

**PUBLIC HEARING PURSUANT TO  
SECTION 859-a OF  
THE GENERAL MUNICIPAL LAW**

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| <b>Agency</b>               | Town of Montgomery Industrial Development Agency (the “Agency”)                          |
| <b>Project Beneficiary:</b> | Matrix Maple Development, LLC (the “Company”)  |
| <b>Project Location:</b>    | Town of Montgomery, Orange County, New York  |
| <b>Hearing Date:</b>        | December 3, 2019   |
| <b>Hearing Time:</b>        | 6:00 o’clock p.m.  |
| <b>Hearing Location:</b>    | Town Hall located at 110 Bracken Road in the Town of Montgomery, Orange County, New York |

**Opening Remarks**

Good evening:

My name is Jeffrey Crist, and I am the Chairman to the Town of Montgomery Industrial Development Agency (the “Agency”) in connection with the project which is the subject of this public hearing.

Today I am holding this Public Hearing to allow citizens to make a statement, for the record, relating to the involvement of the Agency with a project (the “Proposed Project”) for the benefit of Matrix Maple Development, LLC, a New York State limited liability company (the “Company”).

The Proposed Project consists of the following: (A) the acquisition of an interest in an approximately 26 acre portion of an approximately 59.70 acre parcel of land located at 59 Maple Avenue (currently being a portion of tax map no. 31-1-94.2) in the Town of Montgomery, Orange County, New York (the “Land”), (2) the construction on the Land of an up to 4.9 MWAC solar community solar project (the “Facility”) and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “Equipment”) (the Land, the Facility, and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to constitute a community solar system and other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

I intend to provide general information on the Agency’s general authority and public purpose to provide assistance to this Proposed Project. I will then open the comment period to receive comments from all present who wish to comment on either the Proposed Project or the Financial Assistance contemplated by the Agency with respect to the Proposed Project.

**Legal Authorization and Powers of the Agency**

The provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York as amended, and Chapter 527 of the 1971 Laws of the State of New York, as amended, codified as Section 911-c of said General Municipal Law (collectively, the “Act”), authorize the Agency to promote, develop, encourage and assist

in the acquiring, constructing, reconstructing, improving, maintaining and equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others.

### **Purpose of this Public Hearing**

Pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the “Act”), prior to the Agency providing any “financial assistance” (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project. Since the proposed “financial assistance” to be provided by the Agency with respect to the Proposed Project may exceed \$100,000, then prior to providing any “financial assistance” (as defined in the Act) of more than \$100,000 to the Proposed Project, the Agency must hold a public hearing on the nature and location of the Project Facility and the proposed “financial assistance” to be provided by the Agency with respect to the Proposed Project.

After consideration of the Application received from the Company, the members of the Agency adopted a resolution on November 12, 2019 (the “Public Hearing Resolution”) authorizing, the Chair of the Agency to conduct this Public Hearing with respect to the Proposed Project pursuant to Section 859-a(2) of the Act.

The Chairperson of the Agency caused notice of this Public Hearing to be (A) mailed on November 21, 2019 to the chief executive officers of Orange County, the Town of Montgomery and the Valley Central School District and (B) published on November 20, 2019 in the Times Community and the Wallkill Valley Times, newspapers of general circulation available to the residents of the Town of Montgomery, Orange County, New York. In addition, the Chairperson of the Agency caused notice of this Public Hearing to be posted on November 19, 2019 on a public bulletin board located at 110 Bracken Road, Montgomery, New York and posted on the Agency’s website on November 20, 2019.

Copies of the notice of this Public Hearing are available on the table.

Now, unless there is any objection, I am going to suggest waiving the full reading of the notice of this Public Hearing, and instead request that the full text of the notice of this Public Hearing be inserted into the record of this Public Hearing.

### Remarks by the Company

I will now introduce Michael Doud of the Company, who will describe the Proposed Project in further detail.

Mr. Doud said we are proposing a community solar system that is going to benefit the community. We are looking to generate clean renewable energy for the next 25 plus years and sell that energy at a discount to residents of the Town of Montgomery and beyond. The reason we’re here tonight is partly because solar energy is kind of maturing. The industry’s maturing, all the policies around Solar’s maturing, it’s really a new industry in New York State. Two-years ago you could point to 5 systems in the state, may be 15 systems of this size or magnitude and today there are over 100 or 200 projects that are going to be developed all over the state and because of that all the mechanisms there to support it, evaluate it, collect the taxes, all the jobs and employment that’s associated with it, all that stuff is in development and we’re here tonight, primarily because one aspect of the project, which is the taxes for solar systems, that hasn’t really been flushed out. There’s a policy called Real Property Tax Law 487 and that law has been in effect for a long time, but it hasn’t really been utilized for solar and valuing a solar system is quite the topic in the industry today. Within your jurisdiction there are 3 taxing authorities, there’s school, there’s a town and a county and none of those people are working together.

Mr. Doud continued - There isn't a unifying policy or methodology for valuing solar, and what we're asking for is not so much an exemption from taxes, we're asking for a fair valuation so we can afford to operate the system, make a little money and pay you the fair amount of taxes and we're asking the board to help us unify those three taxing authorities to do that. It isn't a matter of getting a free ride here, we just need a fair evaluation, we can pay a fair amount of taxes through a PILOT agreement and have some visibility over the next 15 or 20 years to do that and that is our request tonight.

### Open Public Hearing to the Floor for Comments

Chairman Crist - I will now open this Public Hearing for public comment at 6:18 o'clock, p.m.

By way of operating rules, if you wish to make a public comment, please raise your hand, and I will call on you. Please wait to be recognized, once recognized, please stand and state your name and address for the record.

When everyone has had the opportunity to speak, I will conclude this Public Hearing. A record of this Public Hearing will be prepared and reviewed by the members of the Agency in connection with the Agency's consideration of the Proposed Project.

Again, the purpose of this Public Hearing is to solicit public comment. We are not here to answer questions. However, we will in the course of this Public Hearing consider questions if we have the information to answer the questions and there is sufficient time to consider such questions.

I will now ask if there is anyone in attendance who wishes to comment on either on the nature and location of the Project Facility or the proposed "financial assistance" being contemplated by the Agency with respect to the Proposed Project.

For the record, please state your name and indicate your comments on either the Proposed Project or the proposed "financial assistance" being contemplated by the Agency with respect to the Proposed Project.

Barbara Lerner, audience asked a question on a procedural issue, in reading the notice, it says that the agency has not yet made a determination pursuant to Article 8 of the environmental conservation law known as SEQRA, how can without going through SEQR, how can you approve or not approve a question on the IDA incentive?

Chairman Crist said we can't, so we're not going to make a decision tonight on this application.

Attorney McLaughlin said by way of amplification on that question, SEQR requires the board to take a hard look before it considers a project. This is a public hearing, you are not making any decision within the confines of this hearing. You are simply advising, we want your input, we want your comments that's required by the statute. When the public hearing is closed, if you consider a project or the prior project, you would then have to make a SEQRA determination whether you are or not approving the project, but in the confines of this public hearing, there is no decision making, this is purely to get input.

Ms. Lerner asked will the public hearing be kept open until you have your SEQRA determination? Only because there may be other comments that comes subsequent to a SEQRA determination.

Attorney McLaughlin said there is no requirement of the IDA to keep the public hearing open after today. This board has chosen to keep all public hearings open for written comments until the approving Resolution or SEQRA Resolution has been considered. There is also no requirement that the board have any duration

between the close of the public hearing and consideration of the SEQRA determination and the Approving Resolution. In fact, on the schedule tonight, because it's already been considered once previously, is a SEQRA Resolution and an Approving Resolution for the hotel project. That is not the case for this particular project because this board determined that it would be in the best interest of the public to keep it open for a period of time, but in the case of the hotel, they have already gone through that process and these public comments. A lot of the comments on the prior project were already made as part of the hearing, but it's always good to hear especially for the new board members what the concerns of the public are and that's why a public hearing is required under the statute.

Donald Berger, audience said I was going to ask the exact same thing that Barbara asked. You read this bottom sentence down here on your sheet and you have to wonder why we are even considering this at this time and getting back to the public hearing, you said no requirement. Just guessing it's your determination as to whether you keep this open beyond today, if we're not I guess I would hope that you would keep it open because through this process, there's a lot of things that might develop. To be quite honest with you, the gentleman who just spoke, I came up with about 4 or 5 questions I would be dying to ask, but if this continues I would like to go through the SEQRA process and then I know the gentleman will be before the planning board where it might be more appropriate to ask the questions that I would like to ask. So, I would hope that you would keep this open.

Chairman Crist said Sue informed me that they are done with the planning board, SEQRA as well.

Attorney McLaughlin said I have handed out to the board a small description of Real Property Tax Law 487. Mr. Doud is correct in that the statute was originally written for wind projects in the state. Solar is not new, and with the Governor's direction, 70% of the state's energy production will be from renewable sources by 2030 and 100% by 2040. Solar has simply gained in lots of popularity, so I thought it would be helpful for the board to have this description since I think the town has never considered a wind project and I believe this may be the first solar project that the town has considered. Many other communities around the state are reviewing solar projects, they have grown exponentially in the last 24 months.

Chairman Crist said last call for public comment. Hearing from no one he said, I believe we have just met our 15-minutes to provide opportunity for public comment. Bob any suggestion on the keeping open of the public hearing? We will continue to allow for written comment.

Attorney McLaughlin said as I said this board has already established a policy that after a public hearing the comment period stays open for written questions and I believe over the last several meetings you've made that very clear and you continue and encourage that at every meeting to the extent that there has not been an approving Resolution considered, that you encourage the residents to submit written public comment on any project that has had a public hearing.

Chairman Crist said I might note on other projects, even after we have closed public hearing, we continue to receive written comment.

#### Formal closure of the public hearing

Chairman Crist - If there are no further comments, I will now close this Public Hearing at 6:33 o'clock, p.m. Thank you for attending.

The comments received today at this Public Hearing will be presented to the members of the Agency at or prior to the meeting at which the members of the Agency will consider whether to approve the undertaking of the Proposed Project by the Agency and the granting by the Agency of any "financial assistance" in excess of \$100,000 with respect to the Proposed Project.

## **Written Comments**

The notice of this Public Hearing indicated that written comments could be addressed to: Jeffrey D. Crist, Chairperson of the Agency. No written comments have been received by the Agency prior to this Public Hearing.

So, if there are no further comments, I will now close this Public Hearing at 6:32 o'clock, p.m.

Thank you for attending.