

OCT 04 2011 CAS/LD

RESOLUTION NO. 2d1-B-06

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA APPROVING FOR THE PURPOSES OF SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE ISSUANCE OF NOT TO EXCEED \$17,000,000 OF INDUSTRIAL DEVELOPMENT REVENUE BONDS BY THE FLORIDA DEVELOPMENT FINANCE CORPORATION TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MANUFACTURING FACILITY AND RELATED COSTS, ON BEHALF OF ATLANTIC PRO NUTRIENTS, INC. D/B/A XYMOGEN, WITHIN ORANGE COUNTY; AND PROVIDING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS (THE "BOARD") OF ORANGE COUNTY, FLORIDA:**

**Section 1. Findings and Recitals.** It is hereby found, ascertained, determined and declared:

A. Florida Development Finance Corporation (the "Issuer") was created by the Florida Development Finance Corporation Act, Chapter 288, Part IX, Florida Statutes (the "Act"), which provides, in part that the Issuer may issue revenue bonds to finance projects in Orange County, Florida (the "County"), for the benefit of approved Florida businesses to enhance the economic development of the State of Florida, provided that the Issuer has entered into an interlocal agreement with the local governmental agency in which the project will be located; and

B. The Issuer and the County have previously entered into an interlocal agreement, pursuant to the Act and the Florida Interlocal Cooperation Act of 1969, as amended (to the extent that the exercise of such powers is consistent with the purposes of the Act), which agreement remains in full force and effect, to permit the Issuer to issue revenue bonds to finance projects located within the jurisdictional limits of the County; and

C. The Issuer intends to issue revenue bonds in an amount not to exceed \$17,000,000 in one or more series of tax-exempt and taxable bonds (the "Bonds"). The proceeds of the Bonds will be loaned by the Issuer to Atlantic Pro Nutrients, Inc. d/b/a Xymogen or an affiliate, subsidiary, or related entity thereof (collectively the "Company"). The Company will use the proceeds of the Bonds for the purpose of financing the acquisition, construction and equipping of an approximately 135,000 sq. ft. building to be located along the east side of Kingspointe Parkway, approximately 3,400 feet north of West Sand Lake Road, in the Crowne Point Commerce Park, City of Orlando, County of Orange, Florida, for the purposes of manufacturing, processing, and distributing health and nutritional products (the "Project"); and

D. The Internal Revenue Code of 1986, as amended (the "Code"), requires that the Board as the highest elected body of the County, approve the issuance of the Bonds by the Issuer after a public hearing has been conducted by the Issuer; and

E. Notice of a public hearing, as evidenced by the attached Exhibit A, was given in the form and manner required by law, as published in the *Orlando Sentinel* on August 12, 2011, affording interested individuals a reasonable opportunity to express their views both orally and in writing, on all matters pertaining to the proposed Project and the proposed issue of the Bonds; and

F. An extract of the minutes of the public hearing held by the Issuer, containing all comments and concerns, expressed orally and in writing, are attached hereto as Exhibit B; and

G. The Issuer has requested that the County approve the issuance of the Bonds so that the Bonds may be issued in compliance with the provisions of the Code; and

H. It is desirable and in the best interest of the County that the Project be located within the County and that the proposed Bonds for the financing of the Project be approved by the Board.

**Section 2. Approval of Bonds.** Solely for the purposes of Section 147(f) of the Code, the Board hereby approves the issuance of the proposed Bonds by the Issuer and the use of the proceeds to finance the proposed Project to be located within the County.

**Section 3. Limitation.** The Bonds approved hereunder and the interest thereon shall not constitute an indebtedness or pledge of the general credit or taxing power of the County, the State of Florida or any political subdivision or agency thereof but shall be payable solely from the revenue pledged therefor pursuant to a loan agreement and/or other financing agreement entered into by the Issuer prior to or contemporaneously with the issuance of the Bonds. The approval given herein is solely for the purposes of Section 147(f) of the Code and shall not be construed as an approval of any zoning application or any regulatory permit required in connection with such Project nor creating any vested rights with respect to any land use regulations, and this Board shall not be construed by virtue of its adoption of this Resolution to have waived, or be estopped from asserting, any authority or responsibilities it may have in that regard. Additionally, the approval granted herein shall not be construed as approval by the County of the financial feasibility of the Project or of any financial matters with respect to either the Project, the Company or the Bonds. The approval granted herein is subject to the condition that any offering or sale of the proposed Bonds be accompanied by such offering documents as are necessary, in the opinion of counsel to the Issuer, to comply with the provisions of Rule 10b-5 of the Securities and Exchange Commission, and that such offering documents contain therein a recital that such offering documents and the terms of and security for the proposed Bonds have not been reviewed by and not been approved by the County and that the County makes no representations as to the Bonds or the security therefore.

**Section 4. Repealing Clause.** All restrictions or resolutions or portions thereof in conflict herewith are, to the extent of such conflict, hereby superseded and repealed.

**Section 5. Effective Date.** This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this \_\_\_\_\_ day of OCT 04 2011, 2011.

**BOARD OF COUNTY COMMISSIONERS OF  
ORANGE COUNTY, FLORIDA**

(SEAL)

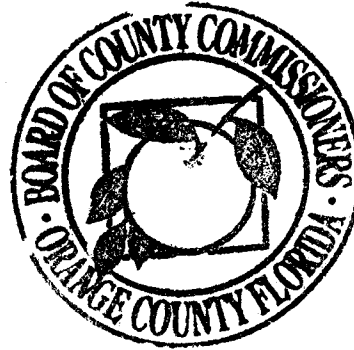
By: *Teresa Jacobs*

*TJ*  
Teresa Jacobs,  
Orange County Mayor

ATTEST:  
Martha O. Haynie, County  
Comptroller, As Clerk to the  
Board of County Commissioners

By: *Martha O. Haynie*  
Martha O. Haynie, Clerk

*CORD-C-01  
2011004*



**EXHIBIT A**

**COPY OF NOTICE OF PUBLIC HEARING**

[Attached]

# Orlando Sentinel

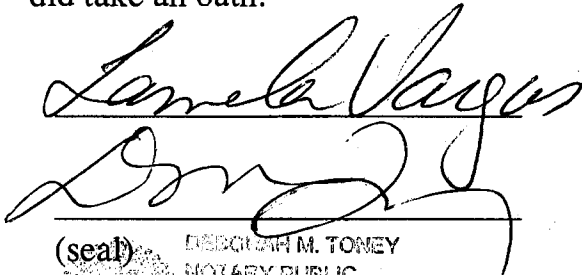
Broad And Cassel  
390 N ORANGE AVE  
SUITE 1100  
ORLANDO, FL 32801-1640

Before the undersigned authority personally appeared Jennifer Irwin/Tamela Vargas/Deborah M. Toney, who on oath says that s/he is the Legal Advertising Representative of Orlando Sentinel, a daily newspaper published in Orange County, Florida; that the attached copy of advertisement, being a Public Hearing in the matter of August 26, 2011 in the Orange County \_\_, was published in said newspaper in the issue(s); of

08/12/11

Affiant further says that the said Orlando Sentinel is a newspaper published in said Orange County, Florida, and that the said newspaper has heretofore been continuously published in said Orange County, Florida, each week day and has been entered as second-class mail matter at the post office in said Orange County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that s/he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

The foregoing instrument was acknowledged before me this 12 day of August, 2011, Jennifer Irwin/Tamela Vargas/Deborah M. Toney, who is personally known to me and who did take an oath.



(seal) DEBORAH M. TONEY  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# DC033521  
Expires 11/13/2013

1146724

## FLORIDA DEVELOPMENT FINANCE CORPORATION NOTICE OF MEETING AND PUBLIC HEARING

To Whom It May Concern:

For the purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, notice is hereby given that the Florida Development Finance Corporation (the "Corporation") will hold a public meeting and hearing with respect to the proposed issuance and sale of (i) not to exceed \$9,000,000 in aggregate principal amount of the Corporation's Tax-Exempt Industrial Development Revenue Bonds and (ii) not to exceed \$4,000,000 in aggregate principal amount of taxable Industrial Development Revenue Bonds (collectively, in one or more series, the "Bonds") by the Corporation, at a meeting to be held on August 26, 2011, beginning at 2:00 P.M. at the offices of the Florida Development Finance Corporation, 800 North Magnolia Avenue, Suite 1100, Orlando, Florida.

The proceeds of the Bonds will be used for the purpose of financing the acquisition, construction and equipping of an approximately 135,000 sq. ft. building to be used for the purposes of manufacturing, processing, and distributing health and nutritional products (the "Project"). The Project is to be located along the east side of Kingspointe Parkway, approximately 3,400 feet north of West Sand Lake Road, in the Crown Point Commerce Park, City of Orange County of Orange, Florida, as depicted on the map below:



The Project will be owned by Atlantic Pro Nutrients, Inc. d/b/a Xymogen, and/or an affiliate or related entity thereof (collectively, the "Borrowers"). The Project will be operated by Atlantic Pro Nutrients, Inc. d/b/a Xymogen.

The Bonds are being issued under the authority of the Florida Development Financing Corporation Act of 1993, as amended (the "Act"), and are being loaned to the Borrowers to finance and refinance the costs of the Project pursuant to the Act. The Bonds shall be payable solely from the revenues derived from a loan and other financing documents to be executed between the Corporation and the Borrowers prior to or contemporaneously with the issuance of the Bonds. Such Bonds and the interest thereon shall not constitute an indebtedness or pledge of the general credit or taxing power of the State of Florida or any political subdivision or agency thereof.

Issuance of the Bonds is subject to several conditions including satisfactory documentation and receipt of necessary approvals for the financing. The aforementioned meeting shall be a public meeting and all persons who may be interested will be given an opportunity to be heard concerning the same. Written comments may also be submitted prior to the hearing to Florida Development Finance Corporation at 800 North Magnolia Avenue, Suite 1100, Orlando, Florida 32803, directed to the Executive Director. Comments made at the hearing are for the consideration of the Corporation, the Board of County Commissioners of Orange County, and the Governor of the State of Florida and will not bind the Corporation, the Board of County Commissioners of Orange County, or the Governor of the State of Florida as to any action.

ALL PERSONS FOR OR AGAINST SAID APPROVAL CAN BE HEARD AT SAID TIME AND PLACE IF A PERSON DECIDES TO APPEAR. ANY DECISION MADE BY FDIC WITH RESPECT TO SUCH HEARING OR MEETING (S) HE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THAT HEARING OR MEETING IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

In accordance with the American with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Corporation no later than seven (7) days prior to the proceeding at the address given in this notice or telephone: (407) 956-5696.

Dated: August 9, 2011  
Florida Development Finance Corporation  
By: Jay Robinson, Executive Director

COR1146724

**EXHIBIT B**

**EXTRACT OF MINUTES OF PUBLIC HEARING**  
**[Attached]**

**Florida Development Finance Corporation**  
**Extract from Report of Public Hearing**

EXTRACT from the report of the Public Hearing held at Enterprise Florida, 800 N. Magnolia Ave., Suite 1100, Orlando, Florida 32803 on August 26, 2011 at 2:30 p.m., regarding the proposed issuance by Florida Development Finance Corporation (“Corporation”) of its Industrial Development Revenue Bonds for Atlantic Pro Nutrients, Inc. d/b/a Xymogen, and/or an affiliated or related entity (“Xymogen”) thereof to finance or refinance the acquisition and equipping of a manufacturing, processing, and distribution facility and other issuance costs regarding this project for Orange County, Florida.

Present on behalf of the Corporation was Jay Robinson, Executive Director. Also present representing Xymogen was John Gray, Charles Sands, and Kevin Reynolds.

Jay Robinson announced that public notice of the hearing was given according to statutory requirement of the Internal Revenue Code Section 147(f).

No objection to the project was made by any person either at the hearing or by written communication prior to the hearing. The project was found to be an eligible project pursuant to the Florida Development Finance Corporation Act of 1993, as amended, and to have met applicable criteria. For this reason and for economic benefits that will accrue to the community, the Florida Development Finance Corporation recommends approval of the Project by the Board of County Commissioners of Orange County and the Governor of Florida.