

CRYOMECH, INC.

**APPROVING RESOLUTION
(3101-19-02A)**

At a special meeting of the Onondaga County Industrial Development Agency (the "Agency") convened in public session on June 19, 2019, at 9:00 a.m. at 333 W. Washington Street, Syracuse, New York, the following members were:

PRESENT: Janice Herzog
Susan Stanczyk
Fanny Villarreal
Victor Ianno

DELAYED: Kevin Ryan

ABSENT: Patrick Hogan
Steve Morgan

ALSO PRESENT: Robert M. Petrovich, Executive Director
Anthony P. Rivizzigno, Esq., Agency Counsel

The following resolution was offered by Victor Ianno, seconded by Fanny Villarreal, to wit:

RESOLUTION APPROVING THE ACQUISITION, RECONSTRUCTION AND EQUIPPING OF A CERTAIN FACILITY FOR CRYOMECH, INC. AND APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION.

WHEREAS, Onondaga County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975, as amended, constituting Section 895 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York (the "State"), to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, pursuant to an application (the “Application”) submitted to the Agency by Cryomech, Inc. on behalf of itself and any company formed or to be formed on its behalf (the “Operating Company”), the Operating Company has requested that the Agency undertake a project (as hereinafter described); and

WHEREAS, the Operating Company has notified the Agency that it would undertake the Project with its affiliate Quantum Cool, LLC (the “Real Estate Holding Company” and, collectively with the Operating Company, the “Companies”), as real property owner; and

WHEREAS, the Project (the “Project”) shall consist of the following: (A)(1) acquisition of an interest in an approximately 14-acre portion of land located at 6682 Moore Road (tax map no. 022.-05-03.1) in the Town of Dewitt, Onondaga County, New York (the “Land”); (2) the construction on the Land of an approximately 76,000 square foot building (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 being collectively referred to as the “Project Facility”), such Project Facility to be used by the Operating Company as a manufacturing plant for high-performance cryogenic equipment and related office space; (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 (subject to certain statutory limitations) (the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Real Estate Company or such other person as may be designated by the Real Estate Company and agreed upon by the Agency; and

WHEREAS, the Agency previously has adopted a Uniform Tax Exemption Policy (the “UTEP”); and

WHEREAS, the Companies have requested that the Agency enter into a payment in lieu of tax agreement (the “Proposed PILOT Agreement”) with respect to the Project Facility contains terms that deviate from the UTEP; and

WHEREAS, the members of the Agency adopted a resolution on May 14, 2019 (the “Public Hearing Resolution”) authorizing a public hearing with respect to the Project in compliance with the provisions of Section 859-a of the Act and the deviation process in compliance with the provisions of Section 874-b of the Act and the UTEP; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on

May 15, 2019 to the chief executive officers of the county and of each city, town, village and school district (collectively the “Affected Tax Jurisdictions”) in which the Project Facility is located, (B) caused notice of the Public Hearing to be published on May 16, 2019 in The Post-Standard, a newspaper of general circulation available to the residents of the Town of Dewitt, Onondaga County, New York, (C) conducted the Public Hearing on May 28, 2019 at 3:00 p.m., local time at the Town Hall, Town of Dewitt, located at 5400 Butternut Drive, East Syracuse, New York, and (D) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution and in compliance with the provisions of Section 874(4)(b) of the Act, the Agency caused a letter (the “PILOT Deviation Letter”) to be mailed on May 29, 2019 to the chief executive officers of each Affected Tax Jurisdiction, informing said individuals that the Agency would, at its upcoming meeting, consider a proposed deviation from the UTEP with respect to the payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility based upon the schedule of payments in lieu of taxes set forth in Exhibit A; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the Affected Tax Jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, the Agency allowed representatives from the Affected Tax Jurisdictions present at this meeting to address the Agency regarding such proposed deviation; and

WHEREAS, the Agency caused to be mailed a letter on May 29, 2019 to the County of Onondaga (the “County”) and the Town of Dewitt (the “Town”) notifying the County and the Town that the Operating Company currently leases a facility located on Falso Drive, Dewitt, New York (the “Current Facility”) and that the Real Estate Company and the Operating Company have informed the Agency that they will “abandon” the Current Facility upon completion of the Project; and

WHEREAS, the Town Planning Board previously classified the Project a Type I action under SEQRA, declared itself lead agency for the purpose of conducting a coordinated environmental review, determined that the Project would not result in any significant adverse impacts, and issued a negative declaration at its meeting on June 13, 2019, which negative declaration is binding on the Agency; and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Operating Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Companies to undertake the Project in Onondaga County, New York and (B) although completion of the Project will result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State to another area in the State and will result in the abandonment of one or more plants or facilities of an occupant of the Project Facility located in the State, such Project is reasonably necessary to discourage the Operating Company from removing such other plant or facility to a

location outside the State of New York or is reasonably necessary to preserve the competitive position of the Companies in their respective industry; and

WHEREAS, the Agency desires to encourage the Companies to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Onondaga County, New York by undertaking the Project in Onondaga County, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the "Agency Documents"): (A) a certain underlying lease agreement (and a memorandum thereof) (the "Underlying Lease") by and between the Real Estate Company and the Agency pursuant to which the Company will lease to the Agency the Land and all improvements now or hereafter located on the Land; (B) a certain lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Real Estate Company and the Agency and agreed to and accepted by the Operating Company pursuant to which the Real Estate Company will agree to undertake the Project as agent of the Agency and the Real Estate Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (C) a payment in lieu of tax agreement (the "PILOT Agreement") by and among the Agency and the Companies, pursuant to which the Companies will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (D) a project agreement (the "Project Agreement") by and among the Agency and the Companies that complies with the requirements of Section 859-a(6) of the Act; (E) a New York State Department of Taxation and Finance form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report"); (F) if the Companies intend to finance the Project with borrowed money, a mortgage and any other security documents and related documents (collectively, the "Mortgage") from the Agency and one or more of the Companies to the Companies' lender with respect to the Project (the "Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to one or more of the Companies with respect to the Project (the "Loan"); and (G) various certificates relating to the Project (the "Closing Documents"); and

WHEREAS, the Agency will file with the assessor and mail to the chief executive officers of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form RP-412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (a "Real Property Tax Exemption Form") relating to the Project; and

WHEREAS, simultaneously with the execution and delivery of the Agency Documents, the Agency will file with the State Department of Taxation and Finance the Thirty-Day Sales Tax Report and provide a copy of the Thirty-Day Sales Tax Report to the Operating Company; and

WHEREAS, for purposes of exemption from the State sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight;

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

Section 1. The Agency, based upon the representations made by the Companies to the Agency in the Application, 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;

(B) The Project constitutes a "project," as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of Onondaga County, New York;

(D) It is estimated at the present time that the costs of the planning, development, renovation, construction and installation of the Project Facility (collectively, the "Project Costs") will be approximately \$16,980,680.00;

(E) The completion of the Facility will result in the removal of a plant or facility of the Companies from one area of the State to another area of the State and the abandonment of a facility of the Companies located in the State but the Project is reasonably necessary to discourage the Companies from removing such other plant or facility to a location outside the State of New York and reasonably necessary to preserve the competitive position of the Companies in its respective industry; and

(F) (1) The Project Facility does not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, and accordingly the Project is not prohibited by the provisions of Section 862(2)(a) of the Act, and (2) accordingly the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act;

(G) The acquisition, construction and equipping of the Project Facility and the leasing of the Project Facility to the Real Estate Company is reasonably necessary to induce the Companies to maintain and expand business operations in the State;

(H) Based upon representations of the Companies and counsel to the Companies, the Project Facility conforms with the local zoning laws and planning regulations of Onondaga County and all regional and local land use plans for the area in which the Project Facility is located;

(I) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Onondaga County, New York and the State and improve their standard of living, and thereby serve the public purposes of the Act;

(J) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein;

(K) The Project should receive the Financial Assistance in the form of exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (subject to statutory limitations) based on the description of expected public benefits to occur as a result of this Project, as described in the Application, and failure by the Companies to meet the expected public benefits will result in a recapture event, as described in the Lease Agreement and Project Agreement;

(L) It is desirable and in the public interest for the Agency to enter into the Agency Documents;

(M) The Agency, based upon its review of the following factors, finds and determines that it is desirable and in the public interest of the Agency to deviate from its UTEP and to approve the execution and delivery of the PILOT Agreement with the terms specified in Exhibit A:

- I. When fully operational, the Project will retain 121 full time equivalent jobs and create 32 full time equivalent jobs within the first 5 years.
- II. As a prerequisite to the Agency undertaking the Project, the Companies will enter into an agreement that any financial assistance received from the Agency will be subject to recapture in the event the Project does not fulfill the purposes for which the tax exemptions were granted.
- III. The Project will allow a local manufacturer to consolidate operations from three separate buildings to one combined plant facilitating increased production and efficiencies which will enable the Operating Company to fulfill growing customer demand. The increased production abilities will allow the Operating Company to continue to grow revenue and employment which will have a lasting beneficial impact on the economy of the Affected Tax Jurisdictions.
- IV. The Companies estimates that they will expend approximately \$16,980,680.00 on the construction of the Project Facility.
- V. All information received to date shows great public support for the Project Facility.
- VI. It is estimated that the Project will generate \$690,409.00 in PILOT payments during the term of the Proposed PILOT Agreement. The real property taxes on the Land without the Proposed PILOT Agreement over the

same term using current tax rates would produce approximately \$36,826.00 in real property tax revenues. The real property taxes on the Project Facility without the Proposed PILOT Agreement over the same term using current tax rates would produce approximately \$1,438,383.00 in real property tax revenues.

VII. The distribution of PILOT payments to the Affected Tax Jurisdictions under the Proposed PILOT Agreement will comply with the provisions of the General Municipal Law.

Section 2. The amount of State and local sales and use tax exemption benefits and mortgage recording tax exemption benefits comprising the Financial Assistance approved herein shall not exceed \$550,000.00 and \$84,000.00 respectively.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire a leasehold interest in the Land and all improvements now or hereafter located on the Land from the Real Estate Company pursuant to the Underlying Lease and acquire the Equipment pursuant a bill of sale from each of the Companies; (C) lease the Project Facility to the Real Estate Company pursuant to the Lease Agreement; (D) acquire, construct and equip the Project Facility, or cause the Project Facility to be acquired, constructed and equipped, as provided in the Lease Agreement; (E) secure any loan the proceeds of which will be used to acquire, construct and equip the Project Facility by granting a mortgage lien on the Agency's interest in the Project Facility and entering into one or more mortgages and/or assignments of leases and rents in favor of the lender(s); and (F) grant to the Companies Financial Assistance with respect to the Project.

Section 4. The Agency is hereby authorized to acquire, construct and equip the Project Facility as described in the Agency Documents, to appoint the Companies as agent of the Agency to undertake such acquisition, construction and equipping of the Project Facility as described in the Agency Documents, and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and equipping are hereby ratified, confirmed and approved.

Section 5. The Chairman (or Vice Chairman) and the Executive Director of the Agency, with the assistance of Agency Counsel, are authorized to negotiate and approve the form and substance of the Agency Documents.

Section 6. (A) The Chairman (or Vice Chairman) and the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman) and the Executive Director shall approve, the execution thereof by the Chairman (or Vice Chairman) and the Executive Director to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) and the Executive Director of the Agency are hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 7. The Agency shall maintain records of the amount of State and local sales and use tax exemption benefits provided to the Project and each agent or Project operator and shall make such records available to the State Commissioner of Taxation and Finance (the "Commissioner") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Companies' receipt of, or benefit from, any State or local sales and use tax exemptions, the Companies must acknowledge and agree to make, or cause their agents and/or operators to make, all records and information regarding State and local sales and use tax exemption benefits available to the Agency upon request. The provisions of Section 875 of the Act are hereby incorporated herein as if set forth herein and the Agency agrees that it shall comply with the requirements of such Section 875 of the Act.

Section 8. The Agency hereby delegates to the Companies, as agents of the Agency, the authority to designate (following the execution and delivery of the Agency Documents), agents and sub-agents of the Agency (each, a "Sub-Agent") for purposes of utilizing the Agency sales and use tax exemption with respect to the acquisition, construction and equipping of the Project Facility; provided that any such sub-agency designation shall become effective only upon submission to the Agency within fifteen (15) days of such agency and sub-agency designation: (1) an executed sub-agent appointment agreement (in a form approved by the Agency) and (2) a completed Form ST-60 of the New York State Department of Taxation and Finance (IDA Appointment of Project Sublessee or Agent for Sales Tax Purposes). Such agents and sub-agents may include contractors and subcontractors involved in the acquisition, construction and installation of the Project Facility.

Section 9. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Companies and/or any Sub-Agent shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State and local sales and use tax exemptions benefits.

Section 10. 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 or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional 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 Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 11. This Resolution shall take effect immediately upon adoption.

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

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Patrick Hogan			X
Janice Herzog	X		
Victor Ianno	X		
Steve Morgan			X
Susan Stanczyk	X		
Kevin Ryan			X
Fanny Villarreal	X		

The Resolution was thereupon declared duly adopted.

EXHIBIT A
PILOT Schedule

PILOT YEAR	Exemption %	County PILOT Amount	Town Name	School District Name	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	100%	\$ 492	\$ 458	\$ 2,413	\$ 3,363.15	\$ 131,363	\$ 127,999
2	90%	\$ 2,410	\$ 2,245	\$ 11,831	\$ 16,486.36	\$ 133,990	\$ 117,503
3	80%	\$ 4,406	\$ 4,103	\$ 21,624	\$ 30,133.14	\$ 136,670	\$ 106,536
4	70%	\$ 6,480	\$ 6,035	\$ 31,805	\$ 44,319.21	\$ 139,403	\$ 95,084
5	60%	\$ 8,635	\$ 8,042	\$ 42,364	\$ 59,060.66	\$ 142,191	\$ 83,130
6	50%	\$ 10,874	\$ 10,127	\$ 53,373	\$ 74,374.04	\$ 145,035	\$ 70,661
7	40%	\$ 13,199	\$ 12,292	\$ 64,785	\$ 90,276.34	\$ 147,936	\$ 57,659
8	30%	\$ 15,613	\$ 14,540	\$ 76,632	\$ 106,784.97	\$ 150,894	\$ 44,109
9	20%	\$ 18,118	\$ 16,873	\$ 88,927	\$ 123,917.84	\$ 153,912	\$ 29,994
10	10%	\$ 20,717	\$ 19,293	\$ 101,683	\$ 141,693.31	\$ 156,990	\$ 15,297
TOTAL		\$ 100,944	\$ 94,009	\$ 495,457	\$ 690,409	\$ 1,438,383	\$ 747,974

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


I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on June 19, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Agency and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter therein referred to.

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

IN WITNESS WHEREOF, I have hereunto set my hand this __ day of June, 2019.

(SEAL)



GENEVIEVE A. SUITS, Secretary