

**INDUCEMENT RESOLUTION**  
*(Iron Horse Depot, LLC)*

A regular meeting of the City of Hornell Industrial Development Agency was convened on March 14, 2013 at 3:00 p.m. at the Agency's offices located at 40 Main Street, Hornell, NY 14843.

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

Resolution No. 03/2013-01

RESOLUTION AUTHORIZING THE CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY TO (i) RETAIN OR ACQUIRE FEE TITLE IN THE LAND AND IMPROVEMENTS LOCATED AT 111 LODER STREET IN THE CITY OF HORNELL, STEUBEN COUNTY, NEW YORK; (ii) COMPLY WITH THE PUBLIC AUTHORITIES ACCOUNTABILITY ACT OF 2005, AS AMENDED ("PAAA") WITH RESPECT TO THE LEASING OF SUCH PROPERTY; (iii) APPOINT IRON HORSE DEPOT, LLC (THE "COMPANY") AS ITS AGENT WITH RESPECT TO A CERTAIN PROJECT AS MORE FULLY DESCRIBED BELOW; (iv) CONDUCT A PUBLIC HEARING WITH RESPECT TO THE PROJECT; (v) MAKE A DETERMINATION UNDER THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT IN CONNECTION WITH THE PROJECT; (vi) EXECUTE AN AGENT AGREEMENT, SALES TAX EXEMPTION LETTER, LEASE AGREEMENT, PILOT AGREEMENT (AS DEFINED BELOW) AND RELATED DOCUMENTS; *PROVIDED HOWEVER*, THAT THE FINANCIAL ASSISTANCE PROVIDED BY THE AGENCY TO THE COMPANY SHALL NOT EXCEED \$100,000 IN THE AGGREGATE UNTIL A PUBLIC HEARING IS HELD IN ACCORDANCE WITH THE ACT (AS DEFINED BELOW) AND A SUBSEQUENT RESOLUTION IS ADOPTED

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 670 of the Laws of 1974 of the State of New York, as amended (hereinafter collectively called the "Act"), the **CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **IRON HORSE DEPOT, LLC** (for itself, an affiliate or an entity to be formed) (the "Company") has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition or retention by the Agency of title to or a leasehold interest in an approximately 1.47-acre parcel of land located at 111 Loder Street, Hornell, New York (the "Land") and the existing approximately 8,380 square-foot building located thereon (the "Existing Improvements"); (ii) the leasing of the Land and Existing Improvements by the Agency to the Company; (iii) the

renovation, reconstruction, and upgrading of the Existing Improvements by the Company as agent to accommodate office space for the Company's businesses including Onics Direct and Universal Health Network, and related office suites for medical professionals (collectively, the "Improvements"); and (iv) the acquisition in and around the Existing Improvements and the Improvements of certain items of equipment, machinery and other personal property (the "Equipment" and, together with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, the Agency and the Alstom Transportation Inc. (formerly GEC ALSTOM Transportation, Inc.) ("Alstom") entered into a certain Lease Agreement, dated as of September 1, 2003, pursuant to which the Agency leased to Alstom the Facility, which such lease agreement was amended pursuant to a certain Omnibus Amendment, dated July 1, 2012 (as so amended, the "Alstom Lease"); and

WHEREAS, pursuant to Section 8.1(b) of the Alstom Lease, in the event that the Agency procures a tenant/purchaser for the Facility (which is currently vacant) on or prior to July 1, 2015 for the Facility, Alstom shall transfer title to the Agency upon thirty (30) days' written notice; and

WHEREAS, it is contemplated that the Agency will (i) negotiate and execute a certain site access agreement with the Company (the "Site Access Agreement"), pursuant to which the Agency shall provide to the Company site access and an exclusive license to enter and occupy the Premises to undertake the Project; (ii) designate the Company as its agent for the purpose of undertaking the Project pursuant to an agent agreement (the "Agent Agreement"), (iii) negotiate and enter into a lease agreement (the "Lease Agreement"), (upon compliance with PAAA) and payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company, (iv) take title to the Facility from Alstom, and (v) provide financial assistance (the "Financial Assistance") to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the undertaking of the Project and (b) a partial real property tax abatement through the PILOT Agreement; *provided, however*, that the Financial Assistance provided by the Agency to the shall not exceed \$100,000 until a public hearing is held and a subsequent resolution is adopted by the Agency; and

WHEREAS, the transfer of the Land and Improvements is exempt from publicly advertising for bids and obtaining fair market value pursuant to Public Authorities Law §2897(7)(ii) as it is within the purposes of the Agency to promote, develop, encourage and assist in the acquiring, construing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreational facilities; and

WHEREAS, the Agency desires to memorialize and approve the terms of the Proposal and authorize the delivery of a Notice of Disposition required pursuant to the Public Authorities Accountability Act of 2005, as amended ("PAAA"); and

WHEREAS, the Project involves a "Type II Action" as said term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the

Department of Environmental Conservation of the State (collectively, "SEQR") and therefore no further action is required to be undertaken by the Agency under SEQR; and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution (i) describing the Project and the Financial Assistance that the Agency is contemplating with respect to the Project and (ii) authorizing the negotiation and execution of the Site Access Agreement, Agent Agreement (and related Sales Tax Exemption Letter), the PILOT Agreement, Lease Agreement and related documents.

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

Section 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) 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 appoint the Company as its agent for purposes of undertaking the Project; 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 develop the Project, thereby increasing employment opportunities in the City of Hornell 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 civic, 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 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 plant or facility 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) The Project involves a "Type II Action" as said term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQR") and therefore no further action is required to be undertaken by the Agency under SEQR.

Section 2. Subject to the Company executing the Lease Agreement and related documents (subject to compliance with PAAA) and 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 undertaking of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to undertake 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, 2013** (unless extended for good cause by the Executive Director of the Agency).

Section 3. The Chairman, Vice Chairman and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to hold a public hearing in compliance with the Act, execute an Agent Agreement pursuant to which the Agency appoints the Company as its agent to undertake the Project, and related documents; *provided, however, that the Financial Assistance provided by the Agency shall not exceed \$100,000 until a public hearing is held and a subsequent resolution is adopted by the Agency*, and (A) provide 30 days' notice to Alstom exercising its option to acquire title to the Facility, (B) comply with the requirements of PAAA in connection with the leasing of the Facility to the Company, (C) negotiate a Lease Agreement and related Site Access Agreement with the Company, (D) negotiate the PILOT Agreement (E) negotiate related documents and take all other necessary action to undertake the Project for the benefit of the Company.

Section 4. The Agency is hereby authorized to conduct a public hearing in compliance with the Act.

Section 5. The Financial Assistance provided by the Agency to the Company under the Agent Agreement described hereinabove shall not exceed \$100,000 until a public hearing is held and a subsequent resolution is adopted by the Agency.

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. The Agency hereby approves the basic terms of the disposition of the Premises and authorizes the execution and delivery of the Notice of Disposition required pursuant to PAAA.

Section 8. These Resolutions shall take effect immediately.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Samuel Nasca	[ x ]	[ ]	[ ]	[ ]
George Prete	[ x ]	[ ]	[ ]	[ ]
Shawn Hogan	[ x ]	[ ]	[ ]	[ ]
Joseph Foreman	[ x ]	[ ]	[ ]	[ ]
David Parmley	[ x ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

**SECRETARY'S CERTIFICATION**

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

I, the undersigned, Joseph Foreman, Secretary of the City of Hornell Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the City of Hornell Industrial Development Agency (the "Agency"), including the resolution contained therein, held on March 14, 2013, 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 related 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 such 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 affixed the seal of said Agency this 14<sup>th</sup> day of March, 2014.

