

RETURN TO:
CITY OF STORY CITY
504 BROAD ST
STORY CITY IA 50248

Instrument: 200400015277
Date: 11-15-2004 Time: 11:49:17 am.
Rec Fee: 76.00 E-Com Fee: 1.00
Aud Fee: .00 Trans Tax: .00
Filed for Record in STORY COUNTY IOWA
SUSAN L. VANDE KAMP, COUNTY RECORDER

WITNESSETH

THIS DOCUMENT PREPARED BY DORSEY & WHITNEY LLP, 801 GRAND AVENUE, DES MOINES, IOWA PH:515-283-1000

Story City/421081-28/Min Assmt Agmt

ASSESSMENT AGREEMENT

THIS AGREEMENT, dated as of the 4th day of November, 2004, by and among the City of Story City, Iowa (the "City"), M. H. Eby, Inc. ("Eby") and TNL Development, L.L.C. ("TNL") (hereinafter Eby and TNL are collectively referred to as the "Developers"), and the County Assessor of the County of Story (the "Assessor").

WITNESSETH

WHEREAS, the Developers have acquired real property the legal description of which is contained in Exhibit A attached hereto (the "Property"), which is located in the Story City Urban Renewal Area in the City; and

WHEREAS, it is contemplated that the Developers will undertake the development of a facility located on the Property; and

WHEREAS, the Assessor's records show the valuation for the Property and any improvements as of January 1, 2004 to be \$ 12,100.00; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, the City and the Developer desire to establish a minimum actual value for the Property and the improvements to be constructed thereon, which shall be effective as of January 1, 2006, and from then until this Agreement is terminated pursuant to the terms herein and which is intended to reflect the minimum market value of the land and improvements;

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

1. Effective January 1, 2006, the minimum actual value which shall be assessed for the Property with the improvements constructed thereon, shall be One Million Dollars (\$1,000,000) until termination of this Agreement.
2. This Agreement, and the minimum actual value established herein, shall be effective until such time as the City is fully reimbursed from incremental property taxes generated from the Property, for its costs incurred (including, but not limited to, the provision of grants to the Developers) under a certain Development Agreement between the City and the Developers dated November 4, 2004.
3. This Agreement shall be promptly recorded with the Story County Recorder, along with a copy of Iowa Code Section 403.6.
4. Neither the preambles nor provisions of this Agreement are intended to, nor shall they be construed as, modifying the terms of any other contract between the City and the Developer.

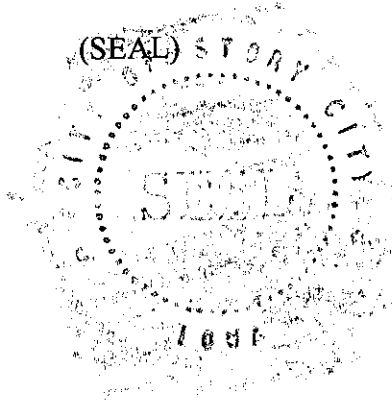
5. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

CITY OF STORY CITY, IOWA

By Kenneth Peterson
Mayor

Attest:

Pat Twedt
City Clerk



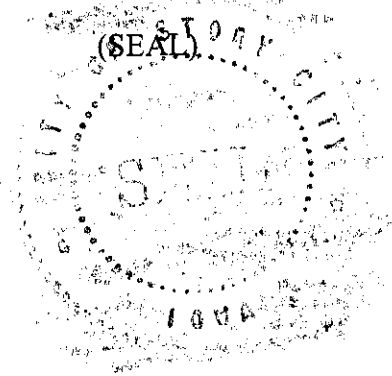
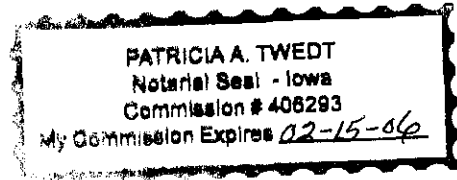
TNL DEVELOPMENT, L.L.C.

By MES

MENNO TRAVIS EBY, MEMBER
Name, Title

Attest:

Pat Twedt
Name, Title

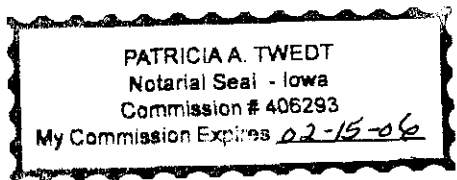


M.H. EBY, INC.

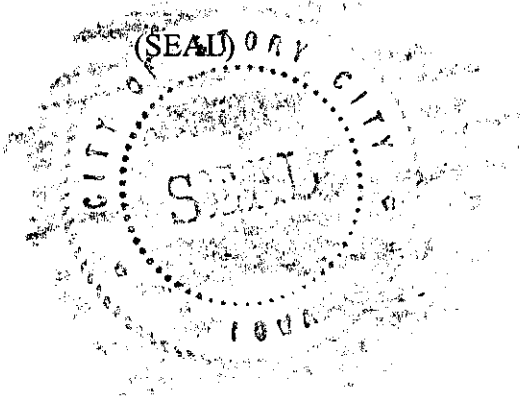
By M. Eby

President
Name, Title

Attest:



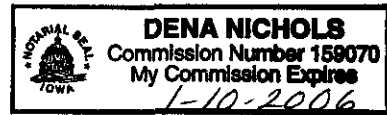
Dat Tuedt
Name, Title



STATE OF IOWA)
)
COUNTY OF STORY) SS:

On this 4th day of November, 2004, before me the undersigned, a Notary Public in and for the said County and State, personally appeared Kenneth Peterson and Pat Twedt, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Story City, Iowa, a municipal corporation executing the instrument to which this is attached; that the seal affixed hereto is the seal of said municipal corporation; that said instrument was signed and sealed on behalf of the City of Story City, Iowa, by authority of its City Council; and that said Kenneth Peterson and Pat Twedt, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

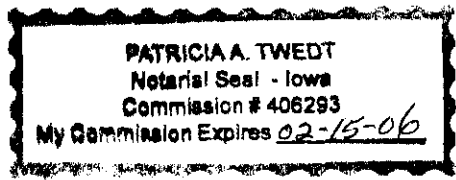
Dena Nichols
Notary Public



STATE OF IOWA)
)
COUNTY OF STORY)

On this 4th day of November, 2004, before me the undersigned, a Notary Public in and for the State of Iowa personally appeared MENNO TRAVIS EBY and MENNO EBY, to me personally known, who, being duly sworn did say that they are the VICE PRESIDENT and PRESIDENT of M.H. Eby, Inc., the corporation executing the instrument to which this is attached; that said instrument was signed on behalf of said corporation by authority of its Board of Directors and that the said MENNO TRAVIS EBY and MENNO EBY, acknowledge the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Pat Twedt
Notary Public



STATE OF IOWA)
)
COUNTY OF STORY)

On this 4th day of November, 2004, before me the undersigned, a Notary Public in and for the State of Iowa personally appeared MENNO TRAVIS EBY and MEDWORTH EBY, to me personally known, who, being duly sworn did say that they are the VICE PRESIDENT and PRESIDENT of TNL Development, L.L.C., the limited liability company executing the instrument to which this is attached; that said instrument was signed on behalf of said limited liability company by authority of its governing body and that the said MENNO TRAVIS EBY and MEDWORTH EBY, acknowledge the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by them voluntarily executed.

Pat Twedt
Notary Public

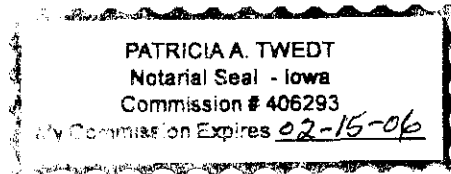


EXHIBIT A

(Legal Description of Property)

Certain real property situated in the City of Story City, County of Story, State of Iowa more particularly described as follows:

Parcel "B" in the Northwest Quarter of the Southeast Quarter (NW1/4SE1/4) and the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section Seven (7), Township Eighty-five (85) North, Range Twenty-three (23), West of the 5th P.M., Story County, Iowa, as shown on the "Plat of Survey" filed in the office of the Recorder of Story County, Iowa, on the 10th day of June, 2004, and recorded as Instrument No. 200400007633 in Slide 209 at Page 5.

CERTIFICATION BY ASSESSOR

The undersigned Assessor, being legally responsible for the assessment of the above described property upon completion of improvements to be made on it, hereby certifies that the actual value assigned to such land and improvements as of January 1, 199_, shall be not less than One Million Dollars (\$1,000,000) until termination of this Agreement pursuant to the terms hereof.

Wayne Shindler
County Assessor for the County
of Story, State of Iowa

Subscribed and sworn to before me this 8th day of November, 2004.

Danielle Dunham
Notary Public



DEVELOPMENT AGREEMENT

WHEREAS, The City of Story City, Iowa ("the City") has received a proposal from M. H. Eby, Inc. ("Eby") and TNL Development, L.L.C. ("TNL") (hereinafter Eby and TNL are collectively referred to as the "Developers") concerning the Developers' interest in obtaining and developing real estate within the City limits for the purpose of building a new manufacturing building (factory and/or assembly facility) that would bring economic development to the area ("the Project"), said real estate (the "Real Estate") located at the Southeast corner of the intersection of Interstate 35 and Story County Road E18, and more particularly described on Exhibit A hereto; and

WHEREAS, the City Council of the City of Story City believes that the City should participate in the Project for the reasons stated in Resolution 04-46, adopted September 20, 2004, approving this Agreement and authorizing the Mayor and City Clerk to execute same.

NOW, THEREFORE, the parties hereto, in consideration of the foregoing and the mutual obligations and benefits hereinafter set out, hereby agree as follows:

1. The City agrees to purchase the Real Estate from the existing owners, and agrees to transfer clear title to TNL at no cost to the Developers (the City will make an economic development grant to TNL in the amount of \$171,600, which amount represents the purchase price of the Real Estate), the exact timing of said transfer and other contingencies to be determined by mutual agreement of the parties.

These contingencies shall include, among other things, the right by Developers, subject to the approval of the current title holder and farm tenant, to conduct an environmental site assessment and soil tests to determine whether the Real Estate is suitable for Developers' intended purposes. If Developers determine, in their sole discretion, that the environmental site assessment or soil tests are not satisfactory, Developers shall have the right, without penalty, to terminate this Development Agreement and thereafter neither the Developers nor the City shall have any further rights or responsibilities under this Development Agreement.

2. The City agrees to make a loan to Eby in the amount of \$50,000.00 from the City's Economic Development Revolving Loan Fund, at 1/2 the current Prime Interest Rate, re-payable by Eby at a 5 year amortization rate, the other exact terms of said loan to be determined later. Eby agrees to make a proper application therefore and to otherwise comply with all rules and procedures applicable to said Loan Fund.

3. The Developers agree to construct a new commercial building on the Real Estate of not less than 30,000 square feet, such that said Real Estate, as improved (including the existing improvements), will have a guaranteed minimum assessed value of One Million Dollars (\$1,000,000.00) for property tax purposes effective as of January 1, 2006, and the Developers agree to execute an Assessment Agreement to that effect pursuant to Section 403.6(19) of the Code of Iowa. Said Agreement shall be effective for the minimum period of time that will enable the City to reimburse itself fully for the costs of the Project and all grants referred to herein from the incremental taxes on the improvements in the applicable urban renewal area.

4. The City agrees to create an Urban Revitalization Area (such area to include the Real Estate) with a five-year tax abatement schedule as follows: 75%, 60%, 45%, 30%, and 15%.

5. Within the Plat of Survey filed on the 10th day of June, 2004 in Slide 209 at Page 5 is shown Tract "B". The City and the Developers acknowledge and agree that this Tract "B" is intended to be City street right of way serving the Project and the Real Estate. The City confirms that promptly upon execution of this Development Agreement it shall take all legal steps necessary to dedicate Tract "B" as a public City Street and thereafter take steps as soon as

practicable, weather conditions permitting, to grade and pave Tract "B" so that the paved street is available to serve the Real Estate upon the Project's completion. Furthermore, the City confirms that there shall be no special assessment, levy or other charge against the Real Estate or the Developers in connection with the improvements and paving of Tract "B."

6. The City agrees to make an economic development grant to TNL in the amount of \$30,000.00, pursuant to Chapter 15A of the Code of Iowa, to help defray the costs of site preparation on the Real Estate for the Project, payable upon completion of the Project.

7. With reference to Section 15A.1(3) of the Code of Iowa, the Developers certify that they have not violated any federal or state environmental protection statute, regulation or rule within the previous five (5) years.

8. The City and the Story City Economic Development Corporation agree to assist the Developers in applying for whatever grants, loans, or other assistance may be available from the State of Iowa, at no cost to the Developers.

9. The Story City Municipal Electric Utility will give Eby a 15 percent discount on electricity purchased from said utility, for one year from and after the date that the project is put into production.

10. This Agreement is subject to all notice and hearing requirements, if any, that may be applicable under the Iowa Urban Renewal Law or any other applicable law.

11. This Agreement may not be amended or assigned by either party without the express written permission of the other party.

12. This Agreement shall be binding upon and shall inure to the benefit of the heirs, successors and assigns of the parties.

The Parties to this Agreement, consisting of 12 paragraphs on two printed pages (not counting the next one), hereunto set their hands in duplicate this 4th day of November, 2004.

CITY OF STORY CITY, IOWA

By: *Kenneth Peterson*
Mayor

Attest: *Dat Suedt*
City Clerk

M. H. EBY, INC., DEVELOPER

By: *M. Travis Eby*
M. Travis Eby, Vice President

TNL DEVELOPMENT, L.L.C.

By: *M. Travis Eby*

EXHIBIT A – LEGAL DESCRIPTION OF REAL PROPERTY

Certain real property situated in the City of Story City, County of Story, State of Iowa more particularly described as follows:

Parcel "B" in the Northwest Quarter of the Southeast Quarter (NW1/4SE1/4) and the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section Seven (7), Township Eighty-five (85) North, Range Twenty-three (23), West of the 5th P.M., Story County, Iowa, as shown on the "Plat of Survey" filed in the office of the Recorder of Story County, Iowa, on the 10th day of June, 2004, and recorded as Instrument No. 200400007633 in Slide 209 at Page 5.

Page 2

REJ/jpd
Story City/421081-28\Assessment Agmt
Enclosure

cc: Gene Olson

4813-8377-0368\1 11/3/2004 12:26 PM

Page 12

area unless the owner of the agricultural land consents to condemnation or unless the agricultural land is to be acquired for industry as that term is defined in section 260E.2. This paragraph shall not apply to land necessary or useful for the operation of a city utility as defined in section 362.2, for the operation of a city franchise conferred the authority to condemn private property under section 364.2 or a combined utility system as defined in section 384.80.

5. An urban renewal plan may be modified at any time: Provided, that if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification may be conditioned upon such approval of the owner, lessee or successor in interest as the municipality may deem advisable, and in any event such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or a lessee's or purchaser's successor or successors in interest, may be entitled to assert. The municipality shall comply with the notification and consultation process provided in this section prior to the approval of any amendment or modification to an adopted urban renewal plan if such amendment or modification provides for refunding bonds or refinancing resulting in an increase in debt service or provides for the issuance of bonds or other indebtedness, to be funded primarily in the manner provided in section 403.19.

6. Upon the approval by a municipality of an urban renewal plan or of any modification thereof, such plan or modification shall be deemed to be in full force and effect for the respective urban renewal area, and the municipality may then cause such plan or modification to be carried out in accordance with its terms.

7. Notwithstanding any other provisions of this chapter, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the governor of the state has certified the need for disaster assistance under Pub. L. No. 875, Eighty-first Congress, 64 Stat. L. 1109; 42 U.S.C. § 1855-1855g or other federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to the provisions of subsection 4 and without regard to provisions of this section requiring notification and consultation, a general plan for the municipality, and a public hearing on the urban renewal plan or project.

[C58, 67, 66, 71, 73, 75, 77, 79, 81, §403.6]
85 Acts, ch 66, §3; 94 Acts, ch 1182, §6; 96 Acts, ch 1204, § 14-16; 99 Acts, ch 171, §35, 41, 42

1999 amendment to subsection 4 applies to urban renewal areas established before, on, or after July 1, 1999, and to amendments to such urban renewal areas; see 99 Acts, ch 171, §41

1999 amendment to subsection 4 applies to state highway construction projects approved for commencement by the transportation commission on or after July 1, 1999, and to all other condemnation proceedings in which the application for condemnation is filed on or after July 1, 1999; see 99 Acts, ch 171, §42

403.6 Powers of municipality.

Every municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

1. To undertake and carry out urban renewal projects within its area of operation; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this chapter; and to disseminate slum clearance and urban renewal information.

2. To arrange or contract for the furnishing or repair by any person of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with an urban renewal project; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions, that it may deem reasonable and appropriate, attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project; and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate.

3. Within its area of operation, to enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain or otherwise, any real property, or personal property for administrative purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this chapter: Provided, however, that no statutory provision with respect to the acquisition, clearance or disposition of property by public bodies shall restrict a municipality or other public body exercising powers hereunder in the exercise of such functions with respect to an urban renewal project, unless the legislature shall specifically so state.

4. To invest any urban renewal project funds held in reserves or sinking funds, or any such funds not required for immediate disbursement, in property or securities in which a state bank may legally invest funds subject to its control; to redeem such bonds as have been issued pursuant to

section 403.9 at the redemption price established therein, or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

5. To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this chapter, and to give such security as may be required, and to enter into and carry out contracts in connection therewith. A municipality may include in any contract, for financial assistance with the federal government for an urban renewal project, such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of the chapter.

6. Within its area of operation, to make or have made all surveys and planning necessary to the carrying out of the purposes of this chapter, and to contract with any person in making and carrying out of such planning, and to adopt or approve, modify and amend such planning. Such planning may include, without limitation:

- a. A general plan for the locality as a whole;
- b. Urban renewal plans;
- c. Preliminary plans outlining urban renewal activities for neighborhoods to embrace two or more urban renewal areas;
- d. Planning for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;
- e. Planning for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

f. Appraisals, title searches, surveys, studies, and other planning and work necessary to prepare for the undertaking of urban renewal projects. The municipality is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and to apply for, accept and utilize grants of funds from the federal government for such purposes.

7. To plan for the relocation of persons, including families, business concerns and others, displaced by an urban renewal project, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government. Other provisions of the Code notwithstanding, in making such payments on projects not federally funded, the municipality may pay relocation assistance benefits in the amounts authorized by the Uniform Relocation Assistance and Real Property

Acquisition Policies Act of 1970, Pub. L. No. 91-646, as amended by the Uniform Relocation Act Amendments of 1987, Title IV, Pub. L. No. 100-17.

8. To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this chapter, and to levy taxes and assessments for such purposes; to zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements, respecting action to be taken by such municipality pursuant to any of the powers granted by this chapter, with an urban renewal agency vested with urban renewal project powers under section 403.14, which agreements may extend over any period, notwithstanding any provision of rule of law to the contrary.

9. To close, vacate, plan or replan streets, roads, sidewalks, ways or other places; and to plan or replan any part of the municipality.

10. Within its area of operation, to organize, co-ordinate and direct the administration of the provisions of this chapter as they apply to such municipality in order that the objective of remedying slum and blighted areas, and preventing the causes thereof, within such municipality, may be most effectively promoted and achieved; and to establish such new office or offices of the municipality, or to reorganize existing offices, in order to carry out such purpose most effectively.

11. To exercise all or any part of combination of powers herein granted.

12. To approve urban renewal plans.

13. To sell and convey real property in furtherance of an urban renewal project.

14. To supplement the rent required to be paid by any family residing in the municipality forced to relocate by reason of any governmental activity, provided it is necessary to do so in order to house such family in decent, safe and sanitary housing and provided further that such family does not have sufficient means, as determined by the municipality, to pay the required rent for such housing. Any such rent supplement for any such family shall not continue for more than five years.

15. To acquire by purchase, gift or condemnation real property within its area of operation for the relocation of railroad passenger and freight depots, tracks, and yard and other railroad facilities and to sell or exchange and convey such real property to railroads.

16. To acquire or dispose of by purchase, construction, or lease, or otherwise to deal in air rights, and facilities or easements for lateral or vertical support of land or structures of any kind.

17. Subject to applicable state or federal regulations in effect at the time of the city action, accept contributions, grants, and other financial assistance from the state or federal government to be used upon a finding of public purpose for grants, loans, loan guarantees, interest supplements, technical assistance, or other assistance as neces-

sary or appropriate to private persons for an urban renewal project.

18. To provide in an urban renewal plan for the exclusion from taxation of value added to real estate during the process of construction for development or redevelopment. The exclusion may be limited as to the scope of exclusion, territory, or class of property affected. However, the value added during construction shall not be eligible for exclusion from taxation for more than two years and the exclusion shall not be applied to a facility which has been more than eighty percent completed as of the most recent date of assessment. This subsection permits the elimination only of those taxes which are levied against assessments made during the construction of the development or redevelopment.

19. A municipality, upon entering into a development or redevelopment agreement pursuant to section 403.8, subsection 1, or as otherwise permitted in this chapter, may enter into a written assessment agreement with the developer of taxable property in the urban renewal area which establishes a minimum actual value of the land and completed improvements to be made on the land until a specified termination date which shall not be later than the date after which the tax increment will no longer be remitted to the municipality pursuant to section 403.19, subsection 2. The assessment agreement shall be presented to the appropriate assessor. The assessor shall review the plans and specifications for the improvements to be made and if the minimum actual value contained in the assessment agreement appears to be reasonable, the assessor shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property upon completion of the improvements to be made on it, certifies that the actual value assigned to that land and improvements upon completion shall not be less than \$

This assessment agreement with the certification of the assessor and a copy of this subsection shall be filed in the office of the county recorder of the county where the property is located. Upon completion of the improvements, the assessor shall value the property as required by law, except that the actual value shall not be less than the minimum actual value contained in the assessment agreement. This subsection does not prohibit the assessor from assigning a higher actual value to the property or prohibit the owner from seeking administrative or legal remedies to reduce the actual value assigned except that the actual value shall not be reduced below the minimum actual value contained in the assessment agreement. An

assessor, county auditor, board of review, director of revenue and finance or court of this state shall not reduce or order the reduction of the actual value below the minimum actual value in the agreement during the term of the agreement regardless of the actual value which may result from the incomplete construction of improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording of an assessment agreement complying with this subsection constitutes notice of the assessment agreement to a subsequent purchaser or encumbrancer of the land or any part of it, whether voluntary or involuntary, and is binding upon a subsequent purchaser or encumbrancer.

The provisions of this chapter shall be liberally interpreted to achieve the purposes of this chapter.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §403.6]

83 Acts, ch 48, §2, 3; 84 Acts, ch 1210, §1; 88 Acts, ch 1209, §3; 96 Acts, ch 1204, §17

403.7 Condemnation of property.

A municipality shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this chapter. However, a municipality shall not condemn agricultural land included within an economic development area unless the owner of the agricultural land consents to condemnation or unless the agricultural land is to be acquired for industry as that term is defined in section 260E.2. A municipality may exercise the power of eminent domain in the manner provided in chapter 6B, and Acts amendatory to that chapter or supplementary to that chapter, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner. However, real property belonging to the state, or any political subdivision of this state, shall not be acquired without its consent, and real property or any right or interest in the property owned by any public utility company, pipeline company, railway or transportation company vested with the right of eminent domain under the laws of this state, shall not be acquired without the consent of the company, or without first securing, after due notice to the company and after hearing, a certificate authorizing condemnation of the property from the board, commission or body having the authority to grant a certificate authorizing condemnation. In a condemnation proceeding, if a municipality proposes to take a part of a lot or parcel of real property, the municipality shall also