

AUTHORIZING RESOLUTION
(CDT Enterprises, Inc. Project)

A regular meeting of the City of Hornell Industrial Development Agency was convened on June 27, 2024.

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

Resolution No. 06/2024 - 01

RESOLUTION OF THE CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") (i) ACCEPTING AN APPLICATION WITH RESPECT TO A CERTAIN PROJECT (DESCRIBED BELOW), (ii) APPOINTING CDT ENTERPRISES, INC. (THE "COMPANY") AS AGENT OF THE AGENCY TO UNDERTAKE THE PROJECT, (iii) AUTHORIZING FINANCIAL ASSISTANCE FOR THE BENEFIT OF THE COMPANY IN THE FORM OF A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE PROJECT, AND (iv) AUTHORIZING THE EXECUTION AND DELIVERY BY THE AGENCY OF A PROJECT AGREEMENT, NYS FORM ST-60 AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT

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 (collectively, the "Act"), the **CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY** (the "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 industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **CDT ENTERPRISES, INC.** for itself or on behalf of an entity to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition, construction and equipping of an approximately 1,600 square-foot facility to be operated as a Tim Hortons® coffee and baked goods business (the "Improvements") located at 111 Seneca Street, in the City of Hornell, New York (being more fully identified as tax map number 151.56-03-001.000) and on any lands located in the City of Hornell and occupied by license or easement during construction or improved by third parties for the benefit of the Project. (the "Land"), and (ii) the acquisition and installation by the Company in and around the Improvements and the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) negotiate and enter into a project agreement, pursuant to which the Agency will appoint the Company as its agent for the purpose of undertaking the Project (the "Project Agreement") and (ii) provide Financial Assistance to the Company in the form of a sales and use tax exemption for purchases and rentals related to the acquisition, renovation, installation and equipping of the Facility (the "Financial Assistance"); and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Financial Assistance provided by the Agency to the Company shall not exceed \$100,000 and, therefore, a public hearing with respect to the Project is not required to be held by the Agency; and

WHEREAS, the Project Agreement, New York State Form ST-60, "IDA Appointment of Project Operator or Agent" ("NYS Form ST-60") and related documents with respect to the Project are being negotiated and will be presented to the Executive Director, Chair, and/or Vice Chair of the Agency for execution upon approval of this resolution.

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 City of Hornell, New York, 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 an Unlisted Action under SEQRA as that term is defined by 6 NYCRR §617.2(al). The Agency is acting as Lead Agency pursuant to SEQRA and conducting an Uncoordinated Review pursuant to 6 NYCRR §617.6 Based upon a thorough and comprehensive review by the Agency of the Application and related documents delivered by the Company to the Agency, as well as other representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that the Project will result in no potential significant adverse environmental impacts requiring the preparation of an environmental impact statement for the action. Thus, the Agency issues a Negative Declaration for the action pursuant to 6 NYCRR 617.7 of the SEQRA findings.

Section 2. Based upon the Agency's review of the Application submitted by the Company, along with supporting materials, the Project will include facilities or property that are primarily used in making retail sales, as defined within Section 862(2) of the Act, to customers who personally visit the Facility. Notwithstanding the foregoing, and based upon the Application and supporting materials prepared and presented by the Company to the Agency, and pursuant to Section 862(2)(b) of the Act, the predominant purpose of the Project will be to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the City of Hornell because of a lack of reasonably accessible retail trade facilities offering such goods or services. In accordance with the foregoing, and pursuant to Section 862(2)(c) of the Act, the Agency hereby finds that the undertaking of the Project will serve the public purposes of the Act by preserving permanent, private sector jobs and/or increasing the overall number of permanent, private sector jobs in the State. Where the Agency has made such a finding, the Agency must - prior to providing Financial Assistance to the Project - obtain approval from the chief executive officer of the municipality for whose benefit the Agency was created (to wit, the Mayor of the City of Hornell) in the form set out on EXHIBIT A attached hereto.

Section 3. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to State and local sales and use tax in an amount up to \$400,000.00, which result in State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed \$32,000.00. The Agency agrees to consider any requests by the Company for increase to the amount of Sales and Use Tax Exemption Benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 4. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption

Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 5. Subject to the Company executing the Project Agreement 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 Project Agreement shall expire on **December 31, 2025** (unless extended for good cause by the Executive Director, Chairman or Vice Chairman of the Agency).

Section 6. The Executive Director, Chairman or Vice Chairman of the Agency of Operations of the Agency are hereby authorized, on behalf of the Agency, to execute the Project Agreement, NYS Form ST-60 and related documents in connection with the Project for the purpose of providing the Company with the Financial Assistance.

Section 7. The Financial Assistance provided by the Agency to the Company shall not exceed \$100,000 and, therefore, a public hearing is not required to be held by the Agency.

Section 8. The Project will serve the public purposes of the Act by preserving permanent, private sector jobs and/or increasing the overall number of permanent, private sector jobs in the State of New York.

Section 9. 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 10. 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>
Dave Parmley	[X]	[]	[]	[]
John Buckley	[X]	[]	[]	[]
John Carbone	[X]	[]	[]	[]
Ed Flaitz	[X]	[]	[]	[]
Richard Andolina	[X]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION
(CDT Enterprises, Inc. Project)

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

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

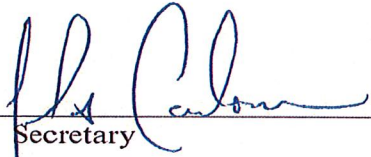
That I have compared the annexed extract of minutes of the meeting of the City of
Hornell Industrial Development Agency (the "Agency"), including the resolution contained
therein, held on June 27, 2024, with the original thereof on file in the Agency's office, and that
the same is a true and correct 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 27th day of June, 2024.



Secretary

City of Hornell IDA

Company: CDT Enterprises, Inc. – Tim Hortons Project

Sales Tax Exemption Package

APPROVAL OF MAYOR OF CITY OF HORNELL



CITY OF HORNELL

**82 Main Street PO Box 627, Hornell, NY 14843
(607) 324-7421 • (607) 324-3150 Fax**

John J. Buckley, Mayor



July 11, 2024

City of Hornell Industrial Development Agency
40 Main Street
Hornell, New York 14843

Re: CDT Enterprises, Inc. (the "Company") and City of Hornell Industrial Development Agency (the "Agency")

Project at 111 Seneca Street, City of Hornell, New York (the "Project")

To: The Board Members of the City of Hornell Industrial Development Agency:

Please accept this correspondence in compliance with Section 862(2)(c) of the General Municipal Law of the State of New York (the "Act"). I, John Buckley, as the Mayor of the City of Hornell, being the chief executive officer of the City of Hornell, have been advised by the Agency that it has begun to undertake the Project for the benefit of the Company, consisting of: (i) the acquisition, construction and equipping of an approximately 1,600 square-foot facility to be operated as a Tim Hortons® coffee and baked goods business (the "Improvements") located at 111 Seneca Street, in the City of Hornell, New York (being more fully identified as tax map number 151.56-03-001.000) and on any lands located in the City of Hornell and occupied by license or easement during construction or improved by third parties for the benefit of the Project. (the "Land"), and (ii) the acquisition and installation by the Company in and around the Improvements and the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, collectively with the Land and the Improvements, the "Facility").

By resolution adopted by the Agency on June 27, 2024 (the "Resolution"), the Agency determined in accordance with the Act, that the Project will make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the City of Hornell because of a lack of reasonably accessible facilities offering such goods or services.

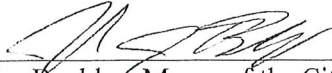
By such Resolution, the Agency determined that the undertaking of the Project will serve the public purposes of the Act by preserving permanent, private sector jobs and/or increasing the overall number of permanent, private sector jobs in the State of New York.

[Approval of Chief Executive Officer Under Section 862(2)(c) of GML]

Please accept this correspondence as my confirming approval, as the chief executive officer of City of Hornell that: (i) the Agency's finding that the above-referenced Project will serve the public purposes of the Act by preserving permanent, private sector jobs and/or increasing the overall number of permanent, private sector jobs in the State, (ii) the Project will make available goods or services which would not, but for the Project, be reasonably accessible to the residents of City of Hornell because of a lack of reasonably accessible facilities offering such goods or services, and (ii) that the proposed action of the Agency is confirmed in connection with the Project.

This confirmation is being made in compliance with Section 862(2)(c) of the Act.

Sincerely,


John Buckley, Mayor of the City of Hornell

CERTIFICATION
(CDT Enterprises, Inc. Project)

STATE OF NEW YORK)
COUNTY OF HORNELL) SS.:

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

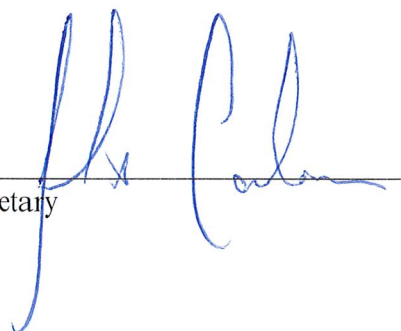
That I have compared the annexed extract of minutes of the meeting of the City of
Hornell Industrial Development Agency (the "Agency"), including the resolution contained
therein, held on June 27, 2024, with the original thereof on file in the Agency's office, and that
the same is a true and correct 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 27th day of June, 2024.



Secretary