

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (the “Agreement”) dated _____, _____, is entered into by _____, a _____ (the “Company”), with facilities located at _____, Grand Rapids, Michigan _____, and the **CITY OF GRAND RAPIDS**, a Michigan municipal corporation (the “City”) with offices located at the City Hall, 300 Monroe Avenue, N.W., Grand Rapids, Michigan 49503.

RECITALS

A. The Company has filed an application dated _____, _____, (the “Application”) with the City requesting that the City adopt a resolution approving the issuance by the State Tax Commission (the “STC”) of an industrial facilities exemption certificate (an “IFEC”) for certain capital expenditures, constituting real and/or personal property related to its business operations as identified in the Application (the “Improvements”) pursuant to the Plan Rehabilitation and Industrial Development Districts Act, Act 198 of the Public Acts of Michigan of 1974, as amended (“Act 198”), which will reduce unemployment, promote economic growth and increase capital improvements.

B. The Company has represented in its Application that undertaking the Improvements will result in it making certain capital investment (the “Capital Investment”) and creating new and/or the retaining of existing jobs (the “Jobs”) within the City as set forth in the Application.

C. The City has, pursuant to Act 198, established an industrial development district or plant rehabilitation district with respect to the Improvements.

D. The City has agreed, subject to the terms and conditions of this Agreement, to assist the Company in obtaining the IFEC in order to further the purposes and intent of Act 198.

E. The City Commission has adopted a resolution on _____, _____, (the “Resolution”), approving the issuance of an IFEC by the STC for the Improvements subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in order to meet the intent and purposes of Act 198 and in consideration of the benefits each receives pursuant to this Agreement and the Resolution, the Company and the City agree as follows:

1. Undertaking the Improvements. Pursuant to the provisions of Act 198 and the Resolution, the Company agrees to undertake the Improvements, make the Capital Investment and create/retain the Jobs as identified in the Application provided the STC has issued an IFEC for the Improvements.

2. Reporting Requirements. After the IFEC has been issued for the Improvements, the Company agrees to provide the City the following written reports:

- a. On November 1 following the effective date of the IFEC, the Company shall report as of such November 1 (i) the amount and type of capital investment it has made and (ii) the number of existing jobs retained and new jobs created related to the Improvements since the effective date of the IFEC.
- b. On November 1 of the second year following the effective date of the IFEC, the Company shall report as of such November 1 the amount and type of capital investment it has made and (ii) the number of existing jobs retained and new jobs created related to the Improvements since the effective date of the IFEC. If the amount of capital investment is less than or different from that indicated in the Application or the number of existing jobs retained or new jobs created is less than that indicated in the Application, the report shall contain an explanation as to why such Capital Improvement and/or Jobs projections have not been met.
- c. Upon the request of the City during the period the IFEC is in effect, the Company shall report to the City within 15 days of the request (i) the amount and type of capital investment it has made and (ii) the number of existing jobs retained and new jobs created related to the Improvements since the effective date of the IFEC as of the date the report is provided to the City.

3. Failure to Meet Capital Investment and/or Jobs Projections. The Company agrees that if it does not meet the Capital Investment and/or Jobs projections related to the Improvements set forth in the Application, the City reserves the right to request the STC to revoke the IFEC for the Improvements in accordance with Act 198.

4. Payment of Property Taxes Abated. The Company agrees (i) that should it fail to operate or utilize within the jurisdictional boundaries of the City the Improvements for which the IFEC was issued during the period the IFEC is in effect or (ii) if the IFEC for the Improvements is revoked by the STC upon the request of the Company before the end of the period that it is in effect, it shall upon request of the City pay to the City within 30 days of being invoiced (for distribution to the various tax levying governmental units) an amount equal to the amount of *ad valorem* real and personal property taxes it would have been responsible for paying had the IFEC not been in effect plus the applicable City property tax administration fee.

5. Relocation of Improvements. If the Company relocates the Improvements outside the jurisdictional boundaries of the City during the period the IFEC related to the Improvements is in effect, it shall, upon relocating, unless otherwise forgiven by the City as provided in Act 198, pay the City, for distribution to the various tax levying governmental units, an amount equal to the difference between the industrial facilities tax (as defined in Act 198) to be paid by the Company for the Improvements for the years remaining under the IFEC and the *ad valorem* real and personal property taxes that the Company would have paid if the IFEC for the Improvements was not in effect for those years.

6. Payment of Fees. The Company agrees to pay the applicable application fee established by the City in accordance with Act 198 on or before the effective date of the IFEC for the Improvements. The City's adoption of the Resolution is contingent upon the payment of such fee on or before the effective date of the IFEC. Both the Company and the City represent and affirm that no payment in excess of the fees permitted by Act 198 has or have been made, received or promised in exchange for the approval of the Resolution.

7. Changed Conditions. The City acknowledges that the Company may be unable, because of economic conditions, technology or other conditions beyond its control, to comply in full with the terms of the Application, the Resolution or this Agreement. The City agrees to give the Company notice of such noncompliance and an opportunity to explain why it is unable to comply with the provisions hereof or in the Application or the Resolution and give the Company a reasonable opportunity and time (as shall be solely determined by the City) to comply with such terms before taking any action permitted by this Agreement.

8. Payment of Property Taxes. The Company agrees to pay prior to the assessment of any penalty all *ad valorem* real and personal property taxes related to property of the Company subject to taxation and located in the City including, but not limited to, the Improvements, including any applicable industrial facility tax payable pursuant to Act 198, *provided, however*, the Company shall be entitled, in accordance with applicable law and procedures, to appeal either the state equalized value or taxable value of property subject to taxation.

9. Not in Arrears to the City. The Company agrees during the term of this Agreement that it will not be in arrears to the City on any debt or contract or be in default of any obligation to the City.

10. Compliance with Law. The Company agrees to comply with all rules, regulations, codes and ordinances applicable to it including the City's zoning ordinance.

11. Transfer and Assignment. The IFEC for the Improvements may not be transferred or assigned by the Company without the prior written approval of the City and the STC in accordance with Act 198. Further, this Agreement may not be assigned by the Company without the prior written approval of the City.

12. Compliance with Act 198. This Agreement is entered into by the Company and the City in compliance with the requirements of Section 22 of Act 198.

IN WITNESS WHEREOF, the Company and the City have signed this Agreement effective as of the date set forth above.

"Company"

By: _____

Its: _____
Title

CITY OF GRAND RAPIDS
"City"

By: _____
Rosalynn Bliss, Mayor

Attest: _____
Darlene O'Neal, City Clerk