

**FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

*Adopted October 13, 2020*

*Introduced by Todd Rulison  
who moved its adoption.*

*Seconded by Mike Fitzgerald*

**RESOLUTION TO SCHEDULE A PUBLIC HEARING RELATING TO THE  
BENJAMIN MOORE & CO. EXPANSION PROJECT**

WHEREAS, Benjamin Moore & Co., a New Jersey corporation, authorized to do business in the State of New York, for itself and/or on behalf of an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company consisting of: (i) the acquisition of an interest in a certain parcel or parcels of real property located at 161 Union Avenue, City of Johnstown, County of Fulton, State of New York (the "Land") and referred to as tax map parcel number 174.14-1-8; (ii) the construction of an 120,000+/- square foot addition to the existing facility for manufacturing space and equipment storage (collectively referred to as (the "Facility"); and (iii) the acquisition and installation therein of certain furnishing and fixtures (the "Equipment" and together with the Land and the Facility, collectively (the "Project Facility")) to be used in connection with the contemplated uses; and (iv) the lease of the Project Facility back to the Company, and (E) the providing of financial assistance to the Company for qualifying portions of the project in the form of sales and use tax exemptions, a mortgage recording tax exemption, if requested, and a partial real property tax abatement consistent with the policies of the Agency, 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, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an IDA must (a) adopt a resolution describing the project and the financial assistance contemplated by the IDA with respect thereto, and (b) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency is in the process of reviewing and considering the Company's Application requesting the Agency to provide financial assistance for the proposed Project, which may include: a sales and use tax abatement during the construction of the Facility, a mortgage recording tax exemption and a partial real property tax abatement, all of which shall be consistent with the uniform tax exemption policy of the Agency.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency hereby finds and determines that:

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

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

(d) The Project will not result in the removal of a commercial, industrial, or manufacturing 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.

2. The proposed financial assistance being contemplated by the Agency includes (i) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$1,660,000.0 and (ii) a partial real property tax abatement through a PILOT Agreement estimated to be approximately \$190,000, pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement whereby the Company leases the Project to the Agency, (C) a related Leaseback Agreement conveying the Project back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes and (E) related documents; provided (i) the rental payments under the Agent Agreement and 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.

4. The Agency hereby schedules a public hearing pursuant to Article 18-A of the New York State General Municipal Law to be held by the Agency on October 27, 2020, at 10:00 am local time, at the Fulton County IDA Offices located at 1 East Montgomery Street, City of Johnstown, New York in connection with the Project. The Agency hereby authorizes the publication of a Notice of Public Hearing for the Project and in accordance with the Act and the Agency's policies and procedures.

5. This resolution shall take effect immediately.

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF FULTON )

This is to certify that I, James Mraz, Executive Director of the Fulton County Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Fulton County Industrial Development Agency, Johnstown, New York on the 13th day of October, 2020.

In witness whereof, I have hereto set my hand and affixed the official seal of the Fulton County Industrial Development Agency on this 13<sup>th</sup> day of October, 2020.

  
James Mraz  
Fulton County

Industrial Development Agency

[SEAL]

ROLL CALL VOTE :

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	<u>—</u>	<u>—</u>	<u>—</u>
Joe Semione	<u>—</u>	<u>—</u>	<u>—</u>	<u>X</u>
Todd Rulison	<u>X</u>	<u>—</u>	<u>—</u>	<u>—</u>
Jane Kelley	<u>—</u>	<u>—</u>	<u>—</u>	<u>X</u>
Mike Fitzgerald	<u>X</u>	<u>—</u>	<u>—</u>	<u>—</u>
Joseph Gillis	<u>X</u>	<u>—</u>	<u>—</u>	<u>—</u>
Tim Munn	<u>X</u>	<u>—</u>	<u>—</u>	<u>—</u>