NYS prevailing wage and hours laws and regulations (see Back-Leveraged Term Sheets: Conditions Precedent to Financial Closing). Proposer will be required to address the applicability of prevailing wage requirements.

3.2 NEMC Counterparty Credit Analysis

NYGB will conduct NEMC counterparty credit analysis irrespective of whether or not the NEMC counterparty is publicly rated by one or more of the major rating agencies.

- 3.2.1 Rated Counterparties: For publicly rated counterparties, traditional counterparty credit analysis will be conducted including a review of ratings prepared by S&P Global (formerly Standard & Poor's), Moody's or Fitch.
- 3.2.2 Unrated Counterparties: NYGB will conduct NEMC counterparty credit analysis based on certain information which may include, without limitation, the following:
- No bankruptcy;
 - Proof of no late payments to the utility;
 - In business for at least five (5) years;
 - Evaluation of at least three (3) years of financial statements and IRS filings;
 - FICO Business Score(s);
 - D&B score(s); and
 - NEMC represents approximately one-third of the counterparty's metered power consumption.

To utilize the counterparty credit analysis above, NYGB will also evaluate the proposed transaction on the assumption that remarketing of net energy metering credits is a credit mitigant if the current NEMC counterparty were to default.

NYGB will evaluate NEMC counterparty credit issues that might imperil the transaction and will assess the following information:

- Identification of remarketer which may be the Proposer (if qualified) or a qualified third-party;
- Identification of an appropriate number of other C&I customers in the same utility service zone where each of these other C&I electrical load customers represents no less than approximately three (3) times the output of the Project; and
- While the strength of any particular NEMC is important, NYGB will need to evaluate the Project revenues annually based on the possibility that a replacement NEMC counterparty will be needed (the "**Replacement Analysis**"). NYGB will do this by using a proxy NEMC with pricing derived from discounting forecasted applicable metered rates for the particular utility territory and zone and P50 production levels. If the Replacement Analysis results in DSCRs that are below the minimum required levels, distributions at the Borrower level will be blocked and used to pay down the NYGB loan, until the required DSCR is achieved.

4 Proposal Contents

4.1 Phase 1: Proposal

The purpose of the Proposal is to provide a complete and detailed description of the Project(s). The Proposal should clearly demonstrate the advanced stage of Project development. While being comprehensive, the Proposal should simultaneously strive to be succinct.

The Proposal should be organized as described below and should address all requested components. Should the Project(s) have special attributes or features not captured by the categories below, these should be included in the description.

The Phase 1 Proposal has several objectives:

- NYGB should be able to develop a clear understanding of the Project(s), including its features, structure and all associated risks, allowing NYGB to make an informed decision on whether or not to invite the Proposal into Phase 2.
- Given NYGB's emphasis on late-stage development Projects for this RFP, there should be a clear demonstration of the advanced development of the Project(s) and the readiness for financing in a relatively short time period.
- The Proposal should clearly articulate the status of each aspect of the Project(s) as part of the description of each component.
- The Proposal should clearly articulate the remaining major steps requiring completion before financing, any issues expected in completing these steps and the schedule for such completion.

4.1.1 Proposal Structure¹⁰:

4.1.1.1 *Summary*: A concise summary of the Project(s) that:

- Identifies the Proposer and contact information;
- Summarizes salient features of the Project(s) including the Project address, capital cost, Project size (kW or MW), technology and revenue agreement type; and
- Describes the key components of the requested Back-Leveraged Loan, applicable Back-Leveraged Term Sheet, amount, term and method of amortization.

4.1.1.2 *Detailed Description of Project(s)*: This is intended to be a more detailed summary description recognizing that many of the elements that will be included in this description will be covered in additional detail in subsequent sections. The description should address major Project areas including but not limited to the Project technologies, site, permit status, major parties, revenue arrangements, status of equity raise including sources and amounts, and major outstanding issues to be resolved prior to financing.

4.1.1.3 *NYGB Financing*: The Proposer should provide a detailed description of the financing that it is seeking from NYGB under this RFP. For portfolios, the information should be provided on a Project basis and in aggregate for the portfolio. Topics to be addressed include:

- Back-Leveraged Term Sheet to be used for the transaction;

¹⁰ For portfolio transactions, all Projects in the portfolio must be identified and Threshold Requirements must be met. For at least one Project, the Proposal must provide all the Phase 1 information as detailed in this [Section 4.1](#). For the other Projects in the portfolio, a summary description must be provided that includes the anticipated development schedule, the NEMC counterparty, the expected date for the start of construction and the Threshold Requirements.

- Size of the loan including, for portfolios, the aggregate amount requested;
- Debt-to-equity ratio;
- Term, including for portfolios, the overall term;
- Amortization schedule including discussion of any requested sculpting or refinancing requirements;
- DSCRs including average over the term portion of the Back-Leveraged Loan and minimum;
- Debt Service, O&M, and inverter replacement reserves; and
- Conformity with the requirements of either Section 3.2.1 or Section 3.2.2.

4.1.1.4 *Equity, Tax Equity & Other Financial Support:* These financial components are critical to the success of the Project as NYGB will not lend 100% of the money necessary to build the Project. The Proposal should address, at a minimum, the following topics to provide clarity on the proposed capitalization amounts, equity participants and equity amounts by source:

- Equity and tax equity source(s), amount(s) and the status of the equity and tax equity raise;
- If all the equity is not sourced from the Proposer or its Sponsor, the name and contact information for all third-party equity, including tax equity. NYGB may contact third-party equity during its evaluation to discuss the Project;
- The level of Proposer equity to be invested in the Project including the amount of Proposer equity during construction and the amount remaining during the term period post-COD; and
- All incentives that will be applied to the Project including any incentives received during construction and operation under NY-Sun Incentive Program or other NYSERDA or utility programs and the use of federal tax incentives, including corresponding incentive amounts and timing of expected receipt thereof.

Note that NYGB will require that the Proposer or Sponsor equity is fully invested in the Project, which may include payments to the utility for interconnection infrastructure and upgrades, before debt can be drawn.

4.1.1.5 *Pro Forma Model:* During its Phase 1 review, NYGB will review the single project model and, if applicable, the portfolio model (which should include a model for each project in the portfolio) prepared by the Proposer.

4.1.1.6 *Technology:* A complete description of the technology utilized by the Project(s) is required including:

- Equipment components, configuration and suppliers for, at a minimum, the panels, inverters and racking and confirmation that the components are Tier 1;
- A description of the contractual arrangements for the procurement of all major equipment and their current status;
- Identification of the installation, EPC and/or BOP contractors including their qualifications to perform their respective roles on the Project(s);

- A description of the contractual arrangements for the installation, EPC and/or BOP activities including their current status; and
- A description of warranties and performance guarantees, if any.

4.1.1.7 *Interconnection:*

- Provide confirmation that the CESIR process has been completed through Step 6¹¹;
- Detail any necessary interconnection arrangements including equipment, if any, and status; and
- Provide projected costs and timeline for construction.

4.1.1.8 *Site Control:* Since NYGB considers the ability to control the site to be a threshold matter, provide a description of how the Proposer does or will control the Project site for at least the duration of the Back-Leveraged Loans plus two (2) years. Include in this description details of the necessary contractual arrangements and their current status. If there are any steps remaining to fully control the site, such as conditions precedent in contractual arrangements, please identify them and describe the process and schedule for completing these steps. If the site has not yet been purchased or leased, provide confirmation that the party currently in control of the site has clear authority to enter into sale or lease arrangements.

If the site is not currently owned by a tax paying entity (e.g., public land or tax exempt institution), detail the expected tax treatment of the Project including expected exemptions, if any.

4.1.1.9 *NEMC Arrangements:* Provide a detailed description of the NEMC including a description of counterparties and the NEMC arrangements with sufficient detail for NYGB to evaluate the revenue arrangements. Please provide the name and contact information for the NEMC counterparty. NYGB plans to contact the NEMC counterparty during its evaluation to discuss the Project. Also, include the current status of the contractual arrangements, the steps necessary to complete, and the schedule for doing so. Address the requirements of Section 3.2.1 or Section 3.2.2.

4.1.1.10 *Permits & Environmental:* Permits and environmental reviews are often long lead time items. Accordingly, the status of the permits and environmental review process will be a factor in the evaluation of the development status of the Project. Proposer is requested to describe the following:

- The status of permit acquisition including permits received, significant outstanding permits and the permitting schedule to support transaction closing;
- If the Project contains more than 4,000 square feet of solar panels, it will be subject to SEQRA. Please indicate whether the Project is subject to SEQRA and if so, the status of the SEQRA process. In particular, provide confirmation that the EAF has been fully completed and submitted to relevant agencies;
- Describe any special site characteristics such as being a former landfill or if other kind of brownfield, previous site uses. If there are special site characteristics, describe how they are being addressed in the design and development process for

¹¹ As described in "New York State Standardized Interconnection Requirements and Application Process for New Distributed Generators 5 MW or Less Connected in Parallel with Utility Distribution Systems" issued by the PSC in March 2016 as published on the NY PSC website. Since the URL is complex, Google search for "Updated NYS Standardized Interconnection Requirements (March 2016)" to be directed to the appropriate page.

the Project along with any special permitting or consultation with environmental agencies which is required;

- Describe any identified environmental issues such as hazardous waste contamination on the site. Note that NYGB will require at least a Phase 1 environmental assessment;
- Indicate whether the Project has attracted any environmental or other opposition and the extent and nature of such opposition including a description of the opposing parties. Include any steps taken to address such opposition; and
- Indicate whether the town in which the Project will be located is subject to a solar moratorium and provide details on any such moratorium.

4.1.1.11 *O&M Arrangements:*

- Provide information on the party that will be providing the O&M for the Project including their qualifications for this role;
- A summary of basic terms of the O&M arrangements, including pricing and the source for determining such pricing; and
- A description of the status of the O&M arrangements.

4.1.1.12 *Management & Administration:*

- Provide information on the party that will be providing the management and administration services for the Project including their qualifications for this role;
- A summary of basic terms of the management and administration arrangements including pricing and the source for determining such pricing; and
- A description of the status of the management and administration arrangements.

4.1.1.13 *Insurance:*

- Provide a description of the contemplated insurance program including proposed limits for the construction, operation and liability cover, key sub-limits and deductibles.

4.1.1.14 *Expected Clean Energy Outcomes:* As part of its mission, NYGB must demonstrate successful clean energy outcomes for all the Projects to which it commits capital. For all Projects funded pursuant to this RFP, NYGB plans to calculate and report (on an aggregated and anonymized basis) the expected clean energy outcomes based on Proposer-supplied information as follows:

- Aggregate annual energy production projected over estimated life of Project with the initial estimate provided in the Phase 1 Proposal and confirmed prior to transaction closing including projected annual production. NYGB will require reporting of the actual production quarterly during the life of the Back-Leveraged Loan.

4.1.1.15 *Proposer Description:* It is important for NYGB to know its Proposers so that it can evaluate their capabilities for completing the Project and servicing the Back-Leveraged Loan over its life. To this end, please:

- Identify the officers and management of the Proposer. If the proposed Borrower is different, then include the officers and managers of the proposed Borrower as well;

- Provide a structure diagram showing all organizational entities from the Project Company and the Borrower to the ultimate parent(s) including ownership percentages. If there are options or other instruments that may be exercised, include structure diagrams for both pre-exercise and post-exercise of the options, showing the structure on a fully diluted basis (as applicable);
- Confirm that the owners of the Borrower agree regarding all elements of the Project including the structure and the NYGB loan terms and are prepared to proceed toward closing in accordance with the NYGB process described in this RFP;
- Detail the qualifications of the Proposer for undertaking the Project(s) including its experience with similar projects; and
- Provide summary biographies and resumes for key personnel.

4.1.1.16 *Remaining Development Requirements:* This section of the Proposal should clearly articulate the remaining major steps requiring completion before financing, any issues expected in their completion and the schedule for completing the outstanding steps.

4.2 Phase 2: Contractual Arrangements & Fee

Upon invitation by NYGB, Proposers are to submit contracts, agreements and other supporting documentation as described below and will be requested to make an in-person presentation. Phase 2 is intended by NYGB to allow for a review of the contracts and agreements to confirm the stage of Project development and to determine any major contractual issues. The other elements of the due diligence process, including the work of the IE, will take place in Phase 3. Along with the Phase 2 requested materials described below, the Proposer will be required to pay a non-refundable fee of \$10,000 per Project (the “**Phase 2 Fee**”) which will be used by NYGB to cover the costs of initial review. NYGB will only continue to consider Projects that have paid the Phase 2 Fee. Specific fee submittal instructions will be included in the NYGB invitation to Phase 2.

The elements of the Phase 2 Proposal and process include:

- (a) Invitation to the Proposer from NYGB to enter the Proposal into Phase 2. From receipt of invitation, the Proposer will be given four (4) weeks to submit: (i) the Phase 2 materials as described below; and (ii) the Phase 2 Fee. Delays in submitting the full set of required materials or fee may be grounds for NYGB discontinuing consideration of the transaction.
- (b) In the invitation to Phase 2, the Proposer will be requested to schedule a detailed, in-person presentation of the Proposal by management to NYGB in its New York City offices. Its purpose will be to introduce the senior management team to NYGB and provide a synopsis of the Proposal.
- (c) In Phase 2, NYGB is requesting all Project contracts and agreements (including those enumerated in Section 3.1) in their current form as of the Phase 2 submission even if they are not executed or in a final executable form. The contracts and agreements should be submitted with a cover note to each contract or agreement explaining its current status, and which elements of each contract are still being negotiated. For each contract or agreement that is not executed or in near final or executable form, the cover note should provide the schedule for reaching this level of contract development.
- (d) In general, NYGB believes that first drafts of agreements that have not undergone negotiations do not demonstrate an acceptable level of development of that specific contract. Therefore, Proposers are advised to keep such first draft agreements to a minimum and to avoid such drafts for the more significant contractual arrangements.
- (e) Proposer should submit the EAF along with any other SEQRA materials prepared for other permitting or approval agencies relevant to the Project.

- (f) NYGB will re-evaluate the Project as part of its Phase 2 contract review using the same methodology as employed for Phase 1, taking into consideration all advances in the Project development and to determine if the Project is acceptable for Phase 3.
- (g) The agreements, in aggregate, should provide a clear picture of the Project.
- (h) The Phase 2 Proposal should also include an update of the Project development, if any, from that detailed in Phase 1. In particular, areas where significant development advances have occurred should be carefully delineated.
- (i) The Proposer should also include its comments on the appropriate Back-Leveraged Term Sheet. As a reminder, NYGB endeavored to create term sheets that balance the interests of all parties so they should only be marked up as absolutely necessary.
- (j) At the conclusion of its Phase 2 evaluation, NYGB will inform the Proposer of its findings and its decision to either: (i) invite the Project into Phase 3; or (ii) require resolution of Project deficiencies before the invitation into Phase 3 can be extended. Proposers whose Projects are invited into Phase 3 will be provided with the NYGB credit agreement, assignment and consent agreements and other required financing documents (collectively the “**Transaction Documents**”).

4.3 Phase 3: Due Diligence, Documentation & Approval

During Phase 3, NYGB will complete the remainder of its required due diligence, work with the Proposer to prepare all required documentation for the financing of the transaction and seek the necessary NYGB approvals. The Proposer is expected to provide support for each of these tasks and should be prepared to answer specific questions and fulfill detailed data requests, including those generally forthcoming from an IE. Each component of Phase 3 is described below.

4.3.1 Due Diligence.

- 4.3.1.1 *Construction & Operating Performance:* NYGB will seek to determine the readiness for construction and the projected Project performance based on due diligence including but not limited to the following construction and performance related items:
 - Equipment supply;
 - Installation, EPC and/or BOP agreements. Note that on a case by case basis, NYGB reserves the right to require performance guarantees;
 - Construction schedule;
 - Environmental issues including any Phase 1 environmental audit;
 - Site control;
 - CESIR;
 - Interconnection agreement; and
 - IE Report: NYGB will commission an IE report covering typical issues and including PVsyst® analysis for the Project. If the Proposer has already engaged an IE, NYGB may, upon review of the IE firm and its qualifications as well as the scope for the IE work, decide to utilize the Proposer’s IE upon the provision of a reliance letter to NYGB, provided that such report is acceptable to NYGB. Prior to commencing the IE report, the Proposer will be provided with a scope of work and budget for the report.
- 4.3.1.2 *Operations & Administration:* NYGB will evaluate the plans for the operation and administration of the Project including evaluation of a Project pro forma model (See Section

4.3.1.9) covering the term of the Back-Leveraged Loans. NYGB will use the pro forma model to address various scenarios relating to the operation of the Project.

4.3.1.3 *Revenue Arrangements:* At this stage, NYGB expects to be able to evaluate near final remote net metering arrangements. The Proposer will also need to demonstrate that the NEMC meets the requirements of NYPSL § 66-j including the analyses in Section 3.2.1 and Section 3.2.2.

4.3.1.4 *Financing Plan:* NYGB will evaluate the financing plan for the Project including the requested level of debt financing, equity by source and amounts and evidence of each equity provider's availability and commitment over the near term and the long term. Such evaluation will also consider the level of sponsor investment and the extent it remains in the Project over time as NYGB considers continued Sponsor net investment to be a positive feature of any Project signifying a continuing commitment to the Project.

With respect to tax equity, NYGB will require that there is a strong tax equity commitment in place prior to closing and reserves the right to require that tax equity documentation is in place with appropriate conditions precedent.

4.3.1.5 *Construction Budget:* A complete construction budget showing sources and uses, a draw schedule for both debt and equity and a detailed construction budget with all expenditures prior to Project completion. NYGB will require that the equity be funded in advance of draws on the Back-Leveraged Loan.

4.3.1.6 *Permits & Approvals:* Demonstration that the NY-Sun process, if applicable, has been completed, all permits have been issued or are expected to be issued prior to the scheduled financial closing and, if applicable, the SEQRA process has been completed or is expected to be completed before the scheduled financial closing.

4.3.1.7 *Credit Quality:* NYGB will evaluate the credit quality of all Project parties and counterparties as part of assessing counterparty risk. With respect to the NEMC counterparty, NYGB will also look at the applicable forecasted metered rates, as described earlier in Section 3.2.2.

4.3.1.8 *Title Report:* Due to the importance of site control, early in Phase 3, the Proposer will be required to submit a title report for all properties comprising the Project site and any necessary access rights-of-way or easements.

4.3.1.9 *Pro forma Model:* During Phase 3 due diligence, a more detailed operating and financial pro forma model will be used. The more detailed model will incorporate panel output and degradation, solar irradiance, etc., and will be used by NYGB to evaluate the Project. This model will include a data input sheet documenting the source of all inputs. The model will be a Project document as defined in the loan agreement and will jointly be agreed to between NYGB and the Borrower. If the model used for Phase 3 is provided by the Proposer, NYGB will have it validated.

4.3.1.10 *Know Your Customer:* NYGB will conduct "Know Your Customer" due diligence similar to that conducted by comparable financial institutions and other government agencies.

4.3.2 NYGB Approval. NYGB will prepare its Transaction Approval Memo for consideration by its Investment & Risk Committee concurrently with the due diligence and documentation effort but cannot seek approval until the due diligence is completed and the Back-Leveraged Loan documentation is at an advanced stage. NYGB approval is in accordance with the NYGB Policies & Procedures is generally received shortly before financial closing.

4.3.3 Documentation. As part of its effort to standardize the documentation of PV solar transactions as contemplated by this RFP, NYGB will utilize standard loan documentation prepared by its counsel. The Back-Leveraged Loan documentation will include all necessary Transaction Documents which will be provided to the Proposer and its counsel during Phase 3. The Transaction Documents will be

consistent with the Back-Leveraged Term Sheets provided as part of this RFP with the proposed Proposer changes to the Back-Leveraged Term Sheets (provided in Phase 2) to be considered.

- 4.3.4 Closing. Once the conditions precedent to financial closing have been met, closing of the transaction can proceed quickly. Conditions precedent are described in the Back-Leveraged Term Sheets.

5 General Conditions

5.1 Costs & Expenses

Once a Proposal has been submitted to NYGB and evaluated as meeting the requirements of this RFP, the proposed transaction will move into NYGB's active pipeline. The borrower/investee and/or sponsor of each transaction in the active pipeline shall pay all reasonable costs and expenses of NYGB associated with the preparation, due diligence, development, and administration of all investment-related documentation (including the fees, disbursements and other charges of outside counsel to NYGB, independent engineers, background investigators, or other consultants, as described in the engagement letter to be executed between sponsor and NYGB), regardless of whether or not the proposed investment is closed. In addition, Proposers may be required to provide a cash deposit on account of NYGB's third party expenses in advance of substantive work on the part of NYGB and its advisors. Borrower/investee will also pay third-party fees and expenses incurred by NYGB in connection with the administration, amendment, waiver, modification or enforcement of any of the investment-related documentation.

5.2 Impact Metrics – Estimates, Reporting & Evaluation

NYGB collects and disseminates project and investment performance data (on an aggregated and anonymized basis) to facilitate improving investor confidence in addition to promoting standardization wherever possible to help drive down transaction costs. As NYGB finalizes and executes documentation for each investment, Proposers will be required to assist NYGB in its efforts to estimate the energy, environmental and economic impact the transaction will deliver in NYS throughout the tenor of the term. This will involve the provision of data collection that supports estimated energy savings or installed capacity assumptions and agreed upon provisions to evaluate the impact the transaction has had on the clean energy finance markets. Some examples of evaluation methodologies may include: technologies deployed, technology performance, site visits, scale of projects, financial performance, access to capital, costs of capital and project costs.

After the transaction is executed, Proposers will be required to deliver impact-related data (e.g. energy, environmental and economic development-related data) as determined by NYGB and the Proposer, to be delivered no less frequently than quarterly (and within 30 days following the end of each calendar quarter), for at least the duration of the agreement. An [Illustrative Quarterly Impact Reporting Template](#) of such data as relates to environmental impact can be found on the RFP Resources page on NYGB's website. Data submitted (aggregated and anonymized) will be included in requisite public or other reports and may be used otherwise in accordance with regulatory requirements to which NYGB is subject.

NYGB will also seek periodic information relating to additional impact data, such as job creation, use of contractors or other transaction counterparties based in New York, or impacts on New York's economy resulting through supply chain development.

5.3 Municipal Advisor Rules

NYGB is aware of the amendments to Section 15B of the Securities Exchange Act of 1934 effectuated by Section 975 of Title IX of the Dodd-Frank Act, as well as SEC Release No. 34-70462 (September 20, 2013). In this regard, please note that NYGB considers discussions with potential Proposers, and the review of Proposals, to be arm's-length negotiations. NYGB recognizes that Proposers have financial and other interests that differ from NYGB; as such, NYGB does not consider a fiduciary relationship to arise in this context. NYGB has engaged an independent registered municipal advisor ("**IRMA**") with the intent of relying (i.e., taking into careful consideration, along with any other information deemed relevant or appropriate) on that IRMA for advice related to any potential transactions (but not bound to follow that advice), and consequently allowing Proposers to qualify for the exemption provided by 17 CFR §240.15Ba1-1(d)(3)(vi) (the "**IRMA exemption**"). The name and

contact information of the IRMA is listed on the NYGB website at www.greenbank.ny.gov/IRMA, and the IRMA is available to respond to any questions a Proposer may have with respect to the IRMA's independence.

5.4 Proprietary Information

Among NYGB's goals is the promotion of standardization of material contract terms and structures, and the collection of project performance data across NYGB transactions. NYGB is keenly aware that commercial markets and their incumbents value non-disclosure extremely highly to protect confidential transaction terms and other competitive information and NYGB remains highly sensitized to usual and customary confidentiality practices. Nevertheless, as a division of NYSERDA, certain State laws specifically apply to NYGB and it is recommended that careful consideration be given before confidential information is submitted to NYGB as part of any Proposal. Review should include whether it is critical for evaluating a Proposal, and whether more general, non-confidential information may be adequate for review purposes.

New York's Freedom of Information Law, Public Officers Law, Article 6, provides for public access to information NYSERDA and its divisions possess. 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 NYGB that the Proposer 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 out in 21 NYCRR Part 501. The confidentiality of any information submitted cannot be guaranteed.

5.5 Limitation

This RFP does not commit NYGB to agree to participate in any transaction, proceed to negotiate any terms or definitive documentation, pay any costs incurred in preparing a Proposal or to procure or contract for services or supplies. NYGB reserves the right to accept or reject any or all Proposals received, to negotiate with all qualified parties or to cancel in part or in its entirety this RFP when it is in NYGB's best interest.

5.6 Disclosure Requirement

The Proposer shall disclose, for any team member, any indictment for 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 the relevant circumstances. When a Proposer is an association, partnership, corporation or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similar governing body. If an indictment or conviction comes to the attention of NYGB or NYSERDA after NYGB has indicated its interest to, or has agreed to enter into or participate in, any transaction NYGB may terminate the agreement and the Proposer may be subject to penalties for violation of any law which may apply in the particular circumstances. Proposers must also disclose if any team members have ever been disbarred or suspended by any agency of the United States Government or the NYS Department of Labor.

6 Attachments

Attachment A: Structure Charts

Attachment B: Single Project Term Sheet

Attachment C: Portfolio Term Sheet