

RESOLUTION
(Amendment of ALSTOM Facilities Documents)

A regular meeting of the City of Hornell Industrial Development Agency was convened on Thursday, June 26, 2003, at 5:00 p.m.

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

Resolution No. 06/2003 - _____

RESOLUTION AUTHORIZING THE CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY TO AMEND AND RESTATE (1) THE PAYMENT IN LIEU OF TAX AGREEMENT, DATED AS OF NOVEMBER 1, 2000, AND (2) THE LEASE AGREEMENT, DATED AS OF MAY 14, 1997, AS AMENDED FROM TIME TO TIME, WITH RESPECT TO CERTAIN FACILITIES OWNED AND OPERATED BY ALSTOM TRANSPORTATION INC. IN THE CITY OF HORNELL, NEW YORK

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, the Agency and **ALSTOM TRANSPORTATION INC.** (the "Company") entered into a certain Lease Agreement, dated as of May 14, 1997, as amended by a certain First Amendment to Lease Agreement, dated June 30, 1997, and a Second Amendment to Lease Agreement, dated June 30, 2000 (as so amended, the "Existing Lease") concerning certain real property located at 1 Transit Drive, City of Hornell, New York (the "Land"), and the improvements thereon, including but not limited to the Car Shop (as defined in the Existing Lease), Engineering Building (as defined in the Existing Lease), South Yard (as defined in the Existing Lease), Motor Shop (as defined in the Existing Lease) and Apparatus Shop (as defined in the Existing Lease, and collectively with the Car Shop, Engineering Building, South Yard and Motor Shop, the "Facilities"); and

WHEREAS, pursuant to the Facilities Memorandum (as defined below), the Agency and the Company agreed to amend and restate the Existing Lease pursuant to a certain proposed Amended and Restated Lease Agreement, to be dated as of June 1, 2003 (the "Amended and Restated Lease Agreement", a copy of which is attached as Exhibit A); the terms and conditions of such Amended and Restated Lease Agreement being set forth in that certain Memorandum of Understanding, dated March 12, 2003, by and between the Agency and the Company (the "Facilities Memorandum", a copy of which Facilities Memorandum is attached hereto as Exhibit B); and

WHEREAS, pursuant to the Facilities Memorandum, the Company has covenanted and agreed that, among other things, the Company shall increase by \$500,000 the amount of the purchase price option of the Facilities as set forth in Section 8.2 of the Existing Lease, which \$500,000 increase shall be allocable to the Car Shop; and

WHEREAS, pursuant to the Facilities Memorandum, and in consideration for the Company increasing the amount of the purchase price option, the Agency has agreed, among other things, to reduce the amount of lease payments to be paid by the Company to the Agency under the Existing Lease by \$85,000 per year for a period of ten (10) years commencing on or about June 1, 2003, which reduction shall be allocable to the Motor Shop; and

WHEREAS, the Agency and the Company entered into a certain Payment-In-Lieu-of-Tax Agreement, dated as of November 1, 2000 (the "Original PILOT"), pursuant to which the Company is required to make certain payments in lieu of real property taxes with respect to its assembly Facility located at 1 Transit Drive, City of Hornell, New York (the "New Car Facility"); and

WHEREAS the Agency and the Company desire that the Original PILOT be amended pursuant to the terms of a certain proposed Amended and Restated PILOT Agreement to be dated as of June 1, 2003 (the "Amended and Restated PILOT", a copy of which is attached hereto as Exhibit C), and according to the terms of a certain Memorandum of Understanding, dated March 12, 2003, by and between the Agency and the Company (the "New Car Memorandum", a copy of which New Car Memorandum is attached hereto as Exhibit D); and

WHEREAS, pursuant to the New Car Memorandum, the Agency and the Company have covenanted and agreed that the Original PILOT be amended to provide that, among other things (a) payments made by the Company under the Original PILOT become fixed for the remaining term thereof (such payments not to exceed the amount that would be paid by the Company if the Agency were not in title, i.e., full real property taxes) and (b) payments made by the Company to the Agency under the Original PILOT shall be payable by December 31 of each year, commencing December 31, 2003, for the July 1, 2003 – June 30, 2004 tax year, all as more fully described in the Original PILOT, as amended; and

WHEREAS, the terms of the Amended and Restated PILOT are consistent with the Agency's Uniform Tax Exemption Policy (or the procedures for deviation have been complied with); and

WHEREAS, the financial assistance to be provided to the Company by the Agency contemplated by these resolutions shall not exceed \$100,000, and therefore a public hearing is not required to be held by the Agency pursuant to the Act; and

WHEREAS, the Agency desires to adopt a resolution approving and executing the Amended and Restated Lease Agreement, the Amended and Restated PILOT and any documents necessary and incidental thereto.

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

Section 1. The proposed amendments and actions herein contemplated constitute a "Type II Action" as said term is defined in Article 8 of the Environmental Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQR"), and therefore no further action is required by the Agency under SEQR.

Section 2. The Agency is hereby authorized to execute the Amended and Restated Lease Agreement in substantially the form presented at this meeting, with such changes, variations, omissions and insertions as approved by the Agency and by Counsel to the Agency and to negotiate and execute all documents necessary and incidental thereto.

Section 3. The Agency is hereby authorized to execute the Amended and Restated PILOT in substantially the form presented at this meeting with such changes, variations, omissions and insertions as approved by the Agency and by Counsel to the Agency and to negotiate and execute all documents necessary and incidental thereto.

Section 4. The Agency is hereby authorized to execute the Facilities Memorandum in substantially the form presented at this meeting with such changes, variations, omissions and insertions as approved by the Agency and by Counsel to the Agency (or if already executed as of the date of this Resolution, the Agency hereby ratifies and confirms the terms thereof) and to negotiate and execute all documents necessary and incidental thereto.

Section 5. The Agency is hereby authorized to execute the New Car Memorandum in substantially the form presented at this meeting with such changes, variations, omissions and insertions as approved by the Agency and by Counsel to the Agency (or if already executed as of the date of this Resolution, the Agency hereby ratifies and confirms the terms thereof) and to negotiate and execute all documents necessary and incidental thereto.

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. These Resolutions shall take effect immediately.

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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>Nea</i>	<i>Abstain</i>	<i>Absent</i>
Samuel Nasca	[x]	[]	[]	[]
George Prete	[x]	[]	[]	[]
William Hogan	[x]	[]	[]	[]
Shawn Hogan	[x]	[]	[]	[]
David Parmley	[x]	[]	[]	[]

The Resolutions were thereupon duly adopted.

EXHIBIT A

Amended and Restated Lease Agreement

EXHIBIT B

Facilities Memorandum

EXHIBIT C

Amended and Restated PILOT

EXHIBIT D

New Car Memorandum