

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Adopted February 12, 2019

*Introduced by Todd Rulison
who moved its adoption.*

Seconded by Joe Semione

**RESOLUTION APPROVING A CERTAIN PROJECT, AS DEFINED HEREIN,
APPOINTING CENTURY LINEN & UNIFORM, INC., AGENT OF THE AGENCY FOR
THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY
(AS DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY
OF CLOSING DOCUMENTS**

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Section 895-c of the General Municipal Law of the State of New York (collectively, the (“Act”)), the Fulton County Industrial Development Agency (the “Agency”) was created and granted the authority to enter into agreements for the purpose of acquiring, constructing and equipping certain industrial facilities; and

WHEREAS, Century Linen & Uniform, Inc., a business corporation established pursuant to the laws of the State of New York, having an address of 335 North Main Street, Gloversville, New York 12078 (the “Company”) has requested that the Agency provide financial assistance in the form of sales tax abatements regarding an industrial project (the “Project”) to consist of: (i) the acquisition of an interest in the real property known as 125 Balzano Drive, City of Gloversville, County of Fulton, State of New York (the “Land”) and referred to as tax map parcel number 163.10-2-6; (ii) the renovation of a 50,000+/- square foot facility to provide linen service to healthcare operations, linen and uniform service to hospitality businesses and linen and uniform service to industrial customers (collectively referred to as (the “Facility”)); and (iii) the acquisition and installation therein of certain furnishing and fixtures (the “Equipment” and together with the Facility, collectively (the “Project Facility”) to be used in connection with the contemplated uses; and (iv) the lease of the Project Facility to the Company, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York and Section 895-c of the General Municipal Law (collectively, the “Act”); and

WHEREAS, the Project will require the Agency and the Company to enter into an agreement whereby the Company will acquire and install the Project Equipment and the Agency will lease the Project Equipment to the Company; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the “State Environmental Quality Review Act” or “SEQRA”) and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g); and

WHEREAS, the Project consists of maintenance and repair of an existing structure and the replacement and rehabilitation of a structure, in kind, on the same site and is considered a Type II Action pursuant to 6 NYCRR §§ 617.5(c)(1) and (2) and, therefore, no further environmental review is required; and

WHEREAS, the Agency conducted a duly noticed public hearing on February 4, 2019 pursuant to Article 18-A of the Act before taking official action relating to the Project; and

WHEREAS, the Company will agree to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, the Agency has determined that all of the requirements of the Act have been complied with and that the contemplated transaction will further the public purposes of the Act; and

WHEREAS, the Project constitutes a “Project” within the meaning of the Act.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Findings. The Agency has reviewed the application to determine compliance with the requirements of the Act and based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

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

(B) The Project constitutes a “project”, as that quoted term is defined in the Act;

(C) The acquisition, construction and installation of the Facility and the lease of the Facility to the Company (i) will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the State of New York and the County of Fulton, and (ii) will not result in the removal of an industrial or manufacturing plant of the Company from one area of the State to another area of the State; and (iii) will lead to the retention of at least one hundred (100) full time equivalent job opportunities and will lead to the creation of at least thirty two (32) full time equivalent job opportunities within the next two (2) years for the inhabitants of the County of Fulton and in the State of New York;

(D) The location of the site of the Project is acceptable to the Agency;

(E) The Facility is not known by the Agency to be in material violation of the local zoning laws and planning regulations of the City of Gloversville and all regional and local land

use plans for the area in which the Facility shall be located;

(F) The Facility and the operations of the Company are not known by the Agency to cause or result in the violation of the health, labor, environmental or other laws of the United States of America, the State of New York, the County of Fulton or the City of Gloversville; and

(G) The Project consists of maintenance and repair of an existing structure and the replacement and rehabilitation of a structure, in kind, on the same site and is considered a Type II Action pursuant to 6 NYCRR §§ 617.5(c)(1) and (2) and, therefore, no further environmental review is required; and

(H) The completion of the Project will not result in the removal of a commercial, industrial or manufacturing plant of the Company from one area of the State of New York to another area of the State of New York. Further, the completion of the Project will not result in any loss of jobs and all existing jobs will be retained nor will the completion of the Project result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Facility located within the State of New York; and

(I) The Agency further determines that the Project includes the following key aspects: (i) the Project consists of a private investment estimate at \$6,412,500; and

(J) The Agency hereby finds that the for this Project the private investment, as more specifically described in subsection (I) herein, and the retention and creation of jobs, as more specifically described in subsection (C) herein, shall be considered Material Terms for the purposes of monitoring in accordance with the policies and procedures of the Agency.

SECTION 2. Description of Project.

Subject to the conditions set forth herein and in the Lease Agreement to be entered into with the Agency, the Agency shall:

- (1) acquire an interest in, construct and install the Project Facility; and
- (2) lease the Project Facility to the Company pursuant to an agreement or agreements whereby the Company will obligate itself, among other things, to undertake the Project on behalf of the Agency.

SECTION 3. Company Appointed Agent of Agency.

(A) The Company is hereby appointed the true and lawful agent of the Agency to:

- (1) construct and install the Project Facility;
- (2) make, execute, acknowledge, and deliver all contracts, orders, receipts, instructions, and writings needed to complete the Project; and

(3) do all other things requisite and proper for the completion of the Project.

(B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving any and all appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals. The Company shall complete the Project Facility within eighteen (18) months from the commencement thereof. The failure of the Company to complete the project within eighteen (18) months shall be considered a “significant change in the use of the facility” as set forth in the Agency’s Recapture of Benefits Policy, as amended from time to time.

(C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent and Equipment Lease Agreement with the Agency.

(D) The Agency hereby approves of the execution of an Agent and Equipment Lease Agreement authorizing exemptions from the sales and use taxes for purchases and rentals related to the undertaking of the project in an amount not to exceed Five Hundred Thirteen Thousand Dollars (\$513,000), based on eligible project costs of Six Million Four Hundred Twelve Thousand Five Hundred Dollars (\$6,412,500), which exemption will expire on August 31, 2020.

SECTION 4. §144 Election. Not Applicable.

SECTION 5. Insurance. The Company shall deliver to the Agency a certificate of insurance, complying with the requirements as required by the Agency, and indicating that:

(a) The Company maintains insurance with respect to the Facility providing the coverage against the risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums with respect thereto, and mandated by the Agency, including, but not necessarily limited to the following:

(i) Insurance protecting the interests of the Company and the Agency against loss or damage to the Project Facility by fire, lightning and other casualties normally insured against with a uniform standard extended coverage endorsement, such insurance at all times to be in an amount not less than the total cash replacement value of the Project Facility, as determined by a recognized appraiser or insurer selected by the Company; provided, however, that the Company may, insure all or a portion of the Project Facility under a blanket insurance policy or policies covering not only the Project Facility or portions thereof but other property. The parties agree that for purposes of this Project the Company will be responsible for providing builders risk insurance.

(ii) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility and for all contractors and subcontracts.

(iii) Insurance protecting the Company and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the Property of others caused by any accident or occurrence, with a single combined limit of not less than \$2,000,000.00 per accident or occurrence on account of personal injury, including death resulting therefrom, and damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000.00 protecting the Company and the Agency against any loss or liability or damage for personal injury, death or Property damage.

(iv) If applicable and if it is determined that the Project Facility is located within an area identified by the Secretary of Housing and Urban Development as having special flood hazards, insurance against loss by floods in an amount not less than \$1,000,000.00 or to the maximum limit of coverage made available, whichever is less.

(v) Other insurance coverage required by any Governmental Authority in connection with any Requirement.

(b) all policies evidencing such insurance,

(i) name the Company and the Agency as insureds, as their interests may appear, and

(ii) provide for at least thirty (30) days' written notice to the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof.

SECTION 6. Document Preparation. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties, in order to prepare the documents needed to undertake the Project.

SECTION 7. Administrative and Legal Fees. The Company will pay all costs incurred by the Agency, including but not limited to attorney's fees, which arise out of the Company's application for Financial Assistance, whether or not such assistance is ultimately issued. Agency's attorney's fees will be calculated at a time rate of \$275.00 per hour for attorney's time and \$105.00 per hour for senior legal assistant's time, plus disbursements. Upon closing of all of

the Project documents, the Company will pay to the Agency an administrative fee (the "Administrative Fee") of \$48,094.00 based upon an estimated Project cost of \$6,412,500.00 pursuant to the schedule set forth below and contained within the Company's Application for Financial Assistance:

0.75% of total Project Cost

Following the completion of the Project Facility, the Company shall confirm, in writing, the actual Project cost. In the event that the total Project cost exceeds the estimate provided herein, the Agency may require the payment of the difference that would otherwise be due pursuant to the above-schedule.

SECTION 8. Approval of Company's Financing Documents. The substance and form of the Agent and Equipment Lease Agreement and accompanying NYS forms, and all other certificates or documents to be delivered or executed and delivered by the Agency (hereinafter collectively referred to as the "Closing Documents") are hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

SECTION 9. Authorized Representatives. (A) The Chairman or the Chief Executive Officer is hereby authorized to execute and deliver the Closing Documents. If required, the signature of the Chairman or Chief Executive Officer shall be attested by the Secretary or Treasurer of the Agency (or Agency Counsel, in the absence of a Secretary/Treasurer) who, if required, shall affix a facsimile of the Agency's seal to documents required to be under seal. (B) On the advice of Counsel to the Agency, the Chairman or Chief Executive Officer shall make such reasonable changes to the Closing Documents as shall be required to promote and protect the Agency's interests with respect to the Project. All such changes shall be made prior to the closing.

SECTION 10. Further Assurance. The officers, employees and agents of the Agency are hereby authorized and directed to do all acts required by the provisions of the Closing Documents, and to execute and deliver all additional certificates, instruments and documents and to pay all fees, charges and expenses and do all other acts that may be necessary or proper to effectuate the purposes of this resolution. None of the members, officers, directors, employees or agents (except the Company) of the Agency, shall be personally liable under the other Closing Documents. The Chairman of the Agency is authorized to take such further action as shall be necessary to give effect to and implement this resolution.

SECTION 11. Filing of Documents. Originals of all Closing Documents for the Project shall be filed and maintained in the office of the Agency.

SECTION 12. Public Inspection. A copy of this resolution and the Closing Documents shall be placed on file in the office of the Agency, where they shall be available for public inspection during business hours.

SECTION 13. Effective Date. This resolution shall take effect immediately.

AYES: 6
NAYS: 0
ABSENT: 1
ABSTAIN: 0

I, James E. Mraz, Executive Director of the Fulton County Industrial Development Agency, hereby certify that I have compared the foregoing resolution with the original resolution, adopted by the Fulton County Industrial Development Agency, at a duly called and held meeting of said Agency on the 12th day of February, 2019, and the same is a true and correct transcript therefrom and the whole thereof.

Witness my hand and official seal
this 12th day of February, 2019

James E. Mraz, Executive Director

Acknowledged and Agreed to

By: Richard C. Smith, President
Century Linen & Uniform, Inc.