

**PROJECT INDUCEMENT RESOLUTION**  
*(Refractron Technologies Corp. Project – 2011 Facility)*

A special meeting of the Wayne County Industrial Development Agency was convened on June 3, 2011 at 1:00 P.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. 06/2011 - \_\_

RESOLUTION AUTHORIZING THE WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF REFRACTRON TECHNOLOGIES CORP. (THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT (AS MORE PARTICULARLY DESCRIBED HEREIN); (ii) APPOINTING THE COMPANY AS ITS AGENT TO UNDERTAKE THE PROJECT; (iii) AUTHORIZING THE NEGOTIATION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT AND RELATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT; (iv) PROVIDING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, RENOVATION, CONSTRUCTION AND EQUIPPING OF THE PROJECT; *PROVIDED HOWEVER*, THAT FINANCIAL ASSISTANCE PROVIDED BY THE AGENCY SHALL NOT EXCEED \$100,000 IN THE AGGREGATE UNTIL A PUBLIC HEARING IS HELD AND A SUBSEQUENT RESOLUTION IS ADOPTED; (v) ADOPTING A NEGATIVE DECLARATION RELATING TO THE PROJECT PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; AND (vi) AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 916 of the Laws of 1969 of the State of New York, (hereinafter collectively called the "Act"), the WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (hereinafter called the "Agency") was created with the authority and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, civic, research, and recreational facilities as authorized by the Act, and in connection therewith to issue its revenue bonds, and/or enter into straight lease transactions and provide other forms of financial assistance; and

WHEREAS, Refractron Technologies Corp., on its own behalf or that of an entity to be formed (collectively herein, the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in an approximately 6.26 acre parcel of real estate located at 5750 Stuart Avenue in the Village of Newark, Wayne County (the "Land", including TMID No. 68111-17-037208) and the existing facilities located thereon which, in the aggregate, consist of approximately 74,825 square-feet of manufacturing space being used by the Company for ceramic materials fabrication and manufacturing (the "Existing Improvements"); (ii) the construction on the Land of an approximately 9,375 square foot

addition to the Existing Improvements (the "Improvements"); (iii) the acquisition of and installation in and around the Existing Improvements and the Improvements by the Company of machinery, equipment, furniture, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land, Existing Improvements, and the Improvements, the "Facility"); and (iv) through a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will acquire a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"); and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring, constructing and equipping the Project pursuant to an agent agreement (the "Agent Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company in connection with the Project; (iii) take title to or retain its interest in the Land, the Existing Improvements, the Improvements, the Equipment and personal property constituting the Project (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance (the "Financial Assistance") to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project; (b) a mortgage recording tax exemption relating to financing(s) for the Facility; and (c) a partial real property tax abatement through the PILOT Agreement; and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance, such Financial Assistance as authorized herein to not exceed \$100,000 until the Public Hearing is held and a subsequent authorizing resolution is adopted by the Agency; and

WHEREAS, the Company has submitted to the Agency a Short Environmental Assessment Form (the "EAF") in compliance with Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQR") with respect to the Project, a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, the agency desires to approve the undertaking of the Project, appoint the Company agent of the Agency to undertake same.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Company has presented the Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application and other Project information submitted by the Company and reviewed by the members at this meeting, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) It is desirable and in the public interest for the Agency to (i) acquire an interest in the Land, the Existing Improvements, the Improvements and the Equipment constituting the Facility, (ii) lease the Agency's interest in the Facility to the Company through the Straight Lease Transaction; and

(D) The Agency has the authority to take the actions contemplated herein under the Act; and

(E) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Wayne County and otherwise furthering the purposes of the Agency as set forth in the Act; and

(F) The Project will not result in the removal of a facility or plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other facility or plant to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(G) The Project involves an "unlisted action" (as such quoted term is defined under SEQR). The review is "uncoordinated" (as such quoted term is defined under SEQR). Based upon the review by the Agency of the EAF and related documents delivered by the Company to the Agency and other representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that (i) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a "significant effect on the environment" (as such quoted term is defined under SEQR); and (iii) no "environmental impact statement" (as such quoted term is defined under SEQR) need be prepared for this action. This determination constitutes a "negative declaration" (as such quoted terms are defined under SEQR) for purposes of SEQR. The Agency's findings are incorporated in Part II of the EAF.

Section 2. This resolution shall authorize the Agency to hold a public hearing as required by Article 18-A of the New York State General Municipal Law.

Section 3. Subject to the Company executing the Agent Agreement attached hereto as **Exhibit B** and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, renovate, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general,

to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Agent Agreement shall expire on December 31, 2011 (unless extended for good cause by the Executive Director of the Agency). The Agency hereby authorizes the Chairman, Vice Chairman, the Executive Director and/or the Deputy Executive Director of the Agency, on behalf of the Agency, to execute and deliver the Agent Agreement and related sales and use tax exemption materials. The Financial Assistance to be provided to the Company by the Agency shall not exceed \$100,000 until the Public Hearing is held and a subsequent authorizing resolution is adopted by the Agency.

Section 4. The Chairman, Vice Chairman, the Executive Director and/or the Deputy Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate, but not execute: (A) the Lease Agreement whereby the Company leases the Project to the Agency, (B) the related Leaseback Agreement conveying the Project back to the Company, (C) the PILOT Agreement, and (D) related documents associated with the Straight Lease Transaction (and collectively, the "Straight Lease Documents"); provided (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with. The final form of the proposed Straight Lease Documents shall be subject to approval by the Agency in a subsequent resolution to be held following the Public Hearing (the "Project Authorizing Resolution").

Section 5. The Chairman, Vice Chairman the Executive Director and/or the Deputy Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate, but not execute or deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents by any lender identified by the Company (the "Lender") to undertake the Project and/or finance equipment and other personal property and related transactional costs (hereinafter, with the Straight Lease Documents and Termination Documents, collectively the "Agency Documents"), provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. These Resolutions shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
David Spickerman, Sr.	XX			
James Hoffman	XX			
Willard Milliman	XX			
Marvin E. Decker	XX			
Robert Havrilla			XX	

STATE OF NEW YORK     )  
COUNTY OF WAYNE     ) ss:

I, the undersigned Assistant Secretary of the Wayne County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing extract of the minutes of the meeting of the Wayne County Industrial Development Agency (the "Agency") including the resolution contained therein, held on the 3<sup>rd</sup> day of June, 2011, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this 3<sup>rd</sup> day of June, 2011.

  
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Assistant Secretary

[SEAL]