

**CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**GRAY MANUFACTURING INDUSTRIES, L.L.C.**

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**FIRST AMENDED AND RESTATED  
PAYMENT-IN-LIEU-OF-TAX AGREEMENT**

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**Dated as of April 20, 2017**

**Amending and Restating that Certain Payment In Lieu of Tax Agreement  
Dated as of May 1, 2007**

**Affected Tax Jurisdictions:  
City of Hornell  
Steuben County  
Hornell City School District**

**Section: 166.000  
Block: 0003  
Lot: 009.000**

**FIRST AMENDED AND RESTATED**  
**PAYMENT IN LIEU OF TAX AGREEMENT**

**THIS FIRST AMENDED AND RESTATED PAYMENT IN LIEU OF TAX AGREEMENT**, dated as of April 20, 2017 (the "First Amendment"), is by and between the **CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly organized and validly existing under the laws of the State of New York with offices located at 40 Main Street, Hornell, New York 14843 (the "Agency") and **GRAY MANUFACTURING INDUSTRIES, L.L.C.**, a limited liability company organized under the laws of the State of New York, with a mailing address of P.O. Box 126, Hornell, New York 14843 (the "Company"), and amends that certain Payment In Lieu of Tax Agreement, dated as of May 1, 2007 entered into by the parties hereto (the "Original PILOT Agreement").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 670 of the Laws of 1974 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company previously requested the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition or retention by the Agency of title to or other interest in a parcel of land and the existing improvements located thereon at 6258 Ice House Road, Hornell, New York (the "Existing Improvements"), (ii) the renovation and upgrading of the Existing Improvements to provide for additional work areas and office space in furtherance of the Company's manufacturing operations for the supply of components and technical services to the rail transit and locomotive industry (the "Improvements"), and (iii) the acquisition and installation into and around the Existing Improvements and the Improvements of certain machinery, equipment and other items of tangible personal property (the "Equipment", and together with the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, to induce the Company to acquire, renovate, construct and equip the Facility, the Agency retained title to the land, improvements and personal property constituting the Facility and leased said land, improvements and personal property to the Company pursuant to the terms and conditions of that certain Lease Agreement, dated as of May 1, 2007 (the "Lease Agreement"); and

WHEREAS, the Lease Agreement granted the Company the option to purchase the Facility from the Agency, and the Company has exercised said option and will acquire the Agency's title to the Facility, subject to a reservation of the Agency's leasehold estate; and

WHEREAS, the tax benefits period of the Original PILOT Agreement includes the 2017/2018 City and School District tax years and the 2018 County tax years (as such terms are defined in the Original PILOT Agreement);

WHEREAS, based on the Company's purchase of the Facility, the Company has requested that the Agency consider amending the Original PILOT Agreement, a copy of which is attached hereto as **Exhibit A**, and extend the length of the tax benefits period by ten (10) years; and

WHEREAS, by Resolution duly adopted on March 23, 2017, the Agency approved said amendment.

NOW, THEREFORE, in consideration of the Agency providing the Facility and in consideration of the covenants herein contained, it is mutually agreed as follows:

The Original PILOT Agreement is hereby amended and restated in accordance with the terms hereof:

1. Section 1.1(A) of the Original PILOT Agreement shall be and is hereby amended and restated with a new Section 1.1(A), which is hereby incorporated into and made part of the Original PILOT Agreement as follows:

Section 1.1 A. Under the Original PILOT Agreement, the Facility is exempt from Real Estate Taxes through the 2018 County tax year and the 2017/2018 City and School District tax years. Subject to the completion and filing by the taxable status date (**January 1, 2018**) (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall continue to be exempt from Real Estate Taxes commencing with the **2019** County tax year and the **2018/2019** City and School District tax years. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County, City and School District. The Company shall provide the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Lease Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

2. Section 1.1(B)(i) and Section 1.1(B)(ii) of the Original PILOT Agreement shall be and are hereby amended and restated with a new Section 1.1(B), which is hereby incorporated into and made part of the Original PILOT Agreement as follows:

Section 1.1 B. Agreement to Make Payments. The parties agree and acknowledge that payments made under the Original PILOT Agreement and this First Amendment are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls. The parties further agree and acknowledge that as of the date hereof the Company agrees to pay to the Agency (for the benefit of the Affected Tax Jurisdictions), as payment in lieu of taxes, on or before December 1 of each year, an amount equal to the Total PILOT Payment calculated on Schedule A and/or B of the Original PILOT Agreement (as applicable) and Schedule A-1, attached hereto, and in accordance with the other provisions set forth in this First Amendment. The first such Total PILOT Payment calculated on Schedule A-1 shall be due on December 1, 2018. Upon the expiration of this First Amendment, the Company shall pay the County, City and School District tax bills in the amounts and on the dates when due as if the Agency were not in title.

3. The Original PILOT Agreement shall be and is hereby amended and restated with the new Schedule A-1, attached hereto, which is hereby incorporated into and made part of the Original PILOT Agreement.

4. Section 1.5 of the Original PILOT Agreement shall be and is hereby amended and restated with a new Section 1.5, which is hereby incorporated into and made part of the Original PILOT Agreement as follows:

Section 1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2018 County tax year through the 2028 County tax year; (ii) the 2017/2018 City tax year through the 2027-2028 City tax year; and (iii) the 2017/2018 School District tax year through the 2027/2028 School District tax year. This First Amendment shall expire on December 31, 2028; *provided, however*, the Company shall pay the 2029 County tax bill and the 2028-2029 City and School District tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this First Amendment executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

5. The Company ratifies and confirms all covenants and representations made in the Original PILOT Agreement as if made on the date hereof and represents that no event of default thereunder has occurred and is continuing.

6. This First Amendment may be executed in counterparts, each of which shall be an original and all of which together shall constitute but one and the same document.

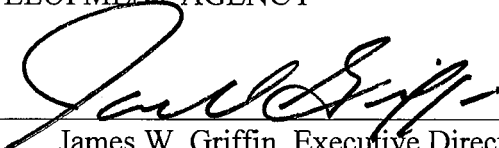
7. Unless otherwise modified, amended or supplemented by this First Amendment, the terms of the Original PILOT Agreement shall remain unchanged and in full force and effect and the parties hereby ratify and confirm said terms as modified.

*[Remainder of Page Intentionally Left Blank]*

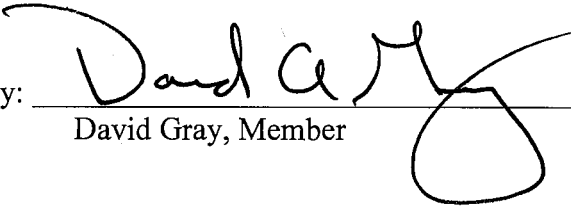
**[Signature Page to First Amended and Restated PILOT Agreement]**

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amended and Restated PILOT Agreement as of the day and year first above written.

CITY OF HORNELL INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
James W. Griffin, Executive Director

GRAY MANUFACTURING  
INDUSTRIES, L.L.C.

By:   
David Gray, Member

**SCHEDULE A-1**

**TO PILOT AGREEMENT DATED AS OF APRIL 20, 2017, BETWEEN  
CITY OF HORNELL INDUSTRIAL DEVELOPMENT AGENCY  
AND  
GRAY MANUFACTURING INDUSTRIES, L.L.C.**

The "Total PILOT Payment" shall mean an amount per annum equal to the product of: the Assessed Value of the Facility (as defined below), *multiplied by* the respective tax rate for the Affected Tax Jurisdiction (after application of any applicable equalization rate) *multiplied by* the applicable percentage below.

For purposes of this Schedule A, the assessed value (the "Assessed Value") of the Facility shall be frozen for the term of the PILOT Agreement at \$500,000.

<b>PILOT YEAR</b>	<b>SCHOOL TAX YEAR</b>	<b>CITY TAX YEAR</b>	<b>COUNTY TAX YEAR</b>	<b>PERCENTAGE</b>
1	2018/2019	2018 / 2019	2019	100%
2	2019/2020	2019 / 2020	2020	100%
3	2020/2021	2020 / 2021	2021	100%
4	2021/2022	2021 / 2022	2022	100%
5	2022/2023	2022 / 2023	2023	100%
6	2023/2024	2023 / 2024	2024	100%
7	2024/2025	2024 / 2025	2025	100%
8	2025/2026	2025 / 2026	2026	100%
9	2026/2027	2026 / 2027	2027	100%
10	2027/2028	2027 / 2028	2028	100%