

**WCIDA Minutes – 9/25/14 – Attachment Two**  
**PROJECT AUTHORIZING RESOLUTION**  
(Advanced Atomization Technologies LLC Project)

A special meeting of Wayne County Industrial Development Agency was convened on Thursday, September 25, 2014 at 9:30 a.m.

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

Resolution No. 9/2014 - \_\_

RESOLUTION OF THE WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) APPOINTING ADVANCED ATOMIZATION TECHNOLOGIES LLC AS AGENT TO UNDERTAKE THE PROJECT (AS MORE FULLY DESCRIBED BELOW); (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING THE PROVISION OF CERTAIN FINANCIAL ASSISTANCE TO THE COMPANY AND OPERATOR (AS FURTHER DEFINED HEREIN); (iv) ADOPTING FINDINGS WITH RESPECT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQRA”); AND (v) AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

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, (the “Act”), the **WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (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, **ADVANCED ATOMIZATION TECHNOLOGIES LLC** (collectively, the “Company”), have submitted an application to the Agency requesting the Agency’s assistance with a certain project (the “Project”) consisting of (i) the acquisition by the Agency of a leasehold interest in three parcels of real property comprised of approximately 8 acres located at or in the vicinity of 124 Columbia Street in the Village of Clyde, New York (the “Land”, being more particularly described as tax parcels 74112-13-193379, 74112-13-153405 and 74112-13-141386), along with the existing improvements thereon including an approximately 59,000 square foot manufacturing and office, pole barn and three sheds (the “Existing Improvements”); (ii) the planning, design, and construction of modifications to the Existing Improvements and construction of an approximately 25,000 square foot addition to accommodate office space, along with external parking, curbage, landscaping and general site improvements for continued operation by the Company as an aircraft engine and fuel nozzle manufacturing facility (the

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

WHEREAS, on August 22, 2014, the Agency adopted an initial resolution (the “Initial Project Resolution”) which (i) accepted the Company’s application, (ii) authorized the scheduling and conduct of a public hearing in compliance with the Act, (iii) described the contemplated forms of financial assistance to be provided by the Agency (the “Financial Assistance”, as described herein); and (iv) authorized the negotiation of an agent agreement (the “Agent Agreement”), lease agreement (the “Lease Agreement”), leaseback agreement (the “Leaseback Agreement”) and payment-in-lieu-of-tax agreement (the “PILOT Agreement”) to be entered into with respect to the Project; and

WHEREAS, in accordance with the Initial Project Resolution, the Agency published and forwarded a Notice of Public Hearing to the Village of Clyde (the “Village”), the Town of Galen (the “Town”), the County of Wayne (the “County”), and the Clyde-Savannah Central School District (the “School”, and together with the Village, Town and County, the “Affected Tax Jurisdictions) at least thirty (30) days prior to said Public Hearing are attached hereto as **Exhibit A**; and

WHEREAS, as a component of the Notice of Public Hearing delivered to the Affected Tax Jurisdictions, the Agency delivered a notice of proposed deviation (the “Deviation”) from the Agency’s Uniform Tax Exemption Policy (“UTEP”) regarding the proposed PILOT Agreement being considered by the Agency, such Notice having been transmitted at least 30 days prior to the date hereof; and

WHEREAS, the Agency has identified the Project as an “Unlisted Action” as defined pursuant to the State Environmental Quality Review Act, as codified under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, “SEQRA”) and has received an Environmental Assessment Form (“EAF”) and related materials prepared by the Company, copies of which are attached hereto as **Exhibit B**; and

WHEREAS, pursuant to Section 859-a of the Act, the Agency held a public hearing on Wednesday, September 24, 2014, at 9:30 a.m. local time, at the Village of Clyde Municipal Building, 6 South Park Street, Clyde, New York 14433 with respect to the Project (the “Public Hearing”) and the proposed Financial Assistance (as further defined herein) being contemplated by the Agency whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views, a copy of the minutes of the Public Hearing; and

WHEREAS, in furtherance of the foregoing, the Agency desires to authorize (i) the appointment of the Company as agent of the Agency to undertake the Project; (ii) the execution

and delivery of the Agent Agreement, Lease Agreement, the Leaseback Agreement, the PILOT Agreement, and related documents; and (iii) the provision of the Financial Assistance to the Company, which shall include (a) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included in or incorporated into the Facility or used in the construction and equipping of the Facility, (b) mortgage recording tax exemptions in connection with financings undertaken by the Company for the Project, and (c) a partial real property tax abatement through the execution of an agreement with the Agency regarding payments in lieu of real property taxes to be made for the benefit of the Affected Tax Jurisdictions.

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

Section 1. Based upon the representations made by the Company to the Agency in the Application, 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 (i) acquire title to or other interest in the Land, the Existing Improvements, Improvements and the Equipment constituting the Facility, (ii) lease or sell the Agency's interest in the Land, Existing Improvements, Improvements and Equipment constituting the Facility to the Company pursuant to a lease agreement or sale agreement to be negotiated, and (iii) enter into a Straight Lease Transaction with the Company; and

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

(D) The action to be taken by the Agency will induce the Company to undertake the Project, thereby increasing employment opportunities in the Village of Clyde, which is located within Wayne County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) 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

(F) Based upon a review of the Application, the EAF and related materials provided by the Company to the Agency, the Agency hereby:

(i) identified the Project as an “Unlisted Action” for which the Agency will serve as “lead agency” in connection with an uncoordinated review of the Project for purposes of complying with SEQRA; and

(ii) 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 SEQRA); and (iii) no “environmental impact statement” (as such quoted term is defined under SEQRA) need be prepared for this action. This determination constitutes a “negative declaration” (as such quoted terms are defined under SEQRA) for purposes of SEQRA.

(H) Upon consideration of the Deviation, as outlined within the Public Hearing Notice and Deviation letter issued to the Affected Tax Jurisdictions, and upon consideration of the Project and comments received from the Affected Tax Jurisdictions, the Agency hereby authorizes the undertaking of the Deviation based upon the following factors: (i) the significant economic impact of the capital investment and job creation by the Company in connection with the Project; (ii) the economic condition of the Facility and surrounding area at the time of the Company’s application; (iii) the economic multiplying effect that the Project will have on the County, including the creation of permanent, private sector jobs, (iv) the Company’s significant proposed investment in the Facility; and (v) the Company’s retention and expansion of job opportunities within the Village and County.

Section 2. Subject to (i) the Company executing the Agent Agreement and/or Leaseback Agreement, and (ii) 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, renovation, construction, reconstruction, rehabilitation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, 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, 2015 (*unless extended for good cause by the Executive Director of the Agency*).

Section 3. Based upon the representation and warranties made by the Company the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to

New York State and local sales and use tax in an amount up to approximately \$5,000,000.00, which result in New York State and local sales and use tax exemption benefits (“sales and use tax exemption benefits”) not to exceed \$400,000.00. The Agency agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services, and, to the extent required, the Agency authorizes and conducts any supplemental public hearing(s).

Section 4. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for financial assistance; (v) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project; and/or (vi) the Company obtains mortgage recording tax benefits and/or real property tax abatements and fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project (collectively, items (i) through (vi) hereby defined as a “Recapture Event”).

As a condition precedent of receiving sales and use tax exemption benefits and real property tax abatement benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, mortgage recording tax benefits and/or real property tax abatements abatement benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by the Agency.

Section 5. The Chairman, Vice Chairman and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agent Agreement, Lease Agreement, Leaseback Agreement, PILOT Agreement and related documents with such changes as shall be approved by the Chairman, Vice Chairman, the Executive Director and counsel to the Agency upon execution.

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 upon adoption.

The question of the adoption of the foregoing resolutions was duly put to 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			
Robert Havrilla	XX			
Pamela Heald	XX			

The resolutions were thereupon duly adopted.

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 September 25, 2014, 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 25<sup>th</sup> day of September, 2014.

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Assistant Secretary

[SEAL]