



City Attorney's Office

515 Clark Avenue, P. O. Box 811
Ames, IA 50010

Phone: 515-239-5146 • Fax: 515-239-5142

September 23, 2011

Honorable Ann H. Campbell, Mayor,
and Members of the Ames City Council

Re: Minimum Assessment Agreement for Ames Community Development Park, 4th Addition

Dear Mayor Campbell and Members of the Council:

In 2009 the City established an urban renewal area and created a tax increment finance (TIF) district for an urban renewal project on South Bell Avenue. The City then entered into a development agreement with Dayton Park, LLC, to facilitate the developer's project to construct and market industrial buildings at below-market cost. The project is located in the Ames Community Development Park Subdivision, 4th Addition.

Under the terms of the 2009 development agreement with Dayton Park, the cost of constructing and financing the public improvements was to be abated by the increment in property taxes based on the progress in the project. The developer agreed to build speculative buildings of at least 10,000 square feet and with a taxable value of at least \$350,000 on lots that are 1.5 acres or less. The development agreement also provided that the parties would enter into a minimum assessment agreement for the larger lots. The minimum assessment would be place a taxable value for buildings of at least \$266,000 for each acre of each lot greater than 1.5 acres in size.

The attached minimum assessment agreement is drafted in accordance with Iowa Code Chapter 403, providing for urban renewal projects, and it incorporates the terms provided for in the development agreement between the City and Dayton Park. Additionally, the minimum assessment agreement includes a certification by the City Assessor that the actual value assigned to building improvements, exclusive of land, will not be less than \$266,000 per acre. The minimum assessment agreement will terminate once the debt issued by the City to pay for the construction of the public improvements at the project site is paid in full.

The minimum assessment agreement has been reviewed and approved by the City Assessor and by Dean Hunziker as manager of Dayton Park, LLC. I recommend approval.

Yours truly,

Douglas R. Marek
City Attorney

c: Greg Lynch, Duane Pitcher

DO NOT WRITE IN THE SPACE ABOVE THIS LINE, RESERVED FOR RECORDER

Prepared by: Douglas R. Marek, Ames City Attorney, 515 Clark Avenue, Ames, IA 50010 dmarek@city.ames.ia.us Ph. 515-239-5146
Return recorded document to: Ames City Clerk, 515 Clark Avenue, Ames, IA 50010

MINIMUM ASSESSMENT AGREEMENT

This MINIMUM ASSESSMENT AGREEMENT, dated as of this ____ day of September, 2011, by and among the CITY OF AMES, IOWA (hereinafter "City"), DAYTON PARK, LLC, an Iowa limited liability corporation (hereinafter "Developer"), and the CITY ASSESSOR FOR CITY OF AMES, IOWA (hereinafter "Assessor").

WITNESSETH:

WHEREAS, on or about February ____, 2009, City and Developer have entered into a Development Agreement for Ames Community Development Park Subdivision 4th Addition (the "Agreement") regarding certain real property located in City; and

WHEREAS, it is contemplated that pursuant to said Agreement, Developer will undertake the redevelopment of property within City and within the Ames Community Development Park Subdivision 4th Addition (hereinafter referred to as "Property") which is described on the attached Exhibit 1; and

WHEREAS, pursuant to Section 403.6 of the Code of Iowa, as amended, City and Developer desire to establish a minimum actual value for the improvements to be constructed or placed upon the Property by Developer pursuant to the Agreement, which shall be effective upon substantial completion of such improvements and from then until this Agreement is terminated pursuant to the terms herein and which is intended to reflect the minimum actual value of such improvements, exclusive of the value of the unimproved land; and

WHEREAS, City and the Assessor have reviewed the preliminary plans and specifications including the restrictive covenants applicable to the improvements contemplated to be erected.

NOW, THEREFORE, the parties to this Minimum Assessment Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. For all lots greater than 1.5 acres in size, the Assessor shall establish an assessment on buildings that are constructed on said lots at a taxable value of at least \$266,000 per acre.

This minimum assessment requirement will terminate once the debt issued by the City to pay for the Public Improvements has been paid off.

2. Nothing herein shall be deemed to waive Developer's rights under Iowa Code Section 403.6(19), as amended, to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value established herein. In no event, however, shall Developer seek to reduce the actual value assigned below the Minimum Actual Value established herein during the term of this Agreement.
3. In the event that any portion of the Property is taken through the exercise of the power of eminent domain, the Minimum Actual Value shall be reduced by the same proportion as the value of the portion of such Property so taken bears to the value of such Property in its entirety immediately prior to such taking.
4. This Minimum Assessment Agreement shall be promptly recorded by Developer with the Recorder of Story County, Iowa. Developer shall pay all costs of recording.
5. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, or shall be construed as, modifying the terms of the Agreement between City and Developer.
6. This Minimum Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their authorized representatives as of the date first above written.

CITY OF AMES, IOWA

By: _____
Ann H. Campbell, Mayor

Attest by: _____
Diane R. Voss, City Clerk

STATE OF IOWA, STORY COUNTY ss:

On this _____ day of _____, 2011, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Resolution No. _____ adopted by the City Council on the _____ day of _____, 2011, and that Ann H. Campbell and Diane R. Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Notary Public in and for the State of Iowa

DAYTON PARK, L.L.C.

By: _____
Dean E. Hunziker, Manager

STATE OF IOWA, COUNTY OF STORY, SS:

On this _____ day of _____, 2011, before me the undersigned, a Notary Public in and for said state, personally appeared Dean E. Hunziker, to me personally known, who, being by me duly sworn, did say that he is the manager of said LIMITED LIABILITY COMPANY executing the foregoing instrument; that NO SEAL has been procured by the said limited liability company; that said instrument was signed on behalf of said limited liability company by authority of its managers and the said Dean E. Hunziker acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.

Notary Public in and for the State of Iowa

CERTIFICATION OF ASSESSOR

The undersigned, having reviewed the plans and specifications for the improvements to be constructed upon the land described in Exhibit 1, and the market value assigned to such improvements, and being of the opinion that the minimum market value contained in the foregoing Minimum Assessment Agreement appears reasonable, hereby certifies as follows: The undersigned Assessor, being legally responsible for the assessment of the Property described in Exhibit 1 hereto, upon completion of improvements to be made on it and in accordance with the Minimum Assessment Agreement, certifies that the actual value assigned to building, equipment and other improvements (exclusive of the value of the unimproved land) upon completion on lots greater than 1.5 acres in size shall not be less than Two Hundred Sixty-six Thousand Dollars (\$266,000.00) per acre, until termination of this Minimum Assessment Agreement pursuant to the terms hereof.

Date: _____, 2011

Gregory P. Lynch, Ames City Assessor

STATE OF IOWA, COUNTY OF STORY, SS:

On this _____ day of _____, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Gregory P. Lynch, Ames City Assessor, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for the State of Iowa