



Application for Financial Assistance

A) Applicant Information:

Applicant Name: NSF Torrey Site 3, LLC *Applicant LLC to be conveyed to an undetermined new Owner.*

Applicant Address: 1241 University Avenue, Rochester, NY 14607

Phone: 585-504-2200 Fax: N/A

Website: www.norbutsolarfarms.com E-mail: dave@norbutsolarfarms.com

Federal ID#: 85-3048909 NAICS: 221114

State and Year or Incorporation/Organization: New York; September 2020

Will a Real Estate Holding Company be utilized to own the Project property/facility? Yes or No

What is the name of the Real Estate Holding Company: Hansen Point Road, LLC (Property Owner)

Federal ID#: 85-3091154

State and Year or Incorporation/Organization: New York; September 2020

B) Individual Completing Application:

Name: Jenelle Harriff

Title: Operations Support Manager

Address: 1241 University Avenue, Rochester, NY 14607

Phone: 585-504-2204 Fax: N/A

E-Mail: operations@norbutrenovations.com

C) Company Contact (if different from individual completing application):

Name: David Norbut

Title: Manager of NSF Torrey Site 3, LLC and Managing Member of Hansen Point Road, LLC

Address: 1241 University Avenue, Rochester, NY 14607

Phone: 585-504-2208 Fax: N/A

E-Mail: dave@norbutsolarfarms.com

D) Company Counsel:

Name of Attorney: Barry Carrigan, Esq.

Firm Name: Nixon Peabody, LLP

Address: 1300 Clinton Square, Rochester, NY 14604-1792

Phone: 585-263-1591 Fax: 877-746-9321

E-mail: bcarrigan@nixonpeabody.com

E) Business Organization (check appropriate category):

Corporation Partnership
Public Corporation Joint Venture
Sole Proprietorship Limited Liability Company
Other (please specify) _____

Year Established: 2020

State in which Organization is established: New York

F) List all stockholders, members, or partners with % of ownership greater than 20%:

<u>Name</u>	<u>% of ownership</u>
<u>Norbut Solar Farm, LLC</u>	<u>100% of NSF Torrey Site 3, LLC</u>

G) Applicant Business Description:

Describe in detail company background, products, customers, goods and services. Description is critical in determining eligibility:

Rochester, NY-based Norbut Solar Farms owns NSF Torrey Site 3, LLC. Our company develops Community Distributed Generation (CDG) projects, mainly in the 5-Megawatt (MW) range, across New York State. These solar arrays power homes, schools, businesses, hospitals and other institutions located in RG&E, NYSEG and National Grid territory. With over 100 MW in development, construction and operation, we have the experience to make this a successful investment in your community, as well.

Estimated % of sales within County/City/Town/Village: 50%

Estimated % of sales outside County/City/Town/Village, but within New York State: 50%

Estimated % of sales outside New York State, but within the U.S.: 0%

Estimated % of sales outside the U.S.: 0%

(*Percentage to equal 100%)

H) Estimated percentage of your total annual supplies, raw materials and vendor services are purchased from firms within County/City/Town Village:

Construction Phase: Source materials like fencing, access road gravel and screening plantings locally.

Operation Phase: Solar array will operate independently with remote monitoring so minimal materials are needed after construction. Four part-time positions will be created for local contractors for the next 25-35 years for plowing, landscaping, security and technical maintenance.

Section II: Project Description & Details

A) Physical Project Location:

00 Hansen Point Road, Torrey, NY 14850; Tax ID: 52.04-1-4.13. East of Route 14 and railroad tracks.

B) Detailed Description of Project (new build, renovations, and/or equipment purchases). Identify specific uses occurring within the project. Describe any and all tenants and any/all end users (This information is critical in determining project eligibility):

Norbut Solar Farms is proposing the construction of three separate 5-Megawatt AC Community Distributed Generation (CDG) photovoltaic arrays on a portion of 106.37-acre parcel number 52.04-1-4.13 in the Town of Torrey, Yates County.

The newly-constructed 5-Megawatt AC array of the NSF Torrey Site 3, LLC would interconnect to the existing NYSEG grid. To minimize soil disruption, posts will be pounded into the ground to hold racking and solar modules. Concrete pads will hold

transformers, inverters or any other equipment required for utility metering and interconnection to the NYSEG grid. Nearly all packaging is recyclable, as well as 98% of the solar panels. Locally-sourced gravel will be used for the access road.

Customers are those who purchase electricity from NYSEG, like residents, businesses, schools, hospitals, emergency service headquarters, religious institutions, manufacturers and other local entities. They will be able to purchase "green" solar power shares at a discount without investing thousands of dollars and maintenance hours into roof- or ground-mounted systems on their own properties. **The combined annual savings on electricity and delivery charges on 60% residential and 40% commercial customers' bills could amount to \$80-100,000 a year or over \$2,000,000 over the lifetime of the project.**

Pending all municipal and utility approvals, weather- and COVID restrictions, the Construction Phase tentatively slated for 2021-2022 would employ **50-70 local workers**, including electricians, civil engineers, access road construction crews and landscapers, with **salaries ranging from \$40,000-\$60,000.**

This project bolsters New York State's **Reforming the Energy Vision** mandate that **70% of electricity come from renewable sources by 2030.** In addition, it supports the community's Comprehensive Plan goals to promote renewable energy, reduce fossil fuel consumption, and reduce greenhouse gas emissions. This parcel will not host any residents utilizing community resources like water, roads, schools, or libraries.

Applicant proposal is for 30-Year PILOT with 2% annual escalator beginning at \$3,700 per MW.

C) Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency? Yes or No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

Residents, business owners and students in the town of Torrey and Yates County as a whole would miss out on the ability to learn from and purchase clean, renewable energy harnessed from the sun in their backyards. This project will not be built without a PILOT as the financial models simply do not work. A 30-year PILOT, like what has been awarded to other recently-approved solar projects, is imperative for long-term forecasting needs, financing and overall financial viability of the project.

If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and County/City/Town/Village?

Beyond a significant amount of Construction Phase spending (\$400,000-600,000 on food, lodging, fuel, entertainment and amenities for the crew alone), there will be material purchases as outlined in the application, and PILOT tax revenue as shown in Appendix A.

This land will be allowed to fallow and rest for the next three decades, at which point it can return to active production to serve present demands. In the interim, some land on this site may still be able to be farmed, based on the final solar array design approved by NYSEG.

Special District taxes are also exempt from the PILOT so the Torrey Fire District, Branchport Library and Penn Yan Library will also be positively affected by the Assessor's new valuation. Depending on the new valuation, this could bring substantial revenue in over the next 30 years versus the current rate of less than \$80 per year paid by this parcel. This parcel will also not have any residents utilizing any community resources like water, sewers, roads, schools, or libraries.

D) Current Assessed Value of Property \$873,800 (land only)

Property Tax ID# 52.04-1-4.13; parcel will be subdivided upon receipt of Town approvals; anticipated in May 2021
(not required if project is for equipment purchases only)

Are utilities on Site: Water No Electric No
Gas No Sanitary/Storm Sewer No

E) Present legal owner of site Lakeland Farms, LLC
If other than Applicant, by what means will the site be acquired for this Project:

Independent Norbut entity named Hansen Point Road, LLC has a contract to purchase the project site from Lakeland Farms, LLC. Project Company is in negotiations to lease land from new land owner Hansen Point Road, LLC for a term of 25 years with options to extend for two 5-year terms. The specific acreage to be subdivided, leased and built upon is still under development. The only subleases with third-parties would be any required by the agency.

F) **Zoning of Project Site:** Current: 120 Field Crops Proposed: 877 Elc Pwr Other

Are any variances needed: Special Use Permit & Area Variance

Principal Use of Project upon completion: Electric Power Generation Facility

G) **Will the Project result in the removal of a facility of the Applicant from one area of the State of New York to another?**

Yes or No

Will the Project result in the removal of a facility of another proposed occupant of the Project from one area of the State of New York to another area of the State of New York?

Yes or No

Will the Project result in the abandonment of one or more facilities located in the State of New York?

Yes or No

If the answer to any of the questions in G were yes, indicate whether any of the following apply to the Project:

1. **Is the Project reasonably necessary to preserve the competitive position of the Company or such Project Occupant in its industry?** Yes or No If yes, please provide detail:

N/A

2. **Is the Project reasonably necessary to discourage the Company or such Project Occupant from removing such other plant or facility to a location outside the State of New York?** Yes or No If yes, please provide detail:

N/A

H) **Estimated costs in connection with Project:**

1. Land and/or Building Acquisition:	\$	0
___ acres ___ square feet		
2. New Building Construction: ___ square feet	\$	0
3. New Building Addition(s): ___ square feet	\$	0
4. Infrastructure Work	\$	375,200
5. Reconstruction/Renovation: ___ square feet	\$	0
6. Manufacturing Equipment:	\$	0
7. Non-Manufacturing Equipment (furniture, fixtures, etc.):	\$	4,368,400
8. Soft Costs: (professional services, etc.):	\$	1,956,400
9. Other, Specify:	\$	_____0
TOTAL Capital Costs:	\$	6,700,000

Percentage of Total Capital Costs Purchased Locally*

\$Evaluating Availability

* - Locally is defined as within Yates County and surrounding Counties

Note: We source from Tier 1 local, national and global manufacturers and suppliers. Materials estimated at over \$4,000,000 will be sourced locally and within New York State whenever possible, especially for items such as wire/conduit, hardware, fencing, access road gravel and screening plantings. Construction Labor contracts for land preparation, perimeter fencing and road construction are estimated at over \$400,000.

**Project refinancing; estimated amount
(for refinancing of existing debt only)**

\$N/A

I) Sources of Funds for Project Costs:

Note: Project will be privately funded

Bank Financing:	\$
Equity (excluding equity that is attributed to grants/tax credits)	\$5,879,042.50
Tax Exempt Bond Issuance (if applicable)	\$N/A
Taxable Bond Issuance (if applicable)	\$N/A
Public Sources (Include sum total of all state and federal grants and tax credits)	\$ 824,895.50
Identify each state and federal grant/credit:	
<u>NYSERDA MW Block Grant (Will be awarded soon)</u>	Estimate \$ 824,895.50
Total Sources of Funds for Project Costs:	\$6,700,000.00

Have any of the above costs been paid or incurred as of the date of this Application? Yes or No

If Yes, describe particulars: Applicant has incurred approximately \$1,038,000.00 for development site work like surveys, civil engineering, geotechnical studies, environmental reports and more.

A 25% interconnection deposit of \$285,562.50 was paid on 3/31/2021 for NSF Torrey Site 3, LLC, with the remaining 75% totaling \$856,687.50 for NSF Torrey Site 3, LLC due to NYSEG on 8/30/2021.

Mortgage Recording Tax Exemption Benefit: Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent/bridge financing):	\$	0
Estimated Mortgage Recording Tax Exemption Benefit (product of Mortgage Amount as indicated above multiplied by 1%):	\$	0

Sales and Use Tax: Gross amount of costs for goods and services that are subject to State and local Sales and Use tax - said amount to benefit from the Agency's Sales and Use Tax exemption benefit: \$ 4,368,400

Estimated State and local Sales and Use Tax Benefit: (Yates County 4%) = \$ 174,736
(product of 8% multiplied by the figure, above)

Applicant Note: New York State Sales Tax (4.0%) is automatically waived on the panels, inverters, racking, etc.

*** Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the estimate, above, represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application. The Agency may utilize the estimate, above, as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.*

Real Property Tax Benefit:

IDA PILOT Benefit: Agency staff will indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted in Section II(I) of the Application.

Percentage of Project Costs financed from Public Sector sources: Agency staff will calculate the percentage of Project Costs financed from Public Sector sources based upon Sources of Funds for Project Costs as depicted above in Section II(I) of the Application.

J) What is your project timetable (Provide dates):

- 1. Start date: acquisition of equipment or construction of facilities: Qtr 4-2021 **Date Estimates Are**
- 2. Estimated completion date of project: Qtr-4 2022 **Completely Weather- and**
- 3. Project occupancy – estimated starting date of operations: Qtr-4 2022 **COVID-Dependent**
- 4. Have construction contracts been signed? Yes or No **Signed Utility Interconnection**
- 5. Has Financing been finalized? Yes or No **Contract With NYSEG**

*** If constructions contracts have been signed, please provide copies of executed construction contracts and a complete project budget. The complete project budget should include all related construction costs totaling the amount of the new building construction, and/or new building addition(s), and/or renovation.*

Employment Plan (Specific to the proposed project location):

	Current # of jobs at proposed project location or to be relocated to project location	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be CREATED upon THREE Years after Project completion	Estimate number of residents of the Labor Market Area in which the Project is located that will fill the FTE and PTE jobs to be created upon THREE Years after Project Completion **
Full time (FTE)	0	0	0	0
Part Time (PTE)	0	0	0	0
Total	0	0	0	0

** For purposes of this question, please estimate the number of FTE and PTE jobs that will be filled, as indicated in the third column, by residents of the Labor Market Area, in the fourth column. The Labor Market Area includes Yates, Seneca, Ontario, Monroe, Wayne, Livingston, Orleans, Genesee, Wyoming (or six other contiguous counties, including Steuben County, chosen at the Agency’s discretion).

K) How many construction jobs will be created: 50-70

Construction Phase: Will not be permanent positions. However, the 50-70 positions, including electricians, civil engineers, access road construction crews and landscapers, created during this phase will have annual salaries ranging from \$40,000-\$60,000. For the crew alone during construction, we estimate spending at \$400,000-600,000 on local food, lodging, fuel, entertainment and other amenities.

We source from Tier 1 local, national and global manufacturers and suppliers. **Materials estimated at over \$4,000,000** will be sourced locally and within New York State whenever possible, especially for items such as wire/conduit, hardware, fencing, access road gravel and screening plantings.

There will also be local fuel purchases and heavy equipment rentals for backhoes, loaders, excavators, brush-hogs and more for site preparations and access road construction.

Construction Labor contracts for land preparation, perimeter fencing and road construction are estimated **at over \$400,000**.

Operations Phase: Four part-time, local contractor positions will be created for the next 25-35 years:

- Plowing & Landscaping: \$10,000-\$35,000;
- Security Personnel: \$19,000;
- Operations & Maintenance: \$35,000-\$55,000.

Solar array will operate independently with remote monitoring so minimal materials will be needed after construction.

Category of Jobs to be Retained and Created	Number of Jobs Retained	Number of Jobs Created over next three years	Average Salary or Range of Salary	Average Fringe Benefits or Range of Fringe Benefits
Management				
Professional				
Administrative				
Production				
Other				

L) Salary and Fringe Benefits for Jobs to be Retained and/or Created:

N/A

M) Employment at other locations in County/City/Town/Village: (provide address and number of employees at each location):

	Address	Address	Address
Full time			
Part Time			
Total	NOT APPLICABLE		

N) Will any of the facilities described above be closed or subject to reduced activity? Yes or No, Not Applicable

*** If any of the facilities described above are located within the State of New York, and you answered Yes to the question, above, you must complete Section IV of this Application.*

*** Please note that the Agency may utilize the foregoing employment projections, among other items, to determine the Financial Assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.*

Section III: Retail Questionnaire

NOT APPLICABLE

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

Please answer the following:

A. Will any portion of the project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?

Yes or No. If the answer is yes, please continue. If no, proceed to section IV

For purposes of Question A, the term “retail sales” means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the “Tax Law”) primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

B. What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? _____%. **If the answer is less than 33% do not complete the remainder of the retail determination and proceed to section V.**

If the answer to A is Yes **AND** the answer to Question B is greater than **33.33%**, indicate which of the following questions below apply to the project:

- 1. Will the project be operated by a not-for-profit corporation? Yes or No

- 2. Is the Project location or facility likely to attract a significant number of visitors from outside the economic development region (Rochester / Finger Lakes) in which the project will be located? Yes or No
 - a. If yes, please provide a third-party market analysis or other documentation supporting your response.

- 3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services? Yes or No
 - a. If yes, please provide a third-party market analysis or other documentation supporting your response.

- 4. Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? Yes or No
 - a. If yes, explain _____

- 5. Is the project located in a Highly Distressed Area? Yes or No

Section IV: Inter-Municipal Move Determination

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results 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, Agency Financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

Will the Project 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? Yes or No

Will the Project result in the abandonment of one or more plants or facilities of the Project occupant located within the state? Yes or No

If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry: _____

Does the Project involve relocation or consolidation of a project occupant from another municipality?

- Within New York State** Yes or No
- Within County/City/Town/Village** Yes or No

If Yes to either question, please, explain: _____

Section V: Estimate of Real Property Tax Abatement Benefits & Percentage of Project Costs Financed From Public Sector Sources

**** Section V of this Application will be:**

- i. completed by IDA Staff based upon information contained within the Application, and
- ii. provided to the Applicant for ultimate inclusion as part of this completed Application.

PILOT Estimate Table Worksheet

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000
\$6,700,000		\$6.064104	\$3.000419	\$9.885622

*Apply equalization rate to value

**Attachment: Proposed Appendix A For Application Page 9
Applicant NSF Torrey Site 3, LLC
30-Year PILOT Proposal With 2% Annual Escalator at \$3,700 Per MWac**

PILOT Year	% Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1		\$5,920.06	\$2,929.15	\$9,650.80	\$18,500.00		
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							

30							
TOTAL		\$240,165.31	\$118,829.85	\$391,514.31	\$750,509.47		

* Estimates provided are based on current property tax rates and assessment values

** Full Tax Payment w/o PILOT and Net Exemption will be configured in accordance with Assessor's recommendations

Section VI: Representations, Certifications and Indemnification

**** This Section of the Application can only be completed upon the Applicant receiving, and must be completed after the Applicant receives, IDA Staff confirmation that Section I through Section V of the Application are complete.**

David Norbut (name of CEO or other authorized representative of Applicant) confirms and says that he is the **Manager** (title) of **NSF Torrey Site 3, LLC** (name of corporation or other entity) named in the attached Application (the "Applicant"), that he has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the Agency and 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. Copies of all filings shall be provided to the Agency.
- D. 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, at least annually or as otherwise required by the Agency, reports regarding the number of people employed at the project site, salary levels, contractor utilization and such other information (collectively, "Employment Reports") that may be required from time to time on such appropriate forms as designated by the Agency. Failure to provide Employment Reports within 30 days of an Agency request shall be an Event of Default under the PILOT Agreement between the Agency and Applicant and, if applicable, an Event of Default under the Agent Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Employment Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
- E. The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide with this Representation, Certification and Indemnification Form copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. The Agency may require the Company and/or owner of the premises to prepare and submit an environmental assessment and audit report, including but not necessarily limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the owner and/or the Applicant. All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1527-05, and shall be conformed over to the Agency so that the Agency is authorized to use and rely on the reports. The Agency, however, does not adopt, ratify, confirm or assume any representation made within reports required herein.
- F. The Applicant and/or the owner, and their successors and assigns, hereby release, defend and indemnify the Agency from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without

limitation, attorneys', consultants' and experts' fees) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency, resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or the owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations, and audits.

- G. Hold Harmless Provision: The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed Project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and 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: (i) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (ii) the Agency's acquisition, construction and/or installation of the proposed Project described herein; and (iii) any further action taken by the Agency with respect to the proposed Project including, without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law and the policies of the Agency that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency, any mortgage recording tax exemption claimed by the Applicant and approved by the Agency, and/or any real property tax abatement claimed by the Applicant and approved by the Agency, in connection with the Project, may be subject to recapture and/or termination by the Agency under such terms and conditions as will be established by the Agency and set forth in transaction documents to be entered into by and between the Agency and the Applicant. The Applicant further represents and warrants that the information contained in this Application, including without limitation information regarding the amount of the New York State and local sales and use tax exemption benefit, the amount of the mortgage recording tax exemption benefit, and the amount of the real property tax abatement, if and as applicable, to the best of the Applicant's knowledge, is true, accurate and complete.
- H. This obligation includes an obligation to submit an Agency Fee Payment to the Agency in accordance with the Agency Fee policy effective as of the date of this Application.
- I. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the Agency and the Agency's general counsel and/or the Agency's bond/transaction counsel, the same to be paid at the times indicated:
- (i) a non-refundable \$250 application and publication fee (the "Application Fee");
 - (ii) a \$_____ expense for the Agency's Counsel Fee.
 - (iii) Unless otherwise agreed to by the Agency, an amount equal to One and a quarter percent (1.25%) of the total project costs. The FLEDC will collect its participation fee at the time of closing, based on the capital investment *costs stated in this application*. (Should the actual costs exceed those estimates by more than 25%, an additional fee will apply.)
 - (iv) All fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel and/or the Agency's bond/transaction counsel, thus note that the Applicant is entitled to receive a written estimate of fees and costs of the Agency's general counsel and the Agency's bond/transaction counsel; and (2) other consultants retained by the Agency in connection with the proposed project, with all such charges to be paid by the Applicant at the closing.
- J. If the Applicant fails to conclude or consummate the 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 Applicant is unable to find buyers willing to purchase the bond issue requested, or if the Applicant is unable to facilitate the sale/leaseback or lease/leaseback transaction, then, upon the presentation of an

invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs incurred by the Agency in furtherance of the Application, up to that date and time, including but not necessarily limited to, fees of the Agency's general counsel and/or the Agency's bond/transaction counsel.

- K. The Applicant acknowledges and agrees that all payment liabilities to the Agency and the Agency's general counsel and/or the Agency's bond and/or transaction counsel as expressed in Sections H and I are obligations that are not dependent on final documentation of the transaction contemplated by this Application.
- L. The cost incurred by the Agency and paid by the Applicant, the Agency's general counsel and/or bond/transaction counsel fees and the processing fees, may be considered as a cost of the Project and included in the financing of costs of the proposed Project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.
- M. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). **Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.**
- N. The Applicant acknowledges that it has been provided with a copy of the Agency's Policy for Termination of Agency Benefits and Recapture of Agency Benefits Previously Granted (the "Termination and Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Termination and Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Termination and Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
- O. The Applicant understands and agrees 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.
- P. 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.
- Q. 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.
- R. 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.
- S. The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the Agency and its counsel will rely on the representations and covenants made in this Application when acting hereon and hereby represents 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.

The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that:

- A) The FLEDC 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.
- B) Failure of the Applicant to file appropriate Sales Tax and Employment reports will result in the revocation of tax benefits and require repayment of benefits previously claimed.

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

David Norbut, being first duly sworn, deposes and says:

- 1. That I am the **Manager** (Corporate Office) of **NSF Torrey Site 3, LLC** (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.

(Signature of Officer)

(Date)

Subscribed and affirmed to me under penalties of perjury

this ___ day of _____, 2021.

(Notary Public)

This Application should be submitted with:

- A) A \$250 Application fee to: Finger Lakes Economic Development Center
 One Keuka Business Park
 Penn Yan, New York 14527
 (Attn: CEO Steve Griffin)
- B) A certificate of insurance as follows:
 - 1. Worker’s Compensation Insurance (FLEDC named as additional insured).
 - 2. General Liability Insurance with limits not less than \$1,000,000 per occurrence /accident and a blanket excess liability not less than \$3,000,000 (FLEDC named as additional insured).
 - 3. Insurance against loss/damage by fire, lightning or other casualties with a uniform standard extended coverage endorsement in an amount not less than the full replacement value of the Facility. (FLEDC named as named insured).

The FLEDC encourages the use of Yates County contractors/suppliers and asks that they be allowed to bid your project!

**Proposed Appendix A For Application Page 9 | Applicant NSF Torrey Site 3, LLC
30-Year PILOT Proposal With 2% Annual Escalator at \$3,700 Per MWac**

Basis Year Sample %	Yates County	Torrey Town	Penn Yan CSD	Total
2021	6.064104%	3.000419%	9.885622%	18.950145%
Pro-Rata	32.00%	15.83%	52.17%	100.00%

PILOT Year	Yates County	Torrey Town	Penn Yan CSD	Annual Payment
1	\$ 5,920.06	\$ 2,929.15	\$ 9,650.80	\$ 18,500.00
2	\$ 6,038.46	\$ 2,987.73	\$ 9,843.81	\$ 18,870.00
3	\$ 6,159.23	\$ 3,047.48	\$ 10,040.69	\$ 19,247.40
4	\$ 6,282.41	\$ 3,108.43	\$ 10,241.50	\$ 19,632.35
5	\$ 6,408.06	\$ 3,170.60	\$ 10,446.33	\$ 20,024.99
6	\$ 6,536.22	\$ 3,234.01	\$ 10,655.26	\$ 20,425.49
7	\$ 6,666.94	\$ 3,298.69	\$ 10,868.37	\$ 20,834.00
8	\$ 6,800.28	\$ 3,364.67	\$ 11,085.73	\$ 21,250.68
9	\$ 6,936.29	\$ 3,431.96	\$ 11,307.45	\$ 21,675.70
10	\$ 7,075.02	\$ 3,500.60	\$ 11,533.60	\$ 22,109.21
11	\$ 7,216.52	\$ 3,570.61	\$ 11,764.27	\$ 22,551.40
12	\$ 7,360.85	\$ 3,642.03	\$ 11,999.55	\$ 23,002.42
13	\$ 7,508.06	\$ 3,714.87	\$ 12,239.54	\$ 23,462.47
14	\$ 7,658.22	\$ 3,789.16	\$ 12,484.34	\$ 23,931.72
15	\$ 7,811.39	\$ 3,864.95	\$ 12,734.02	\$ 24,410.36
16	\$ 7,967.62	\$ 3,942.25	\$ 12,988.70	\$ 24,898.56
17	\$ 8,126.97	\$ 4,021.09	\$ 13,248.48	\$ 25,396.54
18	\$ 8,289.51	\$ 4,101.51	\$ 13,513.45	\$ 25,904.47
19	\$ 8,455.30	\$ 4,183.54	\$ 13,783.71	\$ 26,422.56
20	\$ 8,624.40	\$ 4,267.21	\$ 14,059.39	\$ 26,951.01
21	\$ 8,796.89	\$ 4,352.56	\$ 14,340.58	\$ 27,490.03
22	\$ 8,972.83	\$ 4,439.61	\$ 14,627.39	\$ 28,039.83
23	\$ 9,152.29	\$ 4,528.40	\$ 14,919.94	\$ 28,600.62
24	\$ 9,335.33	\$ 4,618.97	\$ 15,218.34	\$ 29,172.64
25	\$ 9,522.04	\$ 4,711.35	\$ 15,522.70	\$ 29,756.09
26	\$ 9,712.48	\$ 4,805.58	\$ 15,833.16	\$ 30,351.21
27	\$ 9,906.73	\$ 4,901.69	\$ 16,149.82	\$ 30,958.24
28	\$ 10,104.86	\$ 4,999.72	\$ 16,472.82	\$ 31,577.40
29	\$ 10,306.96	\$ 5,099.72	\$ 16,802.27	\$ 32,208.95
30	\$ 10,513.10	\$ 5,201.71	\$ 17,138.32	\$ 32,853.13
Total	\$ 240,165.31	\$ 118,829.85	\$ 391,514.31	\$ 750,509.47