

**AMENDATORY RESOLUTION OF THE WYOMING
COUNTY INDUSTRIAL DEVELOPMENT AGENCY WITH
REGARD TO THE 2021 DRASGOW, INC. EXPANSION
PROJECT.**

WHEREAS, the Wyoming County Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 901-b of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, on May 13, 2021, the Agency adopted an inducement resolution (the “Inducement Resolution”) with respect to a project (the “Project”) consisting of the following: (i) the acquisition of an interest in the parcels of land located at 4150 Poplar Tree Road in the Town of Wethersfield, New York (SBL Nos. 106.-2-54.112 and 106.-2-71.2) (the “Premises”); (ii) the construction of a 4,356+/- square foot building addition to the Drasgow, Inc. manufacturing facility located on the Premises (the “Addition”); and (iii) the acquisition of certain furniture, fixtures, machinery and equipment necessary for completion of the Project thereof (the “Equipment”); and

WHEREAS, consistent with the application presented to the Agency, the Inducement Resolution reflected that the Project would be undertaken by Drasgow, Inc. (the “Company”), and that the Company would be the sole recipient of the sales tax exemption, the mortgage recording tax exemption and the partial abatement of real property taxes; and

WHEREAS, subsequent to the adoption of the Inducement Resolution, the Agency was informed by the principal of the Company, Karl W. Drasgow (“Drasgow”) that he was the fee owner of the Premises; and

WHEREAS, the Agency desires to adopt this amendatory resolution to make conforming changes to the Inducement Resolution reflective of the information provided by Drasgow as to his ownership of the Premises.

NOW, THEREFORE, THE WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

1. The second WHEREAS clause of the Inducement Resolution is hereby amended to read in its entirety as follows:

“**WHEREAS**, Karl W. Drasgow (“Drasgow”) and Drasgow, Inc., for itself or for related individuals or entities (the “Company”), have entered into negotiations with officials of the Agency with respect to a project (the “Project”) consisting of the following: (1) the acquisition of an interest in the parcels of land located at 4150 Poplar Tree Road in the Town of Wethersfield, New York (SBL Nos. 106.-2-54.112 and 106.-2-71.2) (the “Premises”); (2) the construction of a 4,356+/- square foot building addition to the Company’s current manufacturing facility on the Premises

(the “Addition”); and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for completion of the Project thereof (the “Equipment”); and”

2. Section 2 of the Inducement Resolution is hereby amended to read in its entirety as follows:

”**Section 2.** The Project is described in the recitals to this Resolution. The financial assistance (the “Financial Assistance”) to be provided by the Agency in connection with the Project includes (i) an exemption for the Company from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$312,500.00, (ii) an exemption for Drasgow and the Company from mortgage recording taxes for one or more mortgages having an aggregate principal amount not to exceed \$450,000.00, and (iii) a ten-year abatement from real property taxes in accordance with the Agency’s PILOT schedule that is contained in the Agency’s Uniform Tax Exemption Policy. The payment in lieu of tax arrangement shall be set forth in a Payment in Lieu of Real Estate Taxes Agreement to be entered into between the Agency and Drasgow (the “PILOT Agreement”).

3. Section 5 of the Inducement Resolution is hereby amended to read in its entirety as follows:

”**Section 5.** The Agency hereby authorizes Drasgow and the Company, as agents for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and the buildings thereon, if any, and to make renovations or additions thereto. Drasgow and the Company are authorized to proceed with the acquisition and construction of the Project as set forth in the Project Assistance Agreement, the Agency Lease Agreement or Installment Sale Contract (as hereinafter defined).”

4. Section 6 of the Inducement Resolution is hereby amended to read in its entirety as follows:

”**Section 6.** The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary of the Agency, and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with Drasgow and the Company.”

5. Section 7 of the Inducement Resolution is hereby amended to read in its entirety as follows:

”**Section 7.** The Company and Drasgow are each hereby authorized, as agents of the Agency, to initiate the construction of a building or building addition constituting the Project, and the acquisition of machinery and equipment which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company and Drasgow as agents hereunder is limited to purchases of sales-taxable tangible

personal property and services in connection with the Project which do not exceed a total cost of \$312,500.00 and shall not apply to any other purchase by the Company or Drasgow or any operating expenses of the Company or Drasgow. The Company and Drasgow shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner"), the value of all sales and use tax exemptions claimed by the Company or Drasgow or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company and Drasgow as agents and repayment of any sales and use tax exemptions claimed."

6. Section 8 of the Inducement Resolution is hereby amended to read in its entirety as follows:

"Section 8. The Agency is hereby authorized to enter into a Project Assistance Agreement with Drasgow and the Company with respect the provision of the Financial Assistance authorized herein (the "Project Assistance Agreement"), to acquire an interest in the Project site and construct a facility thereon, and execute and deliver a lease by Drasgow to the Agency (the "Company Lease"), an Agency Lease Agreement (the "Agency Lease Agreement") or Installment Sale Contract (the "Installment Sale Contract") between the Agency and Drasgow or the Company (as applicable), the PILOT Agreement, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the "Project Documents"), in form satisfactory to Agency counsel. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Assistance Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency."

7. Section 10 of the Inducement Resolution is hereby amended to read in its entirety as follows:

"Section 10. Any such action heretofore taken by the Company or Drasgow initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved."

8. Section 11 of the Inducement Resolution is hereby amended to read in its entirety as follows:

"Section 11. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company and Drasgow. By acceptance hereof, the Company and Drasgow each agree to pay such expenses and further agree to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or

any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.”

9. Section 12 of the Inducement Resolution is hereby amended to read in its entirety as follows:

“Section 12. In the event the Project Documents are not executed by the Company and Drasgow (as the case may be) and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company and Drasgow (as applicable) shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company and Drasgow commenced their acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company or Drasgow claim an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company or Drasgow shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company or Drasgow as agent for the Agency as set forth in this Resolution or in any document authorized hereunder, then the Company and Drasgow shall each be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company or Drasgow by the Commissioner of state sales and use taxes, together with any relevant penalties and interest.

In addition to the foregoing, in the event the Agency determines that Company or Drasgow is in violation of a material term, or in the event that the Company or Drasgow close the Project or relocate the Company’s operations to a location outside of the Town of Wethersfield within the time period during which the Company and/or Drasgow are receiving Financial Assistance from the Agency or in the event the Agency determines, in its judgment, that the Company or Drasgow knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a “Recapture Event”), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that Drasgow or the Company (as applicable), commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or

otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) require that the Company and/or Drasgow pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of (x) all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Assistance Agreement, (y) any exemption from real estate taxes received by reason of the Agency's leasehold interest in the Project and/or (z) any exemption from mortgage recording tax received by reason of the Agency's involvement with the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company or Drasgow, the Company and Drasgow shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and Drasgow and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction."

10. Section 13 of the Inducement Resolution is hereby amended to read in its entirety as follows:

"Section 13. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company's or Drasgow's purposes or needs. The Company and Drasgow are satisfied that the Project is suitable and fit for their purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company and Drasgow hereby indemnify and hold the Agency harmless from any such loss, damage or expense."

11. Section 16 of the Inducement Resolution is hereby amended to read in its entirety as follows:

"Section 16. Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Company and Drasgow shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect (except for the

obligations in this Section 16), and the Agency shall have no liability to the Company or Drasgow hereunder or otherwise.”

12. Section 17 of the Inducement Resolution is hereby amended to read in its entirety as follows:

“Section 17. This Resolution shall take effect immediately and shall continue in full force and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the Agency may, at its option (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company and Drasgow pursuant to Sections 11, 12 and 16 of this Resolution which shall survive any expiration or termination) or (b) allow the Company and Drasgow additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company or Drasgow to complete such transactions.”

13. This Amendatory Resolution shall take effect immediately.

ADOPTED: July 8, 2021