

CITY OF MUSKEGON
SPECIAL CITY COMMISSION MEETING

A Special City Commission Meeting is scheduled for

Tuesday, October 29, 2019

5:30 p.m. @

Muskegon City Hall

933 Terrace Street

Muskegon, MI 49440

In the Commission Chambers, Room 107

AGENDA

1. Establishment of Plant Rehabilitation District
2. Issuance of an Industrial Facilities Tax Exemption Certificate – American Chemical Solutions, LLC

WATCH MUSKEGON

Agenda Item Review Form Muskegon City Commission

Commission Meeting Date: 10/29/19	Title: Establishment of a Plant Rehabilitation District
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Pursuant to Public Act 198 of 1974, as amended, American Chemical Solutions, LLC has requested the establishment of a Plant Rehabilitation District at 2406 Roberts St. This new company will be moving into the former chemical plant on Roberts St and will need to make significant upgrades to the facility. In order to apply for a Plant Rehabilitation IFT, they must be located in a Plant Rehabilitation District.	
Detailed Summary:	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the Plant Rehabilitation District at 2406 Roberts St.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING A PLANT REHABILITATION DISTRICT AT 2406 ROBERTS ST, MUSKEGON, MI 49444

WHEREAS, pursuant to PA 198 of 1974, as amended, the City Commission of the City of Muskegon has the authority to establish a Plant Rehabilitation District within the City of Muskegon; and

WHEREAS, American Chemical Solutions, LLC has petitioned the City Commission of the City of Muskegon to establish a Plant Rehabilitation District on its property located in the City of Muskegon hereinafter described; and

WHEREAS, construction, acquisition, alteration, or installation of a proposed facility has not commenced at the time of filing the request to establish this district; and

WHEREAS, written notice has been given by mail to all owners of real property located within the district, and to the public by newspaper advertisement in the Muskegon Chronicle and public posting of the hearing on the establishment of the proposed district; and

WHEREAS, on October 29, 2019 a public hearing was held at which all owners of real property within the proposed Plant Rehabilitation District and all residents and taxpayers of the City of Muskegon were afforded an opportunity to be heard thereon; and

WHEREAS, the City Commission of the City of Muskegon deems it to be in the public interest of the City of Muskegon to establish the Plant Rehabilitation District as proposed; and

IT IS HEREBY DETERMINED that the property comprising not less than 50 percent of the state equalized valuation of the property within the proposed Plant Rehabilitation District is obsolete; and

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Muskegon that the following described parcel of land situated in the City of Muskegon, Muskegon County, and State of Michigan, to wit:

CITY OF MUSKEGON PT OF NW 1/4 OF SE 1/4 & PT OF SW 1/4 OF NE 1/4 SEC 33 T10N R16W DESC AS: COM @ S 1/4 COR SAID SEC 33 TH N 1D 02M 52S E ALONG N/S 1/4 LINE 2011.75 FT TH N 89D 27M 40S E ALONG S LINE OF NW 1/4 OF NW 1/4 OF SE 1/4 OF SAID SEC 233.0 FT TH N 1D 02M 52S E PAR WITH N/S 1/4 LINE 33.01 FT TO POB TH CONT N 1D 02M 52S E PAR WITH N/S 1/4 LINE 637.66 FT TO POINT OF INT WITH E/W 1/4 LINE TH N 1D 00M 40S E PAR WITH N/S 1/4 LINE 79.74 FT TH S 71D 06M 53S E ALONG SLY RT OF WAY LINE CONSUMERS POWER COMPANY 288.83 FT TH S 1D 02M 52S W PAR WITH N/S 1/4 LINE 621.31 FT TH S 89D 27M 40S W 275.00 FT TO POB ALSO COM @ A POINT 33 FT N & 508 FT E OF SW 1/4 SEC 33 TH N 621.59 FT TO SLY LINE CONSUMERS POWER COMPANY RT OF WAY TH SELY ALONG SAID RT OF WAY 866.09 FT TH S 458.50 FT TH NWLY 586.01 FT TO N LINE BARNEY EXTENDED TH W 252.00 FT TO POB ALSO W 727.74 FT OF S 1/2 OF NW 1/4 OF SE 1/4 SEC 33 T10N R16W INCLUDING VAC E BARNEY AVE BEG 200 FT E OF E LN OF ROBERTS ST EXC N 33 FT AND W 33 FT TH'OF FOR STS

is established as a Plant Rehabilitation District pursuant to the provisions of PA 198 of 1974, as amended, to be known as ACS Plant Rehabilitation District.

Adopted this 29th Day of October 2019.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Gawron
Mayor

ATTEST: _____
Ann Meisch
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on October 29, 2019.

Ann Meisch
Clerk

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: 10/29/19	Title: Issuance of an Industrial Facilities Tax Exemption Certificate – American Chemical Solutions, LLC
Submitted By: Mike Franzak	Department: Planning
Brief Summary: Pursuant to Public Act 198 of 1974, as amended, American Chemical Solutions, LLC has requested the issuance of an Industrial Facilities Tax (IFT) Exemption Certificate in order to rehabilitate the vacant chemical plant at 2406 Roberts St. The company is eligible for a 12-year abatement on the real property improvements.	
Detailed Summary:	
Amount Requested:	Amount Budgeted:
Fund(s) or Account(s):	Fund(s) or Account(s):
Recommended Motion: To approve the IFT Certificate for 12-years.	
Check if the following Departments need to approve the item first: Police Dept. ☐ Fire Dept. ☐ IT Dept. ☐ For City Clerk Use Only: Commission Action:	

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION APPROVING APPLICATION FOR ISSUANCE
OF INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR A REHABILITATION FACILITY
*American Chemical Solutions, LLC***

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed public hearing held on October 29, 2019, this Commission by resolution established the ACS Plant Rehabilitation District as requested by American Chemical Solutions, LLC for their property at 2406 Roberts St, Muskegon, Michigan 49444; and

WHEREAS, American Chemical Solutions, LLC has filed an application for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to a rehabilitation facility within the ACS Plant Rehabilitation District; and

WHEREAS, before acting on said application, the Muskegon City Commission held a public hearing on October 29, 2019, at the Muskegon City Hall in Muskegon, Michigan at 5:30 p.m. at which hearing the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the installation of machinery and equipment and the rehabilitation of the facility is calculated to and will have the reasonable likelihood to retain, create, or prevent the loss of employment in Muskegon, Michigan; and

WHEREAS, the installation of machinery and equipment and the rehabilitation of the facility has not yet begun, and

WHEREAS, the aggregate SEV of real property exempt from ad valorem taxes within the City of Muskegon, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that:

- 1) The Muskegon City Commission finds and determines that the Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Act of 1974 as amended and Act No. 255 of the Public Acts of 1978 as amended shall not have the effect of substantially impeding the operation of the City of Muskegon or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Muskegon.
- 2) The application of American Chemical Solutions, LLC, for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to a rehabilitation facility within the ACS Plant Rehabilitation District on the following described parcel of real property situated within the City of Muskegon to wit:

CITY OF MUSKEGON PT OF NW 1/4 OF SE 1/4 & PT OF SW 1/4 OF NE 1/4 SEC 33 T10N R16W DESC AS: COM @ S 1/4 COR SAID SEC 33 TH N 1D 02M 52S E ALONG N/S 1/4 LINE 2011.75 FT TH N 89D 27M 40S E ALONG S LINE OF NW 1/4 OF NW 1/4 OF SE 1/4 OF SAID SEC 233.0 FT TH N 1D 02M 52S E PAR WITH N/S 1/4 LINE 33.01 FT TO POB TH CONT N 1D 02M 52S E PAR WITH N/S 1/4 LINE 637.66 FT TO POINT OF INT WITH E/W 1/4 LINE TH N 1D 00M 40S E PAR WITH N/S 1/4 LINE 79.74 FT TH S 71D 06M 53S E ALONG SLY RT OF WAY LINE CONSUMERS POWER COMPANY 288.83 FT TH S 1D 02M 52S W PAR WITH N/S 1/4 LINE 621.31 FT TH S 89D 27M 40S W 275.00 FT TO POB ALSO COM @ A POINT 33 FT N & 508 FT E OF SW 1/4 SEC 33 TH N 621.59 FT TO SLY LINE CONSUMERS POWER COMPANY RT OF WAY TH SELY ALONG SAID RT OF WAY 866.09 FT TH S 458.50 FT TH NWLY 586.01 FT TO N LINE BARNEY EXTENDED TH W 252.00 FT TO POB ALSO W 727.74 FT OF S 1/2 OF NW 1/4 OF SE 1/4 SEC 33 T10N R16W INCLUDING VAC E BARNEY AVE BEG 200 FT E OF E LN OF ROBERTS ST EXC N 33 FT AND W 33 FT TH'OF FOR STS

- 3) The Industrial Facilities Tax Exemption Certificate is issued for a rehabilitation facility and shall be and remain in force and effect for a period of 12 years.

Adopted this 29th Day of October 2019.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Gawron
Mayor

ATTEST: _____
Ann Meisch
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on October 29, 2019.

Ann Meisch
Clerk

CITY OF MUSKEGON

CONTRACT FOR TAX ABATEMENT

Act 198 Public Acts of 1974

AGREEMENT between CITY OF MUSKEGON, a municipal corporation of 933 Terrace Street, Muskegon, Michigan 49441, (“City”) and American Chemical Solutions, LLC (“Company”).

Recitals:

A. The Company has applied to City for the establishment of an industrial rehabilitation district pursuant to the provisions of Act 198 of the Public Acts of 1974, as amended, which act requires a contract between the City and the Company to be agreed and submitted with the Company’s subsequent anticipated application for an industrial facilities exemption certificate.

B. That in addition to the statutory requirement, the City has determined that it is in the best interests of the taxpayers, property owners and residents of the City that this Agreement be approved and executed prior to the establishment of the requested district, and the City deems this Contract, together with the conditions set forth in the said Act to constitute a necessary element in the City’s determination whether or not to create the district.

C. The Company intends to rehabilitate the facility set forth in its application (“facility”) which it believes qualifies for the process of establishing the district and the application for industrial facilities exemption certificate.

D. The City, provided this Agreement is executed, will determine whether to create the district based upon the potential for the production of permanent jobs, the continuation or increase of economic activity, planning and zoning considerations and the City’s general plan and intentions regarding economic development. In addition to the City policy considerations and predictions that the Company’s proposed district and certificate benefit the community in those ways, the City has further determined that the contractual commitments made by the Company to thereby assist the community shall be binding on the Company and necessary to continue the tax exemption made possible by the certificate.

NOW THEREFORE THE PARTIES AGREE:

1. **COMPANY AGREEMENT.** The Company irrevocably commits to the investment, job retention and job creation promises made in its application, a copy of which is attached hereto and incorporated herein. In particular the Company agrees:

1.1 That 100% of the jobs shall be filled and in existence with full-time employees by a date no later than two (2) years from the date of the granting of the certificate by the State Tax Commission.

1.2 The Company shall meet the affirmative action goal in keeping with the Company's written equal opportunity policies as supplied to the City, including any additional representations made to the City Commission on or before the date two (2) years after the granting of the certificate by the State Tax Commission. It shall maintain the said levels of employment diversity during the period of the certificate.

1.3 The Company, by the end of two (2) years from the date of the grant of the certificate by the State Tax Commission shall have completed the investment of \$420,144 in real property rehabilitation as shown in the application.

1.4 That the rehabilitated facility to receive the tax abatement treatment shall be completed on or before the date two (2) years from the date of granting of the certificate by the State Tax Commission.

1.5 The Company shall pay its specific taxes required by the act in a timely manner, and shall not delay payments so as to incur any penalties or interest.

1.6 The Company shall fully cooperate with the City representatives in supplying all requested and required documentation regarding jobs, investment, the meeting of all goals and the timely rehabilitation and utilization of the facility. The City shall be entitled to inspect at reasonable hours the Company's premises where the said rehabilitation has incurred and where the said jobs are performed.

1.7 The Company shall maintain, during the entire period for which the tax abatement is granted, the level of jobs, affirmative action goals, production and utilization of the facility at the site where the district has been created and for which the tax exemption has been granted.

1.8 The Company shall not cause or fail to cure the release of any hazardous substance, or the violation of any environmental law on its premises in the City. It shall report any releases to the appropriate governmental authority in a timely and complete manner, and provide copies of said report documentation to the City. It shall comply with all orders and actions of any governmental agency having authority.

1.9 The Company shall maintain the facility so as to minimize physical or functional obsolescence.

1.10 The Company shall continue to operate its business location in the City, containing the same number of and type of jobs, for the term of the certificate.

2. **AGREEMENT BY THE CITY.** Provided this contract has been executed and further provided all applications to create the district and achieve the industrial facility exemption certificate have been properly filed, the City shall, in a timely manner, determine in a public meeting to create the district and receive, process, and approve thereafter the Company's application for an industrial facilities exemption certificate. The City may consider this contract in a meeting separate from and prior to the meeting in which the City considers the creation of the district and approval of the application for certificate. Further, the City shall require the submission of this contract signed by the Company together with its applications, before creating the district.

3. **EVENTS OF DEFAULT.** The following actions or failures to comply shall be considered events of default by the Company:

3.1 Failure to meet any of the commitments set forth above.

3.2 The closing of the Company's facilities in the City. Closing shall mean for purpose of this Agreement, the removal, without transfer to another site within the City of substantially all of the production facilities, and the elimination of substantially all the jobs created or retained thereby, which are set forth in the Company's application.

3.3 Failure to afford to the City the documentation and reporting required.

3.4 The failure to create or retain jobs, meet affirmative action goals or expend the funds on the facility as represented in the application within the times required hereby.

3.5 The bankruptcy or insolvency of the Company.

3.6 The failure to pay any and all taxes and assessments levied on the Company's property or any other taxes, local, state or federal, including but not limited to City income taxes and the withholding of said City income taxes from employees as required by the City Income Tax Ordinance.

3.7 The performance or omission of any act which would lead to revocation under MCLA 207.565, being §15 of the Act.

3.8 The violation of any provisions, promises, commitments, considerations or covenants of this Agreement.

4. **REMEDIES ON DEFAULT.** In the event of any of the above defaults the City shall have the following remedies which it may invoke without notice, except as may be reasonably required by the Company's rights to due process:

4.1 In the event of closing as determined after investigation of the facts and a public hearing, the Company shall be immediately liable for penalties to be paid forthwith to the city as determined as follows:

4.1.1 The Company shall pay to the City for prorata distribution to the taxing units experiencing the abatement, an amount equal to the difference between the industrial facilities tax which it has paid, and the total property taxes to the relevant taxing units which it would have paid, given its rehabilitation, during the years for which the certificate was in effect.

4.1.2 Immediate Revocation. The Company hereby consents to revocation to the IFT certificate before the State Tax Commission, without hearing, and the City shall submit a copy of this Agreement to the State Tax Commission in connection with its revocation procedure, giving notice that the default has occurred and immediate revocation should occur.

4.2 In the event the rehabilitated facility has not been installed before the two (2) year period, in addition to the revocation procedures before the State Tax Commission, the abatement should immediately be reduced by the City proportionately, and any rehabilitation which has not been finished at the end of said two (2) year period shall not be eligible for the abatement thereafter and shall be placed on the regular tax roll.

4.3 Failure to Expend the Funds Represented. In the event, (whether or not the rehabilitation has been completed), the Company has not expended the funds it has represented on its application that it would invest for the rehabilitation of the facility, the abatement shall be reduced prorata, and any remaining value of the facility shall be placed on the regular tax roll.

4.4 Job Creation and Retention. In the event the promised number of jobs have not been created or retained at the end of the two (2) years after the grant of the certificate by the State Tax Commission, the abatement shall be proportionately reduced.

4.5 Affirmative Action Goals. In the event, after one (1) year from the grant of the certificate by the State Tax Commission, the affirmative action goals outlined in the Company's equal opportunity policy have not been met, the abatement shall be revoked.

4.6 For other violations of this Agreement or for actions or omissions by the Company amounting to grounds for revocation by statute, the City shall recommend to the State Tax Commission immediate revocation of the certificate.

4.7 Special Assessment. For any amount due to be paid to the City, under this Section 4, the Company consents that the City shall have a personal action against

the Company for the said amount, and in addition, cumulatively, and not by election, the City shall have a special assessment lien on all the property of the Company personal and real, located in the City, for the collection of the amounts due as and in the manner of property taxes and in such case the collection of the said special assessment shall be accomplished by addition by the City to the Company's property tax statement regularly rendered.

5. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan.

6. Counterparts. This Agreement may be executed in one or more counterparts. Notwithstanding such execution all such counterparts shall constitute one and the same Agreement.

7. Benefit. This Agreement shall be binding upon and inure to the benefit of the respective parties, their successors and personal representatives.

8. Effective Date. This Agreement shall be effective on the date the State of Michigan Tax Commission grants the company at Industrial Facilities Exemption Certificate.

CITY OF MUSKEGON

By _____
Stephen J. Gawron, Mayor

Date _____

and _____
Ann Meisch, Clerk

Date _____

By  _____
Its Chief Financial Officer

Date 10/24/2019