

City of **Essexville** Tax Incentive Policies and  
Procedures June **2005**

Plant Rehabilitation and Industrial Development  
Districts Law

# Introduction

This booklet is designed to summarize the policies and procedures adopted by the City of Essexville, Michigan, effective June 2005, with regard to the Plant Rehabilitation and Industrial Development Districts Law (P.A. 198 of 1974, as amended). This Act was adopted in the State of Michigan in 1974 and is designed to provide liberal tax benefits to companies that modernize or expand obsolete facilities or build new plants in Michigan. Before commencement of the project, a request to establish the district must be filed by the requesting firm and approved by the City Council. Following the establishment of a district, the firm may apply for an Industrial Facilities Exemption Certificate. This entitles a facility to exemption from ad valorem real and personal property taxes for a period of up to 12 years. In lieu of the property tax, the firm will pay a specific tax known as the Industrial Facility Tax.

- The Industrial Facility Tax for an obsolete facility, which is being restored or replaced, is determined in exactly the same manner as the ad valorem property tax. The important difference is that the state-equalized valuation of the industrial property remains at the level assessed the obsolete facility prior to the improvements, even though the restoration or replacement substantially increases the true cash value of the facility.
- For a new plant or research and development laboratory being built in a plant rehabilitation or industrial development district, the Industrial Facility Tax is also determined as the ad valorem property tax. Instead of using the total mills levied as ad valorem taxes, only half the millage rate is applied. Therefore, the amount of the resulting local tax is equal to 50 percent of the taxable value of the new real and personal property for a period of up to 12 years.

The responsibility of the City Council of the City of Essexville is to:

1. Establish by resolution plant rehabilitation districts and industrial development districts.
2. Act by resolution to either approve or deny the request for an Industrial Facilities Exemption Certificate.
3. Determine the number of years of the abatement.

All applications are filed, reviewed, and approved locally, however, are also subject to review at the state level by the State Tax Commission and the Department of Commerce. The State Tax Commission is ultimately responsible for final approval and issuance of Industrial Facilities Exemption Certificates.

To carry out these responsibilities, the City Council established the procedures outlined herein. In addition, a Tax Abatement Review Group has been established to evaluate and make recommendations on PA 198 requests. The Tax Abatement Review Group consists of the City Manager, City Clerk, City Treasurer, and City Assessor. Questions concerning PA 198 may be directed to the City Manager, City Hall, 1107 Woodside Avenue, Essexville, Michigan, 48732, telephone (989) 893-2441. This policy and procedure guide may be revised from time to time. It is recommended that users contact a member of the Tax Abatement Review Group to determine if there are changes that would affect their project.

# Goals and Objectives

## Establishing a Plant Rehabilitation District or Industrial Development District

The Tax Abatement Review Group will evaluate all Act 198 applications to establish districts based on the following goals and objectives, which will be applied equally in the review for both local and non-local firms. The project will:

1. Serve a good public purpose, i.e. expanded tax base, increase economic activity, and employment; and/or
2. Promote diversification of the City's present industrial base; and/or
3. Upgrade the City's current labor force by promoting more skilled or technical-oriented jobs within the City; and/or
4. Increase the City's average income level through the promotion of higher paying jobs; and/or
5. Provide economic stimulus to other private sectors, especially supportive facilities.

In addition, the following guidelines will be adhered to:

1. Development of the proposed industrial facilities will comply with all City ordinances and land use plans.
2. Proposed industrial facilities will be compatible with the City's present and future requirements for City services, such as infrastructures, utilities, and public safety.
3. Applicant meets current financial obligations to the City.

# Guidelines for Applicants

## Steps for companies to follow in the Tax Abatement Process

### A. Establishment of a Plant Rehabilitation District or an Industrial District:

1. Applicants requesting establishment of an industrial development district or plant rehabilitation district must submit an application form (Attachment A) and pay the application fee as set by City Council from time to time (check made payable to the Essexville City Treasurer) to the City Clerk's Office.
2. Applications must be filed and approved prior to the start of construction or installation of equipment and/or machinery.
3. An application must comply with the provisions of PA 198, including the economic obsolescence test as set forth in the statute. Unless extraordinary evidence is submitted by the applicant clearly satisfying the objectives of PA 198, a plant rehabilitation district or certificate for a replacement facility will not be granted for construction on vacant non- contiguous land as set forth in Section 2 (3) (b) of the Act.
4. The application will be referred to the City's Tax Abatement Review Group for study and a recommendation.
5. A public hearing will be scheduled for the City Council to consider the request. The applicant will be notified of the date of the hearing and proper legal notices will be mailed and published by the City Clerk.
6. If the establishment of a district is approved, the applicant may proceed with an application for an Industrial Facilities Exemption Certificate (Attachment B).

### B. Application for an Industrial Facilities Exemption Certificate:

1. The applicant must file five (5) originals of the Application for Industrial Facilities Exemption Certificate (Attachment B) and pay the application fee as set by City Council from time to time (check made payable to Essexville Treasurer) to the City Clerk's Office.

2. The application must:
  - List all new machinery, equipment, furniture, and fixtures that will be used in the facility (Attachment C). The list should include description, type, identification, date of (expected) acquisition by month/day/year, and (expected) cost. Pollution control facilities which applicant intends to apply for under PA 250 of 1965, as amended (air) and PA 222 of 1966 (water), are to be listed separately.
  - Rehabilitations Only - List existing machinery, equipment, furniture and fixtures that will be replaced or renovated. List existing machinery, equipment, furniture, and fixtures that will continue to be used in the facility. The list should include description, type, identification year of acquisition, and original cost. (Attachment D)
3. The application for an exemption certificate must be filed within six (6) months after the commencement of the restoration, replacement or construction of the facility or it cannot be considered for approval.
4. File all applications with the City Clerk. After the City Clerk has received the application for an exemption certificate and the payment for the application fee has been received (check is to be made payable to "Essexville Treasurer"), a public hearing date is established and the application is referred to the Tax Abatement Review Group and other units of government, which levy property taxes.
5. The Tax Abatement Review Group will study the application and make a recommendation to the City Council.
6. The matter will then be placed on the City Council's agenda for consideration within sixty (60) days of receipt of the application.
7. The City Council will decide local approval of the exemption certificate. The City Council may exercise its discretion to determine the length of the Act 198 Certificate in accordance with the objectives set forth in these guidelines and the general health, safety, and welfare of the City of Essexville.
8. Each application must include a Letter of Agreement signed by the City of Essexville and operator of the facility outlining conditions/remedies to be maintained during the life of the abatement (Attachment E).
9. Final certification for the project will be made by the Michigan State Tax Commission upon timely receipt (prior to November 1" of each year) of the application approved by the City Council.

## Determination of Number of Years for Industrial Facilities Exemption Certificates

The Tax Abatement Review Group will review, calculate and recommend the term of each tax exemption certificate based on the criteria included on the scoring work sheet. (See Attachment C or D). The purpose of the work sheet is to provide the Tax Abatement Review Group with a fair and consistent system in which a recommendation can be prepared for the City Council. However, the City Council reserves the discretion to consider such other criteria, which are consistent with Act 198 and the general health, safety, and welfare of the City of Essexville. Based on these additional criteria the City Council may approve, deny or adjust the Tax Abatement Review Group's findings as to the number of years the certificate is granted.

### Disapproval / Appeals

The City Council, not more than sixty (60) days after receipt of the application by the City Clerk, shall by resolution either approve or disapprove the application for an Industrial Facilities Exemption Certificate in accordance with Section 9 and the other provisions of this Act. If disapproved, the City Clerk shall return the application to the applicant. The applicant may appeal the disapproval to the State Tax Commission with ten (10) days after the date of the disapproval.

### Local Agreement / Annual Report

The State Tax Commission mandates that each community enter into an Agreement with companies granted tax abatement benefits. The Agreement (Attachment E) covers such issues as investment, job creation, and non-relocation. In addition, the Agreement requires that all companies receiving tax abatement benefits submit to the City Assessor for the term of the Industrial Facilities Exemption Certificate an annual status report recapping activity for the abated project as of December 31 of each year. The report will be due no later than February 20 of each subsequent year. The report will indicate actual moneys expended as of each annual report date, total project actual costs by year of completion and actual number of jobs created or retained as of December 31, of each year of the project. If there is a variation of more than ten (10) percent in the estimated employment levels or expended moneys from what was set forth in the application, the company must include an explanation for this variation in the annual status report.

## Revocation of an Industrial Facilities Exemption Certificate

The City Council may request that the State Tax Commission revoke an exemption certificate upon grounds that:

1. The completion of the facility has not occurred within two (2) years, unless a longer time was authorized; or
2. The purpose for which the certificate was issued is not being fulfilled as a result of a failure of the holder to proceed in good faith (See Section 15 of PA 198, as amended).
3. Failure to comply with the terms of the Letter of Agreement.

## Transfer of an Industrial Facilities Exemption Certificate

An Industrial Facilities Exemption Certificate may be transferred and amended by the holder to a new owner, but only with the approval of the City Council and State Tax Commission. Please use the Application for Industrial Facilities Exemption Certificate (Attachment B) to apply for a transfer.

## Completed Applications

All completed applications for an Industrial Facilities Exemption Certificate must be filed with the City Clerk.

Questions or assistance concerning the Tax Abatement Policy and Procedures may be directed to the City Manager, City Hall, 1107 Woodside Avenue, Essexville, Michigan, 48732, telephone (989) 893-2441.

## Project Completion

R 209.55 Notification of date of project completion; filing of final cost Rule 55.

1. The applicant for an Industrial Facilities Exemption Certificate or holder of a certificate shall notify the assessing officer and the State Tax Commission of the date of completion as explained in Section 16 of Act. 198, being paragraph 207.566 of the Michigan Compiled Laws.

2. The notification of completion of the project shall be filed within thirty (30) days of completion.
3. The final cost of a project shall be filed with the assessing office and the State Tax Commission within ninety (90) days after completion.

R 209.57 Consideration of application.

1. All complete applications for industrial facilities exemption certificates received through October 31 shall receive consideration and action by the Council before December 31. An application received on or after November 1 shall be considered by the Council contingent upon staff availability.

## What is meant by "obsolete industrial property?"

Obsolete means a manufacturing plant, which is currently operating at below-efficiency levels and requires a major investment in the way of equipment replacement or structural changes, or both, to eliminate or reduce inefficiency and enable competitive and more economical operation of the facility.

Under the law, industrial property is considered obsolete if it is in substantially less than an economically efficient functional condition due to the need for changes in design, construction, technology or improved production processes, or because of external factors which decrease the value of the property.

# Application for Establishment of Tax Abatement District

Date: \_\_\_\_\_

Industrial Development   
Plant Rehabilitation

Legal Name of Applicant: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Address: \_\_\_\_\_

Project Address: \_\_\_\_\_

1. Name and nature of applicant's business:
2. Type and cost of new construction or rehabilitation:
3. When will work begin?
4. Type and cost of equipment to be ordered:
5. When will the first piece of equipment be ordered? (month/year)
6. When will construction be completed and/or new facility occupied? (month/year)
7. Total number of employees at the present time:
8. How many jobs are expected to be created within 2 years after project completion?
9. What kind of jobs is expected to be created?
10. Legal description of the real property involved:
11. Permanent parcel number:
12. Name and address of all property owners within the proposed district:  
Current SEV: Real Property: \_\_\_\_\_ Personal Property: \_\_\_\_\_
13. Current zoning of site:

**Note: No tax abatement will be considered for any projects commencing prior to the establishment of the district.**

**Signed:** \_\_\_\_\_

# Application for Industrial Facilities Tax Exemption Certificate

Issued under authority of P.A. 198 of 1974, as amended. Filing is mandatory.

**INSTRUCTIONS:** File the original and two copies of this form and the required attachments (three complete sets) with the clerk of the local government unit. The State Tax Commission (STC) requires two complete sets (one original and one copy). One copy is retained by the clerk. If you have any questions regarding the completion of this form or would like to request an informational packet, call (517) 373-3272.

To be completed by Clerk of Local Government Unit	
Signature of Clerk	Date received by Local Unit
STC Use Only	
Application Number	Date Received by STC

**APPLICANT INFORMATION**

All boxes must be completed.

1a. Company Name (Applicant must be the occupant/operator of the facility)	1b. Standard Industrial Classification (SIC) Code - Sec. 2(10) (Four Digit Code)	
1c. Location of Facility (Street, City, State, ZIP Code)	1d. Name of City/Township/Village (Indicate which)	1e. County
2. Type of Approval Requested <input type="checkbox"/> New (Sec. 2(4)) <input type="checkbox"/> Transfer (1 copy to only) <input type="checkbox"/> Speculative Building (Sec. 3(8)) <input type="checkbox"/> Rehabilitation (Sec. 3(1)) <input type="checkbox"/> Research and Development (Sec. 2(9))	3a. School District where facility is located	3b. School Code
	4. Amount of years requested for exemption (1-12 Years)	
5. Thoroughly describe the project for which exemption is sought: Real Property (Type of Improvements to Land, Building, Size of Addition); Personal Property (Explain New, Used, Transferred from Out-of-State, etc.) and Proposed Use of Facility. (Please attach additional page(s) if more room is needed).		
6a. Cost of land and building improvements (excluding cost of land) ..... Real Property Costs * Attach list of improvements and associated costs * Also attach a copy of building permit if project has already begun.		
6b. Cost of machinery, equipment, furniture and fixtures ..... Personal Property Costs * Attach itemized listing with month, day and year of beginning of installation plus total costs		
6c. Total Project Costs ..... Total of Real & Personal Costs		
7. Indicate the time schedule for start and finish of construction and equipment installation. Projects must be completed within a two year period of the effective date of the certificate unless otherwise approved by the STC.		
	<u>Begin Date (M/D/Y)</u>	<u>End Date (M/D/Y)</u>
Real Property Improvements	_____	_____ <input type="checkbox"/> Owned <input type="checkbox"/> Leased
Personal Property Improvements	_____	_____ <input type="checkbox"/> Owned <input type="checkbox"/> Leased
8. Are State Education Taxes reduced or abated by the Michigan Economic Development Corporation (MEDC)? If yes, applicant must attach a signed MEDC Letter of Commitment to receive this exemption. <input type="checkbox"/> Yes <input type="checkbox"/> No		
9. Number of existing jobs at this facility that will be retained as a result of this project.	10. Number of new jobs at this facility expected to be created within two years of project completion.	
11. Rehabilitation applications only: Complete a, b and c of this section. You must attach the assessor's statement of valuation for the entire plant rehabilitation district. The SEV data below must be as of December 31 of the year prior to the rehabilitation.		
a. SEV of Real Property (excluding land) .....		
b. SEV of Personal Property (excluding inventory) .....		
c. Total SEV .....		
12a. Check the type of District the facility is located in: <input type="checkbox"/> Industrial Development District <input type="checkbox"/> Plant Rehabilitation District		
12b. Date district was established by local government unit	12c. Is this application for a speculative building (Sec. 3(8))? <input type="checkbox"/> Yes <input type="checkbox"/> No	

**APPLICANT CERTIFICATION**

The undersigned, authorized officer of the company making this application certifies that, to the best of his/her knowledge, no information contained herein or in the attachments hereto is false in any way and that all are truly descriptive of the industrial property for which this application is being submitted.

It is further certified that the undersigned is familiar with the provisions of P.A. 198 of 1974, as amended, being Sections 207.551 to 207.572, inclusive, of the Michigan Compiled Laws; and to the best of his/her knowledge and belief, (s)he has complied or will be able to comply with all of the requirements thereof which are prerequisite to the approval of the application by the local unit of government and the issuance of an Industrial Facilities Exemption Certificate by the State Tax Commission.

13a. Preparer Name	13b. Phone Number	13c. Fax Number	13d. E-mail Address
14a. Name of Contact Person	14b. Phone Number	14c. Fax Number	14d. E-mail Address
15a. Name of Company Officer (No Authorized Agents)			
15b. Signature of Company Officer (No Authorized Agents)			15c. Date
15d. Mailing Address (Street, City, State, ZIP)		15e. Phone Number	15f. E-mail Address

**LOCAL GOVERNMENT ACTION & CERTIFICATION**

This section must be completed by the clerk of the local governing unit before submitting application to the State Tax Commission. Check items on file at the Local Unit and those included with the submittal.

<p>16. Action taken by local government unit</p> <p><input type="checkbox"/> Abatement Approved for _____ Years (1-12) After Completion <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Denied (Include Resolution Denying)</p>	<p>16b. The State Tax Commission Requires the following documents be filed for an administratively complete application:</p> <p><b>Indicate N/A if Not Applicable</b></p> <p><input type="checkbox"/> 1. Original Application plus attachments, and one complete copy</p> <p><input type="checkbox"/> 2. Resolution establishing district</p> <p><input type="checkbox"/> 3. Resolution approving/denying application.</p> <p><input type="checkbox"/> 4. Letter of Agreement (Signed by local unit and applicant)</p> <p><input type="checkbox"/> 5. Affidavit of Fees (Signed by local unit and applicant)</p> <p><input type="checkbox"/> 6. Building Permit for real improvements if project has already begun</p> <p><input type="checkbox"/> 7. Equipment List with dates of beginning of installation</p> <p><input type="checkbox"/> 8. Form 3222 (if applicable)</p> <p><input type="checkbox"/> 9. Speculative building resolution and affidavits (if applicable)</p>
<p>16a. Documents Required to be on file with the Local Unit</p> <p><b>Indicate N/A if Not Applicable</b></p> <p><input type="checkbox"/> 1. Notice to the public prior to hearing establishing a district.</p> <p><input type="checkbox"/> 2. Notice to taxing authorities of opportunity for a hearing.</p> <p><input type="checkbox"/> 3. List of taxing authorities notified for district and application action.</p> <p><input type="checkbox"/> 4. Lease Agreement showing applicants tax liability.</p>	
17. Name of Local Government Body	18. Date of Resolution Approving/Denying this Application

Attached hereto is an original and one copy of the application and all documents listed in 16b. I also certify that all documents listed in 16a are on file at the local unit for inspection at any time.

19a. Signature of Clerk	19b. Name of Clerk	19c. E-mail Address
19d. Clerk's Mailing Address (Street, City, State, ZIP)	19e. Phone Number	19f. Fax Number

State Tax Commission Rule Number 57: Complete applications approved by the local unit and received by the State Tax Commission by October 31 each year will be acted upon by December 31. Applications received after October 31 may be acted upon in the following year.

Local Unit: Mail one original and one copy of the completed application and all required attachments to:

**State Tax Commission**  
**Michigan Department of Treasury**  
**P.O. Box 30471**  
**Lansing, MI 48909-7971**

STC USE ONLY			
LUCI Code	Begin Date	End Date	End Date2

## Instruction for Form 1012, Industrial Facilities Tax Exemption (IFT) Application

The completed original application form 1012 (formerly L-4380) and all required attachments, plus two additional copies, **MUST** be filed with the clerk of the local unit of government where the facility is or will be located. Complete applications must be received by the State Tax Commission by October 31 to ensure processing and certification for the following tax year. Applications received after the October 31 deadline will be processed as expeditiously as possible.

Please note that attachments listed on the application in number 16a are to be retained by the local unit of government, and attachments listed in number 16b are to be included with the application when forwarding to the State Tax Commission (STC).

(Before commencement of a project the local unit of government must establish a district, or the applicant must request in writing a district be established, in order to qualify for an IFT abatement. Applications and attachments must be received by the local unit of government within six months of commencement of project.)

**The following information is required on separate documents attached to form 1012 by the applicant and provided to the local unit of government (city, township or village) in triplicate. (Providing an accurate school district where the facility is located is vital.)**

1. Legal description of the real property on which the facility is or will be located. Also provide property identification number if available.
2. Personal Property Requirements: Complete list of new machinery, equipment, furniture and fixtures which will be used in the facility. The list should include description, beginning date of installation or expected installation by month/day/year, and costs or expected costs. Detail listing of machinery and equipment must match amount shown on question 6b of the application. Personal property applications must have attached a certified statement/affidavit as proof of the beginning date of installation.
3. Real Property Requirements: Proof of date the construction started (groundbreaking). Applicant must include one of the following if the project has already begun; building permit, footings inspection report, or certified statement/affidavit from contractor indicating exact date of commencement.
4. Complete copy of lease agreement as executed, if

applicable, verifying lessee (applicant) has direct ad valorem real and/or personal property tax liability. The applicant must have real and/or personal property tax liability to qualify for an IFT abatement on leased property. If applying for a real property tax exemption on leased property, the lease must run the full length of time the abatement is granted by the local unit of government.

The following information is required of the local unit of government: (Please note that only items 2, 4, 5, 6, & 7 when applicable, are forwarded to the State Tax Commission with the application, along with items 2 & 3 from above. The original and one complete copy are required by the STC. The remaining items are to be retained at the local unit of government for future reference. The local unit must verify that the school district listed on all IFT applications is correct.)

1. A copy of the notice to the general public and the certified notice to the property owners concerning the establishment of the district.
2. Certified copy of the resolution establishing the Industrial Development District (IDD) or Plant Rehabilitation District (PRD), which includes a legal description of the district. If the district was not established prior to the commencement of construction, the local unit shall include a certified copy or date stamped copy of the filing of the request to establish the district.
3. Copy of the notice and the certified letters to the taxing authorities regarding the hearing to approve the application.
4. Certified copy of the resolution approving the application. The resolution must include the number of years the local unit is granting the abatement and the statement "the granting of the Industrial Facilities Exemption Certificate shall not have the effect of substantially impeding the operation of (governmental unit), or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in (governmental unit).
5. Letter of Agreement (signed by the local unit of government and the applicant per P.A. 334 of 1993).
6. Affidavit of Fees (signed by the local unit of government and the applicant), (Bulletin 3, January 16, 1998). This statement may be incorporated into the Letter of Agreement.

7. Treasury Form 3222 (if applicable) - Fiscal Statement for Tax Abatement Request.

**The following information is required for rehabilitation applications in addition to the above requirements:**

1. A listing of existing machinery, equipment, furniture and fixtures which will be replaced or renovated. This listing should include description, beginning date of installation or expected installation by month/day/year, and costs or expected costs.
2. A rehabilitation application must include a statement from the Assessor showing the taxable valuation of the plant rehabilitation district, separately stated for real property (EXCLUDING LAND) and personal property only applications should have attached a certified statement or affidavit as proof of the date personal property installation commenced.

**The following information is required for speculative building applications in addition to the above requirements:**

1. A certified copy of the resolution to establish a speculative building.
2. A statement of non-occupancy from the owner and the assessor.

**Cable Equipment**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

**Computer & Peripheral Equipment**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

**Improvements**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

**Machinery & Equipment**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

**Computer Controlled Machinery & Equipment**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

**Furniture & Fixtures**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

**Office Machines**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

**Electronic, Video & Test Equipment**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

**Computer-Utilized Equipment**

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost



# Industrial Facilities Exemption Certificate Letter of Agreement

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_, by and between \_\_\_\_\_ of \_\_\_\_\_, Essexville, Michigan 48732 ["Company"] and the CITY OF ESSEXVILLE Michigan municipal corporation, of 1107 Woodside Avenue, Essexville, Michigan 48732 ["City"] for the purposes of fulfilling the requirements of Act No. 198 of the Public Acts of 1978 as amended, and to set forth the rights, duties and obligations of the respective parties.

1. Company acknowledges that as a prerequisite to obtaining an Industrial Facilities Exemption Certificate ["tax abatement"] that Company has made certain material representations to City in its application for Industrial Facilities Exemption Certificate dated, \_\_\_\_\_, upon which City has justifiably relied, and upon which City will continue to rely, and based upon which Company will receive certain monetary benefits, tax abatements, to which it otherwise would not be entitled.

2. Company further acknowledges that the receipt of an Industrial Facilities Exemption Certificate is also based upon the material representations made by Company in its application for an Industrial Facilities Exemption Certificate. Further, that all representations made herein are true and correct to the best of Company's information, knowledge and belief and that the representations include the past history of Company, the present status of Company and the future duties and obligations to be performed by Company.

3. In consideration of the receipt of an Industrial Facilities Exemption Certificate, it is expressly agreed by Company that should any of the material representations of Company be erroneous or should Company fail to substantially perform any future promises, duties or obligations, the same shall be deemed to constitute a breach of this agreement and City may petition the State Tax Commission to revoke the Industrial Facilities Exemption Certificate.

4. Company shall submit to the City Assessor, for the term of the Industrial Facilities Exemption Certificate, an annual status report recapping activity for the abated project as of December 31 of each year. The report will be due no later than February 20 of each subsequent year. It will indicate actual monies expended as of each annual report date, total project actual costs by year of completion and actual number of jobs created or retained as of December 31 of each year of the project.

If, as of any annual report date during the life of the project, there is a variation of more than ten percent in the estimated employment levels or expended monies from what was set forth in the application the company must include an explanation for this variation in the annual status report. Upon request, City shall be given the opportunity to review the books, records and documents, which were the basis for the annual status report submitted to the City Assessor. All books, records and documents shall be available and the review shall take place at the Essexville offices of the Company. City shall not be able to make copies of any proprietary or confidential information.

5. Company agrees that it shall be a good corporate citizen and comply with all relevant federal, state and local rules, regulations, codes, ordinances, and environmental enforcement requirements during the entire period for which the Industrial Facilities Exemption Certificate was granted. Under this provision the Company agrees to comply at all its facilities in Bay City with all construction, building, and zoning codes, and environmental enforcement requirements in effect during the entire period for which the Industrial Facilities Exemption Certificate was granted. Failure to comply shall constitute grounds for revocation of the Industrial Facilities Exemption Certificate.

6. Company further agrees that it shall pay all taxes and assessments on the regular ad valorem tax roll, real and personal, hereupon levied on said premises or any equipment or personal property thereon before any penalty for non-payment attaches thereto, beginning with the next tax billing and continuing throughout the term of the Industrial Facilities Exemption Certificate. Failure to pay all such taxes as provided above shall be deemed to constitute a breach of this agreement and City may petition the State Tax Council to revoke the Industrial Facilities Exemption Certificate may otherwise proceed in accordance with the remedies provided by statute. Company maintains the right to protest any tax assessments it feels are improper without jeopardizing the benefits of the Industrial Facilities Exemption Certificate.

7. Company represents that it intends to remain within the City of during the entire period of time for which the Industrial Facilities Exemption Certificate has been approved. Under this provision the Company agrees to maintain buildings, equipment and employment related to the new project as represented by the Company in its application for an Industrial Facilities Exemption Certificate. Company also represents that it intends to maintain overall buildings, equipment, and employment at the level as represented by the Company in its application for an Industrial Facilities Exemption Certificate. Company expressly agrees that failure to remain within the limits of the City of Essexville, construct and maintain buildings, purchase equipment, retain existing employees, or create and fill the new positions within two years of project completion, all as described in its application, shall be deemed to constitute a breach of this agreement and City may petition the State Tax Commission to revoke the Industrial Facilities Exemption Certificate.

Upon revocation the Company shall pay to the affected taxing units an amount equal to all taxes it would have paid had the Industrial Facilities Exemption Certificate not been in effect for those years. City may also seek remedies available under Public Act 198 of the Public Acts of 1974, as amended.

8. Company does not agree to maintain any specified level of overall plant employment, for any particular period of time, except as specifically set forth in its Application for Industrial Facilities Exemption Certificate. City's sole remedy and Company's sole obligation in the event of an employment shortfall is set forth herein.

9. Company will utilize the following procedures to fill any newly created jobs or positions resulting from the construction and expansion activities described in the application for Industrial Facilities Exemption Certificate. After fulfilling all applicable requirements established in any national or local collective bargaining agreements concerning employment of existing Company employees, preference will be given to residents of the City of Essexville who have been qualified for employment after completing the applicable Company employment assessment process. Company is an equal opportunity employer and shall not discriminate against job applicants on the basis of race, color, creed, sex, age or religion.

10. City acknowledges that in some instances, economic conditions, technology, or conditions beyond the control of Company may prevent Company from fulfilling the terms of the Application for Industrial Facilities Exemption Certificate and complying fully with this Agreement. City agrees that it shall give Company an opportunity to explain to the City Council the reasons for any variations from the representations as contained in the Application for Industrial Facilities Exemption Certificate and the City Council, in its sole discretion, will evaluate the Company's situation prior to taking any action authorized by this Agreement.

11. This Agreement shall become effective upon the issuance of a Certificate in compliance with the Application for Industrial Facilities Exemption Certificate by the Michigan State Tax Commission and shall be null and void and of no force or effect whatsoever, if the Michigan State Tax Commission fails to issue such a Certificate. This Agreement shall be null and void upon expiration of the Industrial Facilities Exemption Certificate.

12. Company shall give the City at least 60 days written notice of any of the following: (a) The closing of any facility or building subject to the Industrial Facilities Exemption Certificate; (b) The sale or removal of any equipment subject to the Industrial Facilities Exemption Certificate; (c) The sale, transfer, merger or reorganization of the Company.

13. The Affidavit attached as "Exhibit A is incorporated by reference as if fully set forth herein.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first written above.

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**COMPANY:**

\_\_\_\_\_  
\_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**CITY:**

\_\_\_\_\_  
\_\_\_\_\_

AFFIDAVIT

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF BAY )

The undersigned, being first duly sworn deposes and says as follows:

“No payment of any kind in excess of the fee allowed by Act 198, as amended, has been made or promised in exchange for favorable consideration of the exemption certificate application.”

**COMPANY:**

\_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me a Notary Public in and for said County, appeared \_\_\_\_\_, to me personally known, who being duly sworn did say that he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation named herein and which executes the within instrument, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and acknowledged said instrument to be the free act and deed of said corporation.

\_\_\_\_\_  
, Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

**CITY:**

\_\_\_\_\_  
City Manager or Designee

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me a Notary Public in and for said County, appeared \_\_\_\_\_, to me personally known, who being duly sworn did say that he/she is the \_\_\_\_\_ of the City of Essexville, the municipal corporation named herein and which executes the within instrument, and that said instrument was signed on behalf of said corporation by authority of Council, and acknowledged said instrument to be the free act and deed of said corporation.

\_\_\_\_\_  
, Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_