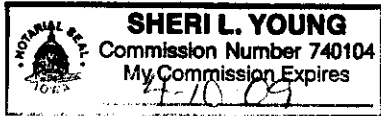


STATE OF IOWA )  
 : ss.  
COUNTY OF WOODBURY )

BE IT REMEMBERED, on this 5<sup>th</sup> day of November, 2007, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Craig S. Berenstein and Lisa McCardle, to me personally known, who, being by me duly sworn, did say that they are Mayor and City Clerk, respectively, of the City of Sioux City, Iowa; that the seal affixed hereto is the seal of the City of Sioux City, Iowa; and that the said Craig S. Berenstein and Lisa McCardle acknowledged the execution of said instrument to be the voluntary act and deed of said City of Sioux City, Iowa, by it and by them voluntarily executed.



Sheri L. Young  
Notary Public

STATE OF IOWA )  
 : ss.  
COUNTY OF WOODBURY )


On this 2<sup>nd</sup> day of November, 2007, before me, a Notary Public in and for the State of Iowa, personally appeared Jerry J. Johnson, to me personally known, who being by me duly (sworn or affirmed) did say that that person is the Manager of Lakeport Commons, L.L.C. and that said instrument was signed on behalf of the said limited liability company by authority of its Manager and the said Jerry J. Johnson acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.



Jenny Bertrand  
Notary Public

Roll 695 Image 2012-2021

Document 7901 Type AMEND Pages 10  
Date 12/06/2007 Time 10:14 AM  
Rec Amt \$52.00

PATRICK F GILL, AUDITOR AND RECORDER   
WOODBURY COUNTY IOWA

**Prepared by Patty Heagel** P.O. Box 447, Sioux City, Iowa 51102 Telephone No. (712) 279-6103  
**After recording return to:** City of Sioux City, Iowa, P.O. Box 447, Sioux City, Iowa 51102

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FIRST AMENDMENT  
TO  
ASSESSMENT AGREEMENT  
FOR PRIVATE DEVELOPMENT IN THE  
DONNER PARK URBAN RENEWAL AREA  
BY AND BETWEEN  
THE CITY OF SIOUX CITY, IOWA  
and  
LAKEPORT COMMONS, L.L.C.

Legal Description: See Exhibits "A" and "B"

## FIRST AMENDMENT TO ASSESSMENT AGREEMENT

THIS FIRST AMENDMENT TO ASSESSMENT AGREEMENT ("Amendment") is entered into on November 5, 2007, by and between the City of Sioux City, Iowa, an Iowa municipal corporation, vested with urban renewal powers pursuant to Chapter 403 Code of Iowa, ("City") and Lakeport Commons, L.L.C., an Iowa limited liability company ("Developer").

WHEREAS, City and Developer previously entered into that certain Assessment Agreement dated December 13, 2004 (the "Agreement"), for certain real property in Sioux City, Woodbury County, Iowa, as described in the Agreement (the "Developer Property"); *recorded at Roll 671, Image 2782*

WHEREAS, the Agreement provides for the Developer Property to be subject to an aggregate minimum actual value in connection with certain tax increment financing benefiting Developer in connection with the construction of public and private improvements on the Developer Property;

WHEREAS, Developer has sold a portion of the Developer Property to MB Sioux City Lakeport, L.L.C., a Maryland limited liability company, such portion of the Developer property being described on Exhibit "B" attached hereto (the "MB Sioux City Property") and, as contemplated under Paragraph 1 of the Agreement, Developer has allocated to the MB Sioux City Property a portion of the minimum value of the land and improvements for the Developer Property and a portion of the aggregate minimum actual value established pursuant to the Agreement; and

WHEREAS, City and Developer wish to modify the Agreement according to the terms and conditions set forth in this Amendment to be effective upon Developer transferring the MB Sioux City Property to MB Sioux City Lakeport, L.L.C.

NOW, THEREFORE, in consideration of the mutual covenants in the Agreement and herein set forth, City and Developer agree as follows:

1. Except as otherwise defined herein, all capitalized terms in this First Amendment shall have the meanings given them in the Agreement.
2. For purposes of the Agreement, the Developer Property shall no longer include the MB Sioux City Property and shall hereinafter mean the real property and improvements constructed or to be constructed thereon, as such real property is described on Exhibit "A" attached hereto.
3. Notwithstanding anything in the Agreement to the contrary, Developer and City agree that the aggregate minimum actual value for the Developer Property shall be as set forth below:

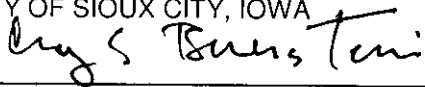
<u>Year</u>	<u>Aggregate Minimum Actual Value Developer Property</u>
2007	*
2008	\$3,265,500.
2009	\$3,265,500.
2010	\$3,265,500.
2011	\$3,265,500.
2012	\$3,265,500.
2013	\$3,265,500.
2014	\$3,265,500.
2015	\$3,265,500.
2016	\$108,850.

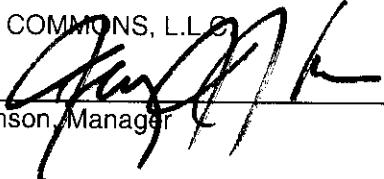
\* To be determined/prorated at closing.

4. Except as expressly provided in this Amendment, the Agreement remains unmodified and in full force and effect.

5. This Amendment may be executed in any number of counterparts, and each counterpart shall be deemed to be an original document.

IN WITNESS WHEREOF, this Amendment is executed to be effective as of the date specified herein.

CITY OF SIOUX CITY, IOWA  
  
 \_\_\_\_\_  
 Craig S. Berenstein, Mayor

LAKEPORT COMMONS, L.L.C.  
  
 \_\_\_\_\_  
 Jerry J. Johnson, Manager


Attest:   
 \_\_\_\_\_  
 Lisa McCardle, City Clerk

EXHIBIT "A"  
"DEVELOPER PROPERTY"

Lot 5 and Outlots 5, 6, 7, 8, 9, 10 and 11 of Lakeport Commons, an Addition to the City of Sioux City, Woodbury County, Iowa

except

Those portions of Outlots 7 and 8, Lakeport Commons, an addition to the City of Sioux City, Woodbury County, Iowa, described as follows:

Beginning at the Southernmost corner of said Outlot 8; thence South 62°31'23" West along the Southeast line of Outlot 7 for a distance of 71.24 feet; thence South 67°36'04" West along said Southeast line for a distance of 87.26 feet; thence North 23°12'11" West for a distance of 221.54 feet to the Northwest line of said Outlot 7; thence Northeasterly along the Northwest lines of Outlots 7 and 8, and along a non-tangent curve to the left having a radius of 848.67 feet, for a distance along the arc of 190.08 feet, the chord of which bears North 60°28'01" East a distance of 189.68 feet; thence South 34°52'42" East for a distance of 227.87 feet to the Southeast line of Outlot 8; thence South 52°07'08" West along the Southeast line of Outlot 8 for a distance of 53.12 feet; thence South 62°31'23" West along said Southeast line for a distance of 25.03 feet to the Point of Beginning.

EXHIBIT "B"

"MB SIOUX CITY PROPERTY"

**PARCEL I:**

Lots 1, 3, 4 and Outlots 1, 2, and 4 of the Final Plat of Lakeport Commons, an addition to the City of Sioux City, Woodbury County, Iowa,

EXCEPT that portion of Lot 1, conveyed to the City of Sioux City, Iowa, described as follows:

Commencing at the northeast corner of said Lot 1; thence South 88°08'44" West along the north line of said Lot 1 for a distance of 461.52 feet to the east line of Old Lakeport Road and the Point of Beginning; thence South 03°45'37" East for a distance of 25.37 feet ; thence South 86°14'23" West for a distance of 126.17 feet; thence North 03°45'37" West for a distance of 33.08 feet to the perimeter of said Lot 1; thence North 27°20'00" East for a distance of 116.04 feet to the west line of Old Lakeport Road; thence North 88°20'07" East for a distance of 33.00 feet to the centerline of Old Lakeport Road; thence South 03°45'37" East along said centerline for a distance of 104.76 feet; thence North 88°08'44" East for a distance of 33.28 feet to the Point of Beginning.

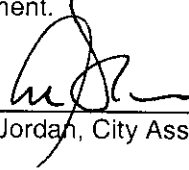
**PARCEL II:**

Those portions of Outlots 7 and 8, Lakeport Commons, an addition to the City of Sioux City, Woodbury County, Iowa, described as follows:

Beginning at the Southernmost corner of said Outlot 8; thence South 62°31'23" West along the Southeast line of Outlot 7 for a distance of 71.24 feet; thence South 67°36'04" West along said Southeast line for a distance of 87.26 feet; thence North 23°12'11" West for a distance of 221.54 feet to the Northwest line of said Outlot 7; thence Northeasterly along the Northwest lines of Outlots 7 and 8, and along a non-tangent curve to the left having a radius of 848.67 feet, for a distance along the arc of 190.08 feet, the chord of which bears North 60°28'01" East a distance of 189.68 feet; thence South 34°52'42" East for a distance of 227.87 feet to the Southeast line of Outlot 8; thence South 52°07'08" West along the Southeast line of Outlot 8 for a distance of 53.12 feet; thence South 62°31'23" West along said Southeast line for a distance of 25.03 feet to the Point of Beginning.

ASSESSOR'S CERTIFICATE

The undersigned assessor, being legally responsible for the assessment of the above-described property, certifies that the actual value assigned to the land and improvements shall be as set forth in Paragraph 3 of the foregoing First Amendment to Assessment Agreement.



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Alan Jordan, City Assessor

**RESOLUTION NO. 2007- 000709**  
**with attachment**

**RESOLUTION APPROVING AN AMENDMENT TO ASSESSMENT AGREEMENT WITH LAKEPORT COMMONS, L.L.C. FOR A PROJECT IN THE DONNER PARK URBAN RENEWAL AREA.**

WHEREAS, Lakeport Commons, L.L.C. and the City of Sioux City, Iowa, did on the 23rd day of August, 2004, enter into a Development Agreement for a land in the Donner Park Urban Renewal Area; and

WHEREAS, as part of the Development Agreement, Lakeport Commons, L.L.C. entered into a minimum assessment agreement for the property that is included in the project, and

WHEREAS, Lakeport Commons, L.L.C. has sold part of the project to MB Sioux City Lakeport, L.L.C. and has requested the City enter into a revised Assessment Agreement to recognize the sale of part of the project property to MB Sioux City Lakeport L.L.C., and

WHEREAS, Lakeport Commons, L.L.C. has submitted, a First Amendment to Assessment Agreement, a copy of which is attached hereto and by this reference incorporated herein, which should be approved as to form and content.


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, that the First Amendment to Assessment Agreement with Lakeport Commons, L.L.C. for a project in the Donner Park Urban Renewal Area, as referred to in the preamble hereof, be and the same is approved as to form and content.

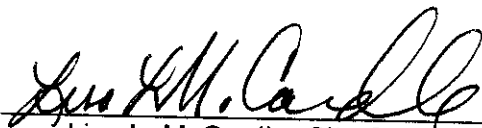
BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized and directed to execute said First Amendment to Assessment Agreement for and on behalf of the City of Sioux City.

BE IT FURTHER RESOLVED, that the City Clerk be and she is hereby authorized and directed to submit such First Amendment to Assessment Agreement to the City Assessor for his certification pursuant to Section 403.6(19) of the Iowa Code.

BE IT FURTHER RESOLVED, that the City Clerk, upon receiving the certification of the City Assessor, be and she is hereby authorized and directed to file a certified copy of this resolution with the First Amendment to Assessment Agreement with the Woodbury County Recorder/Auditor.

PASSED AND APPROVED: August 20, 2007

  
\_\_\_\_\_  
Craig S. Berenstein, Mayor

ATTEST:   
\_\_\_\_\_  
Lisa L. McCardle, City Clerk



**STATE OF IOWA**

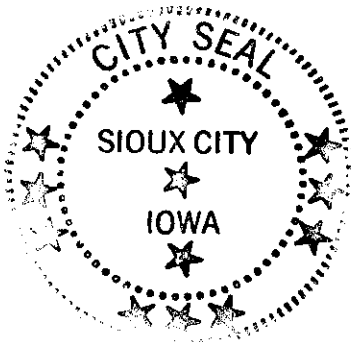
**Woodbury County**

**CITY OF SIOUX CITY**


**Office of the City Clerk**

I, Lisa L. McCardle, City Clerk of the City of Sioux City and City Clerk of the City Council thereof, and as such, having charge of and in my possession all the records and documents pertaining to said office now remaining therein, do hereby certify that it appears from such records that the foregoing is a true and correct copy of the Resolution 2007-0960 adopted by the City Council of the City on the 5th day of November, 2007, upon the call of yeas and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 7<sup>th</sup> day of November, 2007



(SEAL)

  
\_\_\_\_\_  
LISA L. McCARDLE  
CITY CLERK

**RESOLUTION NO. 2007- 000960**  
**with attachment**

RESOLUTION RESCINDING RESOLUTION NO. 2007-0709 AND APPROVING AN AMENDMENT TO ASSESSMENT AGREEMENT WITH LAKEPORT COMMONS, L.L.C. FOR A PROJECT IN THE DONNER PARK URBAN RENEWAL AREA.

WHEREAS, Lakeport Commons, L.L.C. and the City of Sioux City, Iowa, did on the 23rd day of August, 2004, enter into a Development Agreement for a land in the Donner Park Urban Renewal Area; and

WHEREAS, as part of the Development Agreement, Lakeport Commons, L.L.C. entered into a minimum assessment agreement for the property that is included in the project, and

WHEREAS, Lakeport Commons, L.L.C. has sold part of the project to MB Sioux City Lakeport, L.L.C. and has requested the City enter into a revised Assessment Agreement to recognize the sale of part of the project property to MB Sioux City Lakeport L.L.C., and

WHEREAS, Lakeport Commons, L.L.C. has submitted, a First Amendment to Assessment Agreement, a copy of which is attached hereto and by this reference incorporated herein, which should be approved as to form and content.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, that the First Amendment to Assessment Agreement with Lakeport Commons, L.L.C. for a project in the Donner Park Urban Renewal Area, as referred to in the preamble hereof, be and the same is approved as to form and content.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized and directed to execute said First Amendment to Assessment Agreement for and on behalf of the City of Sioux City.

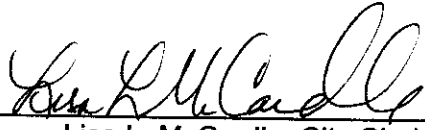
BE IT FURTHER RESOLVED, that the City Clerk be and she is hereby authorized and directed to submit such First Amendment to Assessment Agreement to the City Assessor for his certification pursuant to Section 403.6(19) of the Iowa Code.

BE IT FURTHER RESOLVED, that the City Clerk, upon receiving the certification of the City Assessor, be and she is hereby authorized and directed to file a certified copy of this resolution with the First Amendment to Assessment Agreement with the Woodbury County Recorder/Auditor.

PASSED AND APPROVED: November 5, 2007



Craig S. Berenstein, Mayor

ATTEST:   
Lisa L. McCardle, City Clerk