

COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY

548 Broadway

Monticello, New York 12701

845-428-7575

APPLICATION FOR FINANCIAL ASSISTANCE

RECEIVED  
NOV 20 2024

BY: 

I. APPLICANT INFORMATION:

Company Name: NY Fallsburg (Frank Brown Road), LLC

Address: 140 East 45th Street, Suite 32B-1, New York, NY 10017

Phone No.: (646) 998-6457

Telefax No.: \_\_\_\_\_

Email Address: legal@delawareriversolar.com

Fed Id. No.: 

Contact Person: Richard Winter

Principal Owners/Officers/Directors (list owners with 15% or more in equity holdings with percentage ownership):

Principal Owners (Shareholders/Members/Owners): \_\_\_\_\_

Mongaup River Solar, LLC, Sole Member

Directors/Managers: N/A, the Applicant is a member-managed LLC.

Officers: Richard Winter, Chief Executive Officer; John Tartaglia, President; and Peter Dolgos, Senior Vice President

*Corporate Structure (attach schematic if Applicant is a subsidiary or otherwise affiliated with another entity)*

Form of Entity:

Corporation (Sub-s)

Date of incorporation: \_\_\_\_\_

State of incorporation: \_\_\_\_\_

Partnership

General \_\_\_\_\_ or Limited \_\_\_\_\_

Number of general partners \_\_\_\_\_

If applicable, number of limited partners \_\_\_\_\_

Date of formation: \_\_\_\_\_

Jurisdiction formation: \_\_\_\_\_

Limited Liability Company/Partnership (number of members 1)

Date of organization: June 23, 2022

State of organization: New York

Sole Proprietorship

If a foreign organization, is the Applicant authorized to do business in the State of New York? Yes  No  N/A  (If so, please append Certificate of Authority.)

### APPLICANT'S COUNSEL

Name: Law Office of Richard W. Chun

Address: 1225 Franklin Avenue, Suite 325, Garden City, NY 11530

Phone No.: (516) 659-7493

Telefax No.: \_\_\_\_\_

Email Address: rchun@rwc-legal.com

### II. REQUESTED FINANCIAL ASSISTANCE

#### Estimated Value

Real Property Tax Abatement (estimated)	\$0
Mortgage Tax Exemption	\$ <u>not to exceed \$5,000</u>
Sales and Use Tax Exemption	\$ <u>not to exceed \$95,000</u>
Issuance by the Agency of Tax Exempt Bonds	\$0

III. PROJECT INFORMATION

A.) Project Location:

Project Address: Frank Brown Rd, Fallsburg NY 12733

Tax Map Number(s): 28.-1-18.1

Located in the Village of: N/A

Located in Town of Fallsburg

Located in the School District of Fallsburg

Located in Hamlet of N/A

(i) Are Utilities on Site?

Water/Sewer No

Electric Yes

Gas No

Storm Sewer No

(ii) Present legal owner of the site: Town of Fallsburg

If other than Applicant, by what means will the site be acquired for this Project:

Lease Agreement

(iii) Zoning of Project Site: Current: R1 Proposed: Industrial

(iv) Are any variances needed: No

(v) Principal Use of Project upon completion: Solar energy facility

B.) Will the Project result in the removal of a plant or facility of the Applicant or a proposed Project occupant from one area of the State of New York to another area of the State of New York? No; If yes, please explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C.) Will the Project result in the abandonment of one or more Plants or facilities of the Applicant or a proposed Project occupant located in the State of New York? No; If yes, please explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D.) If the answer to either question B or C above is yes, you are required to indicate whether any of the following apply to the Project:

1. Is the Project reasonably necessary to preserve the competitive position of the Applicant or such Project Occupant in its industry? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please explain:

\_\_\_\_\_

2. Is the Project reasonably necessary to discourage the Applicant or such Project Occupant from removing such other plant or facility to a location outside the State of New York? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please explain:

\_\_\_\_\_

E.) Will the Project include facilities or property that will be primarily used in making retail sales of goods or provide services to customers who personally visit such facilities? No; If yes, please contact the Agency for additional information.

F.) Please provide a narrative of the Project and the purpose of the Project (new build, renovations, and/or all equipment purchases). Identify specific uses occurring within the Project. Describe any and all tenants and any/all end users. Describe the proposed acquisitions, construction or reconstruction and a description of the costs and expenditures expected. Attach additional sheets, if necessary.

The project is an approximate 4 MW solar photovoltaic electricity generating facility that will be interconnected to the New York State Energy and Gas electrical grid. New York State Energy and Gas customers that are part of the Applicant's Community Solar Program shall be sold such electricity. The Project is a new build and will be comprised of (a) racking to mount the solar modules (such racking generally to be placed on concrete foundations), (b) solar modules, (c) inverters and transformers to sit on a concrete inverter pad, and (d) assorted electrical components and wiring. Construction will take approximately four months.

The project is monitored remotely and there are no daily on-site personnel required. Regularly scheduled maintenance will occur semi-annually and will consist of (a) cleaning the panels (no chemicals) and (b) equipment servicing/replacement.

The Applicant and Town will enter into a Decommissioning Agreement/Plan that will set forth the details regarding the decommissioning and removal of the solar facility.

G.) COSTS AND BENEFITS OF THE PROJECT

Costs = Financial Assistance

Estimated Sales Tax Exemption	\$ <u>Not to exceed \$95,000</u>
Estimated Mortgage Tax Exemption	\$ <u>Not to exceed \$5,000</u>
Estimated Property Tax Abatement	\$ <u>0</u>
Estimated Interest Savings IRB Issue	\$ <u>0</u>

Benefits= Economic Development

Jobs created	<u>26-35 (development and construction phase)</u>
Jobs retained	<u>3-4 (contracted work during operation, not full time)</u>
Private funds invested	\$ <u>8,041,287</u>

Other Benefits

- Reduced energy cost to community solar
- Tax revenue to Town of Fallsburg, Sullivan County and Fallsburg Central School District
- Local job creation during development phase (surveyors, engineers, sales), construction phase (construction jobs) and operational phase (landscaping, maintenance).
- Contribute to achieving renewable energy generation goals in NYS.

Estimate how many construction/permanent jobs will be created or retained as a result of this Project:

Construction: 26-35  
Permanent: 3 - remotely monitored full-time jobs. No daily on-site personnel.  
Retained (at current facility): 0 - remotely monitored. No daily on-site personnel.  
Note: See further job creation description below.

Project Costs (Estimates)	
Land and Existing Buildings	<u>\$(Leased)</u>
Soft Costs (5%)	<u>\$561,213</u>
Other	<u>\$8,115,474</u>
Total	<u>\$8,676,687</u>

In addition to the above estimated capital costs of the project, which must include all costs of real property and equipment acquisition and building construction or reconstruction, you must include details on the amounts to be financed from private sector sources, an estimate of the percentage of project costs financed from public sector sources and an estimate of both the amount to be invested by the Applicant and the amount to be borrowed to finance the Project.

Please see Exhibit A attached.

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In addition to the job figures provided above, please indicate the following:

- 1) The projected number of full time equivalent jobs that would be retained and that would be created if the request for financial assistance is granted.

As indicated above, the project is monitored remotely. There are no daily on-site personnel required. Regularly scheduled maintenance will occur semi-annually and will consist of (a) cleaning the panels (no chemicals) and (b) equipment servicing/replacement. All jobs created during the 30-year operational phase will be on a contract basis (landscaping and maintenance) and will be locally sourced to the extent possible.

- 2) The projected timeframe for the creation of new jobs.

The project is currently in the development phase, and there are certain contracted jobs already created (surveying, engineering, sales). The construction phase is expected to be four to six months with a target of commencing construction in the 1<sup>st</sup> quarter of 2025. Contracted jobs (maintenance and landscaping) during the operational phase would commence upon

completion of the construction phase, which is expected to happen in the 3<sup>rd</sup> or 4<sup>th</sup> quarter of 2025.

- 3) The estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance is granted.
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As indicated above, all jobs created during the 1-30 year operational phase of the project will be on an independent contract basis.

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- 4) An estimate of the number of residents of the economic development region as established pursuant to section two hundred thirty of the Economic Development Law, in which the project is located that would fill such jobs. The labor market area defined by the agency (Mid-Hudson Economic Development Region)

Development Phase: 2-3  
Construction Phase: 26-35  
Operational Phase: 3-4

H.) State whether there is a likelihood that the project would not be undertaken but for the financial assistance provided by the Agency, or, if the project could be undertaken without financial assistance provided by the Agency, a statement indicating why the project should be undertaken by the Agency The financial assistance provided by the Agency, in terms of tax relief, will provide financing parties and investors certainty in project costs that will alleviate some of their risk on a Project.

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#### IV. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency as follows:

- A) Job Listings. In accordance with Section 858-b (2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located.
- B) First Consideration for Employment. In accordance with Section 858-b (2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created

as a result of the Project.

- C) Annual Sales Tax Filings. In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.
- D) Annual Employment Reports. The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.
- E) Absence of Conflicts of Interest. The Applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described.
- F.) The Applicant represents that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:  
  
§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.
- G.) The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- H.) The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- I.) The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this Application and hereby represent that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

NY FALLSBURG (FRANK BROWN ROAD), LLC

By: Richard Winter, CEO

Date: 11/18/2024

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:

Richard Winter, being first duly sworn, deposes and says:

1. That I am the CEO of NY Fallsburg (Frank Brown Road), LLC (collectively, the "Applicant") and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

(NAME)

Subscribed and affirmed to me under penalties of perjury  
this 18<sup>th</sup> day of November, 2024.

Mariah Brown  
(Notary Public)

Mariah Brown  
Notary Public, State of New York  
Registration No. 01BR0030546  
Qualified in New York County  
Commission Expires November 1, 2028




**THIS APPLICATION SHALL BE SUBMITTED WITH (I) TWO CHECKS: ONE COVERING A \$250.00 APPLICATION FEE AND THE SECOND COVERING A \$5,000.00 UP-FRONT ESCROW DEPOSIT; AND (II) APPLICANT'S FORMATION DOCUMENTS (IE: IF A CORPORATION: ITS CERTIFICATE OF INCORPORATION AND BYLAWS; IF A LIMITED LIABILITY COMPANY: ITS ARTICLES OF ORGANIZATION AND OPERATING AGREEMENT; IF A LIMITED PARTNERSHIP: ITS CERTIFICATE OF LIMITED PARTNERSHIP AND LIMITED PARTNERSHIP AGREEMENT; OR IF A PARTNERSHIP: ITS PARTNERSHIP AGREEMENT TO:**

**COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY  
Executive Director  
548 BROADWAY  
MONTICELLO, NEW YORK 12701**

**HOLD HARMLESS AGREEMENT**


Applicant hereby releases the COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY and the members, officers, servants, agents and employees thereof ("Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final agreement with the respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

NY FALLSBURG (FRANK BROWN ROAD), LLC

  
By: Richard Winter, CEO

Date: 11/18/2024

Sworn to before me this  
18<sup>th</sup> day of November, 2024.

  
Notary Public

Mariah Brown  
Notary Public, State of New York  
Registration No. 01BR0030546  
Qualified in New York County  
Commission Expires November 1, 2028

EXHIBIT A

Sponsor Equity	\$1,577,363
Tax Equity Investment	\$4,569,725
Debt	\$1,894,199
NYSERDA	\$635,400
<b>Total</b>	<b>\$8,676,687</b>