

INITIAL RESOLUTION
(Alstom Hornell Facility Amtrak HST Industrialization Project)

A regular meeting of the City of Hornell Industrial Development Agency was convened on Thursday, June 8, 2017 at 5:30 p.m.

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

Resolution No. 06/2017 - _____

RESOLUTION OF THE CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") (i) ACCEPTING THE APPLICATION OF ALSTOM TRANSPORTATION, INC. (THE "COMPANY") WITH RESPECT TO A CERTAIN PROJECT (AS DESCRIBED BELOW, THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY TO UNDERTAKE THE PROJECT; (iv) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED WITH RESPECT TO THE PROJECT, and (v) AUTHORIZING THE AGENCY TO NEGOTIATE, AN AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT, AN AMENDED AND RESTATED LEASE AGREEMENT, A PILOT AGREEMENT AND RELATED DOCUMENTS

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, **ALSTOM TRANSPORTATION, INC.**, (the "Company"), has submitted an application (the "Application"), attached hereto as Exhibit A, to the Agency requesting the Agency's assistance with a certain project (the "Project") located at 1 Transit Drive, City of Hornell, Steuben County, New York (being more particularly identified as tax map identification numbers 166.11-01-015.000, 166.33-01-012.100 and 166.33-01-012.200) (the "Land") consisting of: (A) (i) the expansion of the Company's existing "test track" by approximately 1,400 linear-feet; (ii) the reconstruction and expansion of various sections of the Company's existing internal site track; (iii) the construction of an approximately 37,500 square-foot "static test" building; (iv) the construction of an approximately 4,000 square-foot expansion to the Company's existing "pipe shop" building; (v) the demolition and removal of the Company's existing "asbestos and abatement" building and the construction of an approximately 45,000 square-foot "rework and inspection" building thereon, with associated new track and connections to an existing rail system; (vi) the reconfiguration of the Company's existing parking lot (Lot #2) and the installation of improvements and the expansion of the existing gravel parking lot (Lot #4); and (vii) the construction of a 29 foot by 100 foot bridge, containing a single track and adjacent walkway, to carry the expansion of the Company's "test track" over the Canisteo River, with modifications to the existing floodwall, other construction and grading work and the

relocation of an existing pump house in order to accommodate the new bridge (collectively, the "Improvements"); and (B) the acquisition and installation in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment", and collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, by that certain Lease Agreement, dated as of May 14, 1997, by and between the Agency and GEC Alsthom Transportation Inc., predecessor to the Company, as amended by a First Amendment to Lease Agreement, dated as of July 29, 1997, which amendment was further amended by a Second Amendment to Lease Agreement, dated as of June 30, 2000, which amendment was amended and restated by a First Amended and Restated Lease Agreement, dated as of September 1, 2003, which amendment and restatement was further amended and restated by a Second Amended and Restated Lease Agreement, dated as of November 1, 2005, which amendment and restatement was further amended by an Amendment to Lease Agreement, dated as of July 1, 2012 (as so amended and restated, the "Lease Agreement"), the Agency leased to the Company certain real property and improvements located at (i) Transit Drive, City of Hornell, Steuben County, New York, (ii) Shawmut Industrial Park, City of Hornell, Steuben County, New York, and (iii) Horton Street, City of Hornell, Steuben County, New York,

WHEREAS, in connection with the Project and in order to induce the Company to lease the Facility and undertake the Project, the Agency and the Company desire to amend and restate the Lease Agreement to increase the term of the Lease Agreement, modify the rental obligations of the Company under the Lease Agreement and to terminate the Company's option to purchase the Facility; and

WHEREAS, the Agency has determined that amending and restating the Lease Agreement will accomplish, in part, its public purposes; and

WHEREAS, it is contemplated that the Agency will hold a public hearing with respect to the Project and the Financial Assistance (as hereinafter defined) (the "Public Hearing") and (i) negotiate (but not execute or deliver) a certain agent, financial assistance and project agreement with the Company (the "Agent Agreement"), pursuant to which the Agency shall designate the Company as its agent for the purpose of acquiring, constructing and equipping the Facility, (ii) retain fee title to the Land, the Improvements, the Equipment and personal property constituting the Facility and lease the Facility to the Company pursuant to a certain amended and restated lease agreement to be negotiated by the Agency and the Company (the "Amended and Restated Lease Agreement"), and (iii) provide financial assistance (the "Financial Assistance") to the Company in the form of a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project and a partial real property tax abatement structured through a certain payment-in-lieu-of-taxes agreement to be entered into by and between the Company and the Agency (the "PILOT Agreement"); and

WHEREAS, the Financial Assistance provided by the Agency to the Company in the aggregate may not exceed \$100,000 until such time as the Agency has held the Public Hearing with respect to the Project and the Financial Assistance and has adopted a subsequent resolution; and

WHEREAS, pursuant to Article 18-A of the General Municipal Law the Agency desires to adopt a resolution describing the Project and the Financial Assistance that the Agency is contemplating with respect to the Project, authorizing the Public Hearing, appointing the Company as Agent of the Agency and authorizing the negotiation of the Agent Agreement, the Amended and Restated Lease Agreement, the PILOT 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 the 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, 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

Section 2. 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 New York State and local sales and use tax in an amount up to \$8,000,000.00, which result in New York State and local sales and use tax exemption benefits (the "Sales and Use Tax Exemption Benefits") not to exceed \$640,000.00. The Agency agrees to consider any requests by the Company for increase to the amount of the Sales and Use Tax Exemption Benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services. Until the Agency has held the Public Hearing and has adopted

a subsequent resolution, the Financial Assistance to be provided to the Company by the Agency **shall not exceed \$100,000** in the aggregate.

Section 3. 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; (iv) the Company has made a material false statement on the Application; (v) 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; and/or (vi) the Company obtains mortgage recording tax exemption benefits and/or real property tax abatements and 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 (collectively, items (i) through (vi) hereby defined as a "Recapture Event").

As a condition precedent of receiving the 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, must (i) if a Recapture Event determination is made by the Agency, 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, if and as so required to be paid over as determined by the Agency.

Section 4. Subject to the Company executing the Agent 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 Agent Agreement shall expire on **December 31, 2017** (unless extended for good cause by Chairman, Vice Chairman and or Executive Director of the Agency) if the Lease Agreement contemplated has not been executed and delivered.

Section 5. The Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate an Agent Agreement,

pursuant to which the Agency appoints the Company as its agent to undertake the Project, the Amended and Restated Lease Agreement and the PILOT Agreement; *provided, that*, (i) the rental payments under the Amended and Restated Lease 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; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 6. The Agency is hereby authorized to conduct the Public Hearing in compliance with the Act. The Financial Assistance to be provided to the Company in the aggregate **may not exceed \$100,000** until such time as the Agency has held the Public Hearing with respect to the Project and the Financial Assistance and has adopted a subsequent resolution.

Section 7. 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 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	[☒]	[]	[]	[]
George Prete	[☒]	[]	[]	[]
Shawn Hogan	[☒]	[]	[]	[]
Dave Parmley	[☒]	[]	[]	[]
Joseph Foreman	[☒]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION
(Alstom Hornell Facility Amtrak HST Industrialization 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 8, 2017, 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 ____ day of June, 2017.

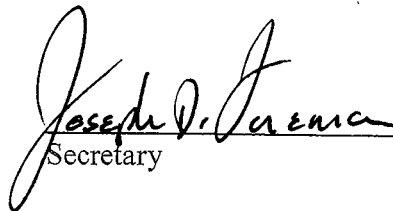

Secretary

EXHIBIT A

The Company's Application for Financial Assistance

Exhibit A