

**INDUCEMENT RESOLUTION**  
*(ALSTOM Depot Building Project)*

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 (i) RETAIN TITLE TO (OR OTHER INTEREST IN) A PARCEL OF LAND LOCATED ON LODER STREET IN THE CITY OF HORNELL, NEW YORK; (ii) APPOINT ALSTOM TRANSPORTATION INC. (THE "COMPANY") AS ITS AGENT TO UNDERTAKE A CERTAIN PROJECT AS SET FORTH BELOW; (iii) NEGOTIATE AND EXECUTE A LEASE AGREEMENT, RELATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS; (iv) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE UNDERTAKING OF THE PROJECT AND (B) A PARTIAL REAL PROPERTY TAX ABATEMENT THROUGH THE PAYMENT-IN-LIEU-OF-TAX AGREEMENT; AND (v) EXECUTE AND DELIVER 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, pursuant to a certain memorandum of understanding dated March 12, 2003 (the "MOU"), the Agency and **ALSTOM TRANSPORTATION INC.** (the "Company") have agreed to mutually undertake a certain project (the "Project") consisting of (i) the retention by the Agency of title to (or other interest in) a parcel of land located on Loder Street in the City of Hornell, New York (the "Land") and the existing improvements located thereon consisting principally of an approximately 20,000 square-foot vacant building formerly known as the "Depot Building" (the "Existing Improvements"), and (ii) the renovation and reconstruction of the Existing Improvements to provide (a) office and related space for use by the Company and (b) a public display museum for railroad and related historical artifacts (the "Improvements" and, collectively with the Land and the Existing Improvements, the "Facility"), and (c) the lease of the Facility from the Agency to the Company; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on September 17, 2002, at the Agency's offices at 40 Main Street, Hornell, New York 14843, in the City of Hornell, New York, the Agency held a public hearing with respect to the Project and the proposed financial assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Minutes of said Public Hearing along with the Notice of Public Hearing published in *The Evening Tribune* on August 16, 2002, and forwarded to the affected taxing jurisdictions thirty (30) days prior to said Public Hearing are attached hereto as Exhibit A; 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; and

WHEREAS, it is contemplated, that in accordance with the MOU, the Agency will (i) designate the Company as its agent for the purpose of reconstructing, renovating and equipping the Project pursuant to an agent agreement (the "Agent Agreement") between the Agency and the Company, (ii) negotiate and enter into a lease agreement (the "Lease Agreement", a form of which is attached hereto as Exhibit B) and payment-in-lieu-of-tax agreement (the "PILOT Agreement", a form of which is attached as Exhibit C) with the Company, (iii) retain title to (or other interest in) the Land, the Existing Improvements, the Improvements and personal property constituting the Project, and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the reconstruction, renovating and equipping of the Project and (b) a partial real property tax abatement through the PILOT Agreement; and

WHEREAS, in addition to the foregoing benefits, the Company has requested and the Agency desires to approve the following assistance to the Company for the renovation and reconstruction of the Facility: (a) up to \$400,000 New York State Small Cities Development Program Grant; (b) up to \$150,000 City of Hornell Grant; (c) up to \$300,000 New York State Community Enhancement Grant; (d) up to \$350,000 City of Hornell Intermodal Grant; (e) up to \$200,000 HUD Special Appropriation, and (f) up to \$200,000 Steuben County Grant ((a) through (f) being collectively referred to as the "Financial Assistance"), it being understood that the Agency shall use its best efforts to obtain such Financial Assistance but shall in no way be obligated to procure all or any portion of such Financial Assistance.

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 reconstructing, renovating and equipping 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

(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 by the Agency under SEQR.

Section 2. Subject to the Company executing the Agent Agreement attached hereto as Exhibit D 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 reconstruction, renovation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to reconstruct, renovate and equip 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, 2003** (unless extended for good cause by the Executive Director of the Agency) if the Lease Agreement and PILOT Agreement contemplated have not been executed and delivered.

Section 3. The Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Lease Agreement, whereby the Agency leases the Project to the Company, (B) the PILOT Agreement; *provided that* (i) the rental payments under the 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 such additional amounts as contemplated therein; 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, and (C) the MOU (or if already executed as of the date of this Resolution, the Agency hereby ratifies and confirms the terms thereof).

Section 4. The Agency hereby recognizes and approves the Financial Assistance and hereby directs the Executive Director and the other employees of the Agency to use their best efforts to procure such Financial Assistance for the benefit of the Company and the Project.

Section 5. 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 6. 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>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

Notice Documents

EXHIBIT B

Lease Agreement

EXHIBIT C

PILOT Agreement

EXHIBIT D

Agent Agreement