

Memorandum

Date: 3/16/2012
To: The Honorable Mayor and City Council members
From: Brent Trout, City Administrator
Re: Request Approval to Set a Public Hearing and Approval of an Agreement for Private Development by and Between the City, Harley-Davidson Inc. of Mason City and Ronald D. Minert

Review:

At its August 16, 2011, meeting, the City Council agreed to the general terms and conditions for financial incentives to Harley-Davidson Inc. of Mason City and Ronald D. Minert to expand and rehabilitate their current operations on South Federal Avenue in Mason City and increase employment opportunities in the community. The terms in the development agreement are the same as were approved in August of 2011.

The following is a review of terms of the agreement:

- ✓ New Jobs Requirement – Maintain 20 full-time employment units through the life of the agreement; add at least 6 new full-time employment units for a total of 26 by November 1, 2013 with a minimum average starting wage for the 6 full-time employment units is \$10.00 per hour.
- ✓ New Investment Requirement – Approximately \$1 million increase in the assessed value of the building upon completion of the minimum improvements. The project is to be completed in three phases, with the last phase completed no later than October 1, 2013.
- ✓ Financial Assistance – \$100,000 forgivable loan that is forgiven at a rate of \$10,000 per year for ten years contingent on their continued operation at this location; 10 year 100% tax rebate on the new valuation created by their expansion and renovation; relocation of the natural gas line in the alley to the west of their building paid for by City of Mason City with a maximum cost of \$25,000; vacate and convey the alley located to the west of their current store to Harley Davidson of Mason City.

This facility is located in the South Federal/Gateway Urban Renewal Area and incentives will be made through the available increment within the district and the new increment created by the construction improvements in the agreement.

Council Action Requested:

City Planner Tricia Sandahl is recommending City Council approval to set a Public Hearing for April 3, 2012, for an Agreement for Private Development by and between the City, Harley-Davidson Inc. of Mason City and Ronald D. Minert.

I concur with the recommendation and respectfully request City Council approval.



Brent Trout, City Administrator

CC: Tricia Sandahl, City Planner

City Council Memo

March 20, 2012

Date: March 12, 2012

To: Brent Trout, City Administrator

From: Tricia Sandahl, City Planner *Tricia*

Subject: Set for Public Hearing/Agreement for Private Development by and between the City, Harley-Davidson Inc. of Mason City, and Ronald D. Minert

Recommendation: I respectfully recommend that the City Council approve a resolution setting April 3, 2012 as the date for public hearing regarding an Agreement for Private Development by and between the City, Harley-Davidson Inc. of Mason City and Ronald D. Minert. The agreement and all exhibits are attached.

Background: At its August 16, 2011 meeting, the City Council agreed to general terms and conditions to provide financial incentives to Harley-Davidson Inc. of Mason City and Ronald D. Minert to expand and rehabilitate their current operations on S. Federal Avenue and increase employment opportunities for the community. The final form of the development agreement is attached. The terms are the same as were approved in concept last August.

Employment Requirements: Harley-Davidson currently employs 20 full time employee units. They agree to:

- Maintain 20 full-time employment units through the life of the development agreement.
- Add at least 6 new full time employment units, for a total of 26, by November 1, 2013. The minimum average starting wage of the 6 full-time employment units is \$10.00 per hour.

Minimum Improvement Requirements: Harley-Davidson agrees to construct improvements on the property in three phases as follows:

- Phase I – Exterior renovations on two existing buildings on the west side of S. Federal Avenue, with completion no later than October 1, 2012.
- Phase II – Interior renovations in two buildings located on the west side of S. Federal Avenue, with completion no later than December 31, 2012.
- Phase III – Construction of a new motorcycle shop building located on 7th St. SW, with completion no later than October 1, 2013.

Upon completion of the minimum improvements, the assessed value is expected to increase by approximately \$1,000,000 for a total of \$1,267,200 (building only).

City Assistance: In consideration of the improvements and employment requirements identified above, the City will provide the following assistance to Harley-Davidson:

- A forgivable loan in the amount of \$100,000 for costs associated with the minimum improvements. The loan will be forgiven at a rate of \$10,000 per year for 10 years, beginning on December 31 after the Certificate of Completion for Phase I has been issued. Each year's forgiveness is predicated upon conformance with the terms of the development agreement including the employment obligations, continued operation on the site and maintenance of the minimum improvements.
- Semi-annual payments of Economic Development Grants equal to 100% of the tax increments generated by the minimum improvements. These grants will begin with the 2014 tax assessment year; the first grant will be paid in December 2015. The economic development grants are only for the minimum improvements described in this development agreement and do not include any future expansions.
- The City agrees to vacate and convey to Harley-Davidson the north/south alley in the block bounded by S. Federal Avenue, 7th St. SW, S. Washington Ave., and 8th St. SW. Vacation and conveyance shall occur no later than September 1, 2012 and shall be done at no cost to Harley-Davidson.
- The City agrees to reimburse Harley-Davidson up to \$25,000 of the cost of relocating public infrastructure or private utilities necessitated by the construction of the minimum improvements.

Budget Impact: Harley-Davidson Inc. of Mason City is located in the South Federal/Gateway Urban Renewal Area. Funding of the incentives will be made through the available increment within the district as well as the new increment created by construction of the minimum improvements described in the agreement.

Requested Action: I respectfully request that the City Council approve the resolution setting April 3, 2012 as the date of the public hearing regarding an Agreement for Private Development by and between the City, Harley-Davidson Inc. of Mason City, and Ronald D. Minert.

Attachments:

- Agreement for Private Development

AGREEMENT FOR PRIVATE DEVELOPMENT

By and Among

CITY OF MASON CITY, IOWA

AND

HARLEY-DAVIDSON INC. OF MASON CITY

AND

RONALD D. MINERT

_____ 2012

AGREEMENT
FOR
PRIVATE DEVELOPMENT

THIS AGREEMENT FOR PRIVATE DEVELOPMENT (hereinafter called "Agreement"), is made on or as of the ____ day of _____, 2012, by and among the City of Mason City, Iowa, a municipality (hereinafter called "City"), established pursuant to the Code of Iowa of the State of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2011, as amended (hereinafter called "Urban Renewal Act"), Harley-Davidson Inc. of Mason City, an Iowa corporation having an office for the transaction of business at 706 S. Federal Avenue, Mason City, Iowa (hereinafter known as "Developer"), and Ronald D. Minert, an individual (hereinafter known as "Owner"). The parties to this Agreement are City, Developer and Owner.

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the development of an economic development area in the City and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the South Federal/Gateway Urban Renewal Area (the Area), which is a combined area created by Amendment #2-Area #2 by Resolution No. 01-204 (Amendment No. 2), dated October 16, 2001 and further amended to include additional land by Amendment No. 5 by Resolution No. 03-296 (Amendment No. 5) dated November 4, 2003 (hereinafter referred to as "Urban Renewal Plan"); and

WHEREAS, a copy of the foregoing Urban Renewal Plan, as amended, has or will be recorded among the land records in the office of the Recorder of Cerro Gordo County, Iowa; and

WHEREAS, Owner is the owner of certain real property located in the foregoing Urban Renewal Area and as more particularly described in Exhibit A attached hereto and made a part hereof (which property as so described is hereinafter referred to as the "Development Property"); and

WHEREAS, Developer is willing to cause certain improvements to be constructed on the Development Property and Developer will thereafter cause the same to be operated in accordance with this Agreement; and

WHEREAS, Owner is willing to allow the improvements to be constructed on the Development Property, and to guarantee the Promissory Note for the Forgivable Loan.

WHEREAS, the City believes that the development of the Development Property pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the foregoing project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I. DEFINITIONS

Section 1.1. Definitions. In addition to other definitions set forth in this Agreement, all capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Agreement means this Agreement and all exhibits and appendices hereto, as the same may be from time to time modified, amended or supplemented.

Area or Urban Renewal Area shall mean the area known as the South Federal/Gateway Urban Renewal Area (as amended).

Certificate of Completion means a certification in the form of the certificate attached hereto as Exhibit C and hereby made a part of this Agreement, and provided to Developer pursuant to Section 3.4 of this Agreement.

City means the City of Mason City, Iowa, or any successor to its functions.

Code means the Code of Iowa, 2011, as amended.

Commencement Date means the date of this Agreement.

Developer means Harley-Davidson Inc. of Mason City, an Iowa corporation, and its successors and assigns.

Development Property means that portion of the South Federal/Gateway Urban Renewal Area of the City described in Exhibit A hereto.

Economic Development Grants means the payments to be made by the City to Developer under Article VIII of this Agreement.

Employment Obligations mean the employment obligations as described in Section 6.6 of this Agreement.

Event of Default means any of the events described in Section 10.1 of this Agreement.

Existing Facilities means the buildings located on the Development Property prior to commencement of the Minimum Improvements and further described in Exhibit A attached hereto.

First Mortgage means any Mortgage granted to secure any loan made pursuant to either a mortgage commitment obtained by Owner from a commercial lender or other financial institution to fund any portion of the construction costs and initial operating capital requirements of the Minimum Improvements or all such Mortgages as appropriate.

Forgivable Loan means the Forgivable Loan described in Article IV of this Agreement.

Full Time Employment Unit means either (i) a "full time" employee who works at least 37.5 hours per week or 1,950 hours per year or (ii) any combination of "part time" employees, who, in the aggregate, work at least 1,950 hours per year.

Harley-Davidson Inc. of Mason City TIF Account means a separate account within the South Federal/Gateway Urban Renewal Tax Increment Revenue Fund of the City in which there shall be deposited Tax Increments received by the City with respect to the Minimum Improvements.

Minimum Improvements shall mean the construction, expansion, and renovation of the Existing Facilities and new building construction on the Development Property to be constructed in three phases as follows: Phase I: Exterior renovations on two buildings located on the west side of Federal Avenue; Phase II: Interior renovations on two buildings located on the west side of Federal Avenue; Phase III: Construction of a new motorcycle shop building located on 7th Street SW. The building will be used for the operation of a Harley-Davidson motorcycle dealership. The assessed value of the Existing Facilities was \$267,200 as of January 1, 2011 (buildings only). See Exhibit A. The assessed value of the Existing Facilities will not be considered for any Economic

Development Grants. Upon completion of the Minimum Improvements, the assessed value of the Existing Facilities is expected to increase by approximately \$1,000,000 for a total of \$1,267,200 (buildings only). See Exhibit B attached hereto for further description.

Mortgage means any mortgage or security agreement in which Owner has granted a mortgage or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon.

Net Proceeds means any proceeds paid by an insurer to Developer or Owner under a policy or policies of insurance required to be provided and maintained by Developer or Owner, as the case may be, pursuant to Article V of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

Ordinance means Ordinance Numbers 93-20, 1671, 93-33, and No. 01-18, as amended by Ordinance 03-23 of the City, under which the taxes levied on the taxable property in the Area shall be divided and a portion paid into the South Federal/Gateway Urban Renewal Tax Increment Revenue Fund.

Owner means Ronald D. Minert, an individual.

Project shall mean the construction and operation of the Minimum Improvements on the Development Property, as described in this Agreement.

Promissory Note means the Promissory Note described in Section 4.5 of this Agreement.

South Federal/Gateway Urban Renewal Tax Increment Revenue Fund means the special fund of the City created under the authority of Section 403.19(2) of the Code and the Ordinance, which fund was created in order to pay the principal of and interest on loans, monies advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds or other obligations issued under the authority of Chapters 15A, 403 or 384 of the Code, incurred by the City to finance or refinance in whole or in part projects undertaken pursuant to the Urban Renewal Plan for the Area.

State means the State of Iowa.

Tax Increments means the property tax revenues on the Minimum Improvements divided and made available to the City for deposit in Harley-Davidson Inc. of Mason City

TIF Account of the South Federal/Gateway Urban Renewal Tax Increment Revenue Fund under the provisions of Section 403.19 of the Code, as amended, and the Ordinance.

Termination Date means the date of termination of this Agreement, as established in Section 12.8 of this Agreement.

Unavoidable Delays means delays resulting from acts or occurrences outside the reasonable control of the party claiming the delay including but not limited to storms, floods, fires, explosions or other casualty losses, unusual weather conditions, strikes, boycotts, lockouts or other labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State or local governmental unit (other than the City).

Urban Renewal Plan means the Urban Renewal Plan approved with respect to the South Federal/Gateway Urban Renewal Area, described in the preambles hereof.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. The City makes the following representations and warranties:

- a. The City is a municipal corporation and municipality organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.
- b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions or provisions of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.

Section 2.2. Representations and Warranties of Developer. Developer makes the following representations and warranties:

- a. Harley-Davidson Inc. of Mason City is an Iowa corporation duly organized and validly existing under the laws of the State of Iowa, and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and

as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement.

b. This Agreement has been duly and validly authorized, executed and delivered by Developer and, assuming due authorization, execution and delivery by the City and the Owner, is in full force and effect and is a valid and legally binding instrument of Developer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting creditors' rights generally.

c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions or provisions of the governing documents of Developer or of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. There are no actions, suits or proceedings pending or threatened against or affecting Developer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position or results of operations of Developer or which in any manner raises any questions affecting the validity of the Agreement or Developer's ability to perform its obligations under this Agreement.

e. Developer will cause the Minimum Improvements to be constructed in accordance with the terms of this Agreement, the Urban Renewal Plan, and all local, State, and federal laws and regulations.

f. Developer will use its best efforts to obtain or cause to be obtained, in a timely manner, all required permits, licenses, and approvals, and will meet, in a timely manner, all requirements of all applicable local, State, and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

g. Developer has not received any notice from any local, State or federal official that the activities of Developer with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). Developer is not

currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State or federal environmental law, regulation or review procedure applicable to the Development Property, and Developer is not currently aware of any violation of any local, State or federal environmental law, regulation or review procedure which would give any person a valid claim under any State or federal environmental statute with respect thereto.

h. Developer has firm commitments for construction or acquisition and permanent financing for the Project in an amount sufficient, together with equity commitments, to successfully complete the Minimum Improvements in accordance with the Construction Plans contemplated in this Agreement.

i. Developer will cooperate fully with the City in resolution of any traffic, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements.

j. Developer expects that, barring Unavoidable Delays, the Minimum Improvements will be completed as follows:

Phase I:	October 1, 2012
Phase II:	December 31, 2012
Phase III:	December 31, 2013

k. Developer would not undertake its obligations under this Agreement without the payment by the City of the Economic Development Grants being made to Developer pursuant to this Agreement.

Section 2.3. Section 2.3. Representations and Warranties of Owner. Owner makes the following representations and warranties:

a. Ronald D. Minert is an individual who has all requisite power and authority to own and operate his properties, to carry on his business as now conducted and as presently proposed to be conducted, and to enter into and perform his obligations under the Agreement.

b. This Agreement has been duly and validly authorized, executed and delivered by Owner and, assuming due authorization, execution and delivery by the City and Developer, is in full force and effect and is a valid and legally binding instrument of Owner enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting creditors' rights generally.

Execution Version 4/3/2012

c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions or provisions of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which Owner is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. There are no actions, suits or proceedings pending or threatened against or affecting Owner in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position or results of operations of Owner or which in any manner raises any questions affecting the validity of the Agreement or Owner's ability to perform his obligations under this Agreement.

e. Owner will allow the Minimum Improvements to be constructed by Developer in accordance with the terms of this Agreement, the Urban Renewal Plan, and all local, State, and federal laws and regulations.

f. Owner has not received any notice from any local, State or federal official that the activities of Developer or Owner with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). Owner is not currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State or federal environmental law, regulation or review procedure applicable to the Development Property, and Owner is not currently aware of any violation of any local, State or federal environmental law, regulation or review procedure which would give any person a valid claim under any State or federal environmental statute with respect thereto.

g. Owner will cooperate fully with the City in resolution of any traffic, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements.

h. Owner would not undertake its obligations under this Agreement without the payment by the City of the Economic Development Grants being made to Developer pursuant to this Agreement.

i. Owner will guarantee the repayment of the Promissory Note for the Forgivable Loan according to its terms and the terms of this Agreement.

ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS

Section 3.1. Construction of Minimum Improvements. Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property in conformance with the Construction Plans submitted to the City. Developer agrees that the scope and scale of the Minimum Improvements to be constructed shall not be significantly less than the scope and scale of the Minimum Improvements as detailed and outlined in the Construction Plans.

Section 3.2. Construction Plans. Developer shall cause Construction Plans to be provided for the Minimum Improvements, which shall be subject to approval by the City as provided in this Section 3.2. The Construction Plans shall be in conformity with the Urban Renewal Plan, this Agreement, and all applicable State and local laws and regulations. The City shall approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to the terms and conditions of the Urban Renewal Plan; (iii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations, and City permit requirements; (iv) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Minimum Improvements; and (v) no Event of Default under the terms of this Agreement has occurred; provided, however, that any such approval of the Construction Plans pursuant to this Section 3.2 shall constitute approval for the purposes of this Agreement only and shall not be deemed to constitute approval or waiver by the City with respect to any building, fire, zoning or other ordinances or regulations of the City, and shall not be deemed to be sufficient plans to serve as the basis for the issuance of a building permit if the Construction Plans are not as detailed or complete as the plans otherwise required for the issuance of a building permit. The site plans submitted to the building official of the City for the Development Property and the surrounding areas where the Minimum Improvements are to be constructed shall be adequate to serve as the Construction Plans, if such site plans are approved by the building official.

Approval of the Construction Plans by the City shall not relieve any obligation to comply with the terms and provisions of this Agreement, or the provision of applicable federal, State and local laws, ordinances and regulations, nor shall approval of the Construction Plans by the City be deemed to constitute a waiver of any Event of Default.

Approval of Construction Plans hereunder is solely for purposes of this Agreement, and shall not constitute approval for any other City purpose nor subject the City to any liability for the Minimum Improvements as constructed.

Section 3.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, Developer shall cause construction of the Minimum Improvements to be undertaken and completed: (i) by no later than October 1, 2013; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays. All work with respect to the Minimum Improvements shall be in conformity with the Construction Plans approved by the building official or any amendments thereto as may be approved by the building official.

Developer and Owner agree that they shall permit designated representatives of the City, upon reasonable notice (which does not have to be written), to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction and the progress thereof.

Section 3.4. Certificate of Completion. Upon written request of Developer after the completion of each phase of the Minimum Improvements, the City will furnish Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit C attached hereto. Such Certificate of Completion shall be a conclusive determination of satisfactory termination of the covenants and conditions of this Agreement related to each phase of the Minimum Improvements with respect to the obligations of Developer to cause construction of the Minimum Improvements.

The Certificates of Completion may be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property at Developer's sole expense. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 3.4, the City shall, within twenty (20) days after written request by Developer provide a written statement indicating in adequate detail in what respects Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for Developer to take or perform in order to obtain such Certificate of Completion.

ARTICLE IV. FORGIVABLE LOAN AND PROMISSORY NOTE

Section 4.1 Forgivable Loan. For and in consideration of the obligations of the Developer as set forth herein, and as a necessary means of achieving the goals and objectives of the Urban Renewal Plan, the City agrees (subject to the conditions set forth in this Article) to make a forgivable loan to the Developer in the amount of One Hundred Thousand Dollars (\$100,000.00), for costs associated with the Minimum Improvements (the "Forgivable Loan"). Such loan shall be made as soon as possible after all the Conditions Precedent in Section 4.2 have been completed.

Section 4.2 Conditions Precedent. Notwithstanding the provisions of Section 4.1, the City's obligations under this Agreement shall be subject to satisfaction of the following conditions precedent:

- (a) The Developer shall be in material compliance with all the terms and provisions of this Agreement;
- (b) The City has issued a Certificate of Completion for Phase I of the Minimum Improvements;
- (c) The Developer shall certify the number of Full Time Employment Units employed at the Minimum Improvements and that it is in compliance with the Employment Obligations described in Section 6.6.
- (d) Execution and recording of the Memorandum of Agreement for Private Development by the City, the Developer and the Owner pursuant to Section 12.9 of this Agreement;
- (e) Execution of a Promissory Note by Developer and guaranteed by the Owner in the form attached as Exhibit E; and
- (f) There has not been a substantial change for the worse in the financial resources and ability of the Developer, or a substantial decrease in the financing commitments secured by the Developer for construction of the Minimum Improvements, which change(s) makes it likely, in the reasonable judgment of the City, that the Developer will be unable to fulfill its covenants and obligations under this Agreement.

Section 4.3 Forgiveness of the Forgivable Loan.

(a) The Forgivable Loan shall be forgiven at the rate of \$10,000 per year for ten years beginning on December 31 after the Certificate of Completion for Phase I has been issued if the following occur:

(i) Developer maintains its operations at the Minimum Improvements;

(ii) Developer complies with the terms and obligations of this Agreement, including but not limited to the annual certifications under Section 6.7 from the date of this Agreement until the Termination Date, with the last certification due on November 1, 2025; and

(iii) Developer complies with the Employment Obligations pursuant to Section 6.6 of this Agreement.

(b) The City will, on an annual basis beginning the year that the Certificate of Completion for Phase I has been issued, make a determination (based on Developer's Annual Certifications pursuant to Section 6.7 of this Agreement) of Developer's compliance with 4.3a(i)-(iii) above and notify Developer by each December 31 if the Developer does not qualify for that year's \$10,000 loan forgiveness. If Developer's Annual Certification shows that it is not in compliance with 4.3a(i)-(iii), the Developer will not receive the \$10,000 loan forgiveness for that year.

Section 4.4 Forgivable Loan Default. If the loan is not forgiven and not repaid by Developer pursuant to the terms of this Agreement, then an Event of Default has occurred, in which event the City has all the rights under this Agreement and under the terms of the Promissory Note.

Section 4.5 Promissory Note and Guarantee.

(a) The Developer will execute a Promissory Note and the Owner will guarantee said Promissory Note in the form attached as Exhibit E to this Agreement. The Promissory Note will be reduced by \$10,000 for each forgiveness of \$10,000 of the Forgivable Loan. The City will provide notice to Developer by December 31 if the Promissory Note is not reduced by \$10,000 that year due to Developer's failure to qualify for that year's \$10,000 loan forgiveness as described in this Article IV above.

(b) Should Developer fail to qualify for two consecutive \$10,000 loan forgivenesses, the City may, at its option, make a demand of payment for the balance of

the Promissory Note which will then become immediately due and payable with interest at the rate of 4% per annum.

(c) The Owner will guarantee payment when due (whether by acceleration or otherwise) of the principal of, interest on, and all other indebtedness under the Promissory Note and performance of any and all other liabilities and obligations of Developer under the Promissory Note.

Section 4.6 Cancellation of Promissory Note. The Promissory Note will be cancelled when no outstanding balance of the Note exists. No outstanding balance will exist upon occurrence of any of the following:

- (a) the entire Forgivable Loan has been forgiven;
- (b) the Developer and/or Owner has paid the City the full amount of the Forgivable Loan; or
- (c) a portion of the Forgivable Loan has been forgiven, and the Developer and/or the Owner has paid the entire remaining balance of the Forgivable Loan to the City.

ARTICLE V. INSURANCE

Section 5.1. Insurance Requirements.

a. Owner and Developer will provide and maintain or cause to be maintained at all times during the maintenance of the Existing Facilities and the process of constructing the Minimum Improvements (and, from time to time at the request of the City, furnish the City with proof of payment of premiums on):

i. Builder's risk insurance, written on the so-called "Builder's Risk-Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy;

ii. Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) with limits against bodily injury and property damage of at least \$1,000,000 for each occurrence. The City shall be named as an additional insured for the City's liability or loss arising out of or in any way associated with the project and arising out of any act, error, or omission of Owner or Developer, their directors, officers,

shareholders, contractors, and subcontractors or anyone else for whose acts the City may be held responsible (with coverage to the City at least as broad as that which is provided to Owner and Developer and not lessened or avoided by endorsement). The policy shall contain a "severability of interests" clause and provide primary insurance over any other insurance maintained by the City.

iii. Workers' compensation insurance with at least statutory coverage.

b. Upon completion of construction of the Minimum Improvements and at all times prior to the Termination Date, Developer and Owner shall maintain or cause to be maintained, at their cost and expense (and from time to time at the request of the City shall furnish proof of the payment of premiums on), insurance as follows:

i. Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without limitation the generality of the foregoing) fire, extended coverage, vandalism and malicious mischief, explosion, water damage, demolition cost, debris removal, and collapse in an amount not less than the full insurable replacement value of the Minimum Improvements, but any such policy may have a deductible amount of not more than \$50,000 or self-insurance up to not more than \$1,000,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior consent thereto in writing by the City. The term "full insurable replacement value" shall mean the actual replacement cost of the Minimum Improvements (excluding foundation and excavation costs and costs of underground flues, pipes, drains, and other uninsurable items) and equipment, and shall be determined from time to time at the request of the City, but not more frequently than once every three years, by an insurance consultant or insurer selected and paid for by Developer and Owner, and approved by the City.

ii. Comprehensive general public liability insurance, including personal injury liability for injuries to persons and/or property, including any injuries resulting from the operation of automobiles or other motorized vehicles on or about the Development Property, in the minimum amount for each occurrence and for each year of \$1,000,000.

iii. Such other insurance, including workers' compensation insurance respecting all employees of Owner and Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that Owner and Developer may be self-insured with respect to all or any part of their liability for workers' compensation.

c. All insurance required by this Article V to be provided prior to the Termination Date shall be taken out and maintained in responsible insurance companies selected by Developer and Owner, which are authorized under the laws of the State to assume the risks covered thereby. Developer and Owner will deposit annually with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V, each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to Developer, Owner and the City at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, Developer and Owner shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced by another policy conforming to the provisions of this Article V, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer and Owner may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event Developer and Owner shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

d. Developer and Owner agree to notify the City immediately in the case of damage exceeding \$25,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. Net Proceeds of any such insurance shall be paid directly to Developer and Owner, and Developer and Owner will forthwith repair, reconstruct, and restore the Minimum Improvements to substantially the same or an improved condition or value as they existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, Developer and Owner will apply the Net Proceeds of any insurance relating to such damage received by Developer and Owner to the payment or reimbursement of the costs thereof.

e. Developer and Owner shall complete the repair, reconstruction, and restoration of the Minimum Improvements, whether or not the Net Proceeds of insurance received by Developer and Owner for such purposes are sufficient.

ARTICLE VI. FURTHER COVENANTS OF DEVELOPER AND OWNER

Section 6.1. Maintenance of Properties. Developer and Owner will maintain, preserve, and keep its properties within the City (whether owned in fee or a leasehold interest), including but not limited to the Existing Facilities and the Minimum

Improvements, in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions.

Section 6.2. Maintenance of Records. Developer and Owner will keep at all times proper books of record and account in which full, true, and correct entries will be made of all dealings and transactions of or in relation to the business and affairs of Developer and Owner related to this Agreement in accordance with generally accepted accounting principles, consistently applied throughout the period involved, and Developer and Owner will provide reasonable protection against loss or damage to such books of record and account.

Section 6.3. Compliance with Laws. Developer and Owner will comply with all state, federal and local laws, rules and regulations relating to the Existing Facilities and the Minimum Improvements.

Section 6.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, Developer and Owner shall not discriminate against any applicant, employee or tenant because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status. Developer and Owner shall ensure that applicants, employees, and tenants are considered and are treated without regard to their age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

Section 6.5. Available Information. Upon request, Developer and Owner shall promptly provide the City with copies of information requested by City that are related to this Agreement so that City can determine compliance with the Agreement.

Section 6.6. Employees. As of the date of this Agreement, Developer employs twenty (20) Full Time Employment Units. Developer agrees to:

- (a) retain a Monthly Average of at least twenty (20) Current Full Time Employment Units at the Minimum Improvements from the date of this Agreement until the Termination Date of this Agreement.
- (b) add at least six (6) Additional Full Time Employment Units at the Minimum Improvements by November 1, 2013 for a total of twenty-six (26) Full Time Employment Units as of November 1, 2013. The average wage of the six (6) Additional Full Time Employment Units shall not be less than \$10.00 per hour beginning on November 1, 2013 until the Termination Date of this Agreement.
- (c) maintain a Monthly Average of at least 26 Full Time Employment Units as of November 1, 2013 and until the Termination Date of this Agreement.

"Monthly Average" means the average number of Full Time Employment Units employed as of November 1 of each year and as of the first day of each of the preceding eleven (11) months.

Section 6.7. Annual Certification. To assist the City in monitoring the Agreement and performance of Owner and Developer hereunder, a duly authorized officer of Owner and Developer shall annually provide to the City: (i) proof that all ad valorem taxes on the Development Property and Minimum Improvements have been paid for the prior fiscal year; (ii) certification of the number of Full Time Employment Units employed by the Developer and the average wage of the six Additional Full Time Employment Units as of November 1 and as of the first day of each of the preceding eleven (11) months; and (iii) certification that such officer has re-examined the terms and provisions of this Agreement and that at the date of such certificate, and during the preceding twelve (12) months, Owner and Developer are not, or were not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto. Such statement, proof and certificate shall be provided not later than November 1 of each year, commencing November 1, 2012 and ending on November 1, 2025, both dates inclusive. Owner and Developer shall provide supporting information for their annual certifications upon request of the City.

Section 6.8 Term of Operation. Developer will maintain its operations at the Minimum Improvements on the Development Property, including the Employee Obligations in Section 6.6 until the Termination Date of this Agreement.

ARTICLE VII. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

Section 7.1. Status of Developer; Transfer of Substantially All Assets. As security for the obligations of Developer under this Agreement, Developer represents and agrees that, prior to the Termination Date, Developer will maintain existence as a company and will not wind up or otherwise dispose of all or substantially all of its assets or assign its interest in the Development Property or its interest in this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer under this Agreement; and (ii) the City consents thereto in writing in advance thereof. Notwithstanding the foregoing, however, or any other provisions of this Agreement, Developer may pledge any and/or all of its assets as security for any financing of the

Existing Facilities or Minimum Improvements, and the City agrees that Developer may assign its interest under this Agreement for such purpose.

Section 7.2. Status of Owner; Transfer of Substantially All Assets; Assignment. As security for the obligations of Owner under this Agreement, Owner represents and agrees that, prior to the Termination Date, Owner will not wind up or otherwise dispose of all or substantially all of its assets or transfer, convey or assign its interest in the Development Property or its interest in this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Owner under this Agreement; and (ii) the City consents thereto in writing in advance thereof. Notwithstanding the foregoing, however, or any other provisions of this Agreement, Owner may pledge any and/or all of its assets as security for any financing of the Existing Facilities or Minimum Improvements, and the City agrees that Owner may assign its interest under this Agreement for such purpose.

Section 7.3. Prohibition Against Use as Non-Taxable or Centrally Assessed Property. During the term of this Agreement, the Owner, or its successors, or assigns agree that the Development Property cannot be transferred or sold to a non-profit entity or used for a purpose that would exempt the Development Property or Minimum Improvements from property tax liability. Nor can the Development Property or Minimum Improvements be used as centrally assessed property (including but not limited to, Iowa Code § 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

ARTICLE VIII. ECONOMIC DEVELOPMENT GRANTS

Section 8.1. Economic Development Grants.

For and in consideration of the obligations being assumed by Owner and Developer hereunder, and in furtherance of the goals and objectives of the Urban Renewal Plan for the Area and the Urban Renewal Act, the City agrees, subject to Owner and Developer being and remaining in compliance with the terms of this Agreement:

a. to assume an obligation to make up to twenty (20) consecutive semi-annual payments of Economic Development Grants to Developer of 100% of the Tax Increments generated by the Minimum Improvements, under the following formula:

(i) Subject to the terms of this Article, the City and the Developer agree that whether or not the Minimum Improvements are completed by December 1, 2014, the City will certify debt to the Auditor prior to December 1, 2014 (based on the January 1, 2014 assessments on the Development Property), and the Economic Development Grants shall commence on December 1, 2015 and end on June 1, 2025, pursuant to Section 403.19 of the Urban Renewal Act in the following amounts:

December 1, 2015	100% of Tax Increments
June 1, 2016	100% of Tax Increments
December 1, 2016	100% of Tax Increments
June 1, 2017	100% of Tax Increments
December 1, 2017	100% of Tax Increments
June 1, 2018	100% of Tax Increments
December 1, 2018	100% of Tax Increments
June 1, 2019	100% of Tax Increments
December 1, 2019	100% of Tax Increments
June 1, 2020	100% of Tax Increments
December 1, 2020	100% of Tax Increments
June 1, 2021	100% of Tax Increments
December 1, 2021	100% of Tax Increments
June 1, 2022	100% of Tax Increments
December 1, 2022	100% of Tax Increments
June 1, 2023	100% of Tax Increments
December 1, 2023	100% of Tax Increments
June 1, 2024	100% of Tax Increments
December 1, 2024	100% of Tax Increments
June 1, 2025	100% of Tax Increments

Each annual payment shall be equal in amount to the above percentages of the Tax Increments collected by the City with respect to the Minimum Improvements on the Development Property under the terms of the Ordinance and deposited into Harley-Davidson Inc. of Mason City TIF Account (without regard to any averaging that may otherwise be utilized under Section 403.19 and excluding any interest that may accrue thereon prior to payment to the Developer) during the preceding twelve-month period in respect of the Development Property and the Minimum Improvements, but subject to limitation and adjustment as provided in this Article (such payments being referred to collectively as the "Economic Development Grants").

The parties recognize that the Minimum Improvements consist of construction, expansion and renovation to the Existing Facilities, and new building construction on the Development Property. The parties agree that the Existing Facilities were assessed at \$267,200 as of January 1, 2011 prior to the commencement of the Minimum Improvements. For the purposes of this Agreement, the current assessed value of the Existing Facilities (buildings only) will not be considered for any Economic Development Grants. The increment upon which the Economic Development Grants in this Article VIII will be measured is the increased assessed value of the Development Property over and above \$267,200 after the construction of the Minimum Improvements (buildings only).

The Economic Development Grants are only for the Minimum Improvements described in this Agreement (to be completed in 2013) and not any future expansions, which, to be eligible for Economic Development Grants, would be the subject of an amendment or new agreement and subject to the sole discretion of the City.

b. The obligation of the City to make an Economic Development Grant in any year shall be subject to and conditioned upon (a) compliance with the terms of this Agreement, (b) the Minimum Improvements achieving an assessed taxable value (the amount after rollback and any exemptions or credits) of not less than \$1,267,200 (buildings only) by January 1, 2014; and (c) timely filing by Owner and Developer of the annual certification required under Section 6.7 hereof and the Council's approval thereof. If Owner's and Developer's annual certification is timely filed and contains the information required under Section 6.7 and the Council approves of the same and the Owner and Developer are in compliance with this Agreement, the City shall certify to the County prior to December 1 of that year its request for the available Tax Increments resulting from the assessments imposed by the County as of January 1 of that year, to be collected by the County and paid to the City as taxes are paid during the following fiscal year and which shall thereafter be disbursed to Developer. (Example: If Developer and Owner, and City each so certify in November 2014, on the Minimum Improvements, the first Economic Development Grant would be paid to Developer on June 1, 2016 (based on the January 1, 2014 assessed value). Compliance with the terms and conditions of this Agreement is a condition precedent to an Economic Development Grant. As an example, if property taxes are not paid, or if the Owner's and Developer's Annual Certification or other evidence does not show that the Developer was in compliance with the employee obligations in Section 6.6 of this Agreement or if the Minimum Improvements do not achieve an assessed taxable value of at least \$1,267,200 by January 1, 2014 (as described above), the Developer is not eligible for an Economic Development Grant.)

c. The aggregate amount of the Economic Development Grants that may be paid to Developer under this Agreement shall be equal to the sum of the total amount of the applicable percentage of all Tax Increments collected in respect of the assessments imposed on the Minimum Improvements as of January 1, 2014 (regardless of whether or not there is a full assessment on the Minimum Improvements as of that date) and on January 1 of each of the following nine (9) years. Economic Development Grants shall at all times be subject to suspension and termination in accordance with the terms of this Article VIII and Article X. Thereafter the taxes levied on the Minimum Improvements shall be divided and applied in accordance with the Urban Renewal Act and the Ordinance.

d. In the event that an Event of Default occurs or any certification filed by Owner and Developer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured under the provisions of Section 10.2 (or an event that, with the passage of time or giving of notice, or both, would become an Event of Default that cannot reasonably be cured under the provisions of Section 10.2), the City shall have no obligation thereafter to make any payments to Developer in respect of the Economic Development Grants and the provisions of this Article shall terminate and be of no further force or effect.

e. Each annual certification filed by Owner and Developer under Section 6.7 hereof shall be considered separately in determining whether the City shall make any of the Economic Development Grant payments available to Developer under this Section. Under no circumstances shall the failure by Developer to qualify for an Economic Development Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Economic Development Grants may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Economic Development Grants only if Owner and Developer fully comply with the provisions hereof and becomes entitled thereto.

f. In the event that the annual certification required to be delivered by the Owner and Developer under Section 6.7 is not delivered to the City by November 1 of any year, the Owner and Developer recognize and agree that the City may have insufficient time to review and approve the same and certify its request for Tax Increments to the County and that, as a result, no Economic Development Grant may be made to the Developer in respect thereof. The City covenants to act in good faith to appropriately review and consider any late certification on the part of the Owner and Developer, but the City shall not be obligated to make any certification to the County for the available Tax Increments or make any corresponding payment of the Economic Development Grant to the Developer if, in the reasonable judgment of the City, it is not

able to give appropriate consideration (which may include, but not be limited to, specific discussion before the City Council at a regular City Council meeting with respect thereto) to the Owner's and Developer's certification due to its late filing.

Section 8.2. Source of Grant Funds Limited.

a. The Economic Development Grants shall be payable from and secured solely and only by amounts deposited and held in Harley-Davidson Inc. of Mason City TIF Account of the South Federal/Gateway Urban Renewal Tax Increment Revenue Fund of the City. The City hereby covenants and, subject to this Article, agrees to maintain the Ordinance in force during the term hereof and to apply the appropriate percentage of Tax Increments collected in respect of the Development Property, and Minimum Improvements and allocated to the Harley-Davidson Inc. of Mason City TIF Account to pay the Economic Development Grants, as and to the extent set forth in this Article hereof. The Economic Development Grants shall not be payable in any manner by other tax increment revenues or by general taxation or from any other City funds.

Each Economic Development Grant is subject to annual appropriation by the City Council. The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future Economic Development Grants shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no event of default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement which can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

b. Notwithstanding the provisions of Section 8.1 hereof, the City shall have no obligation to make an Economic Development Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of Tax Increments resulting from the Minimum Improvements to fund an Economic Development Grant to Developer, as contemplated under said Section 8.1, is no longer authorized or otherwise an appropriate urban renewal activity permitted to be undertaken by the City under the Urban Renewal Act or other applicable provisions of the Code, as then constituted or under controlling

decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which four (4) semi-annual Economic Development Grants would otherwise have been paid to the Developer under the terms of Section 8.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

c. The City makes no representation with respect to the amounts that may finally be paid to Developer as the Economic Development Grants, and under no circumstances shall the City in any manner be liable to Developer so long as the City timely applies the appropriate percentage of Tax Increments actually collected and held in Harley-Davidson Inc. of Mason City TIF Account (regardless of the amounts thereof) to the payment of the corresponding Economic Development Grants to Developer as and to the extent described in this Article.

Section 8.3. Use of Other Tax Increments. The City shall be free to use any and all Tax Increments collected from any other properties within the South Federal/Gateway Urban Renewal Area, or any available Tax Increments resulting from the suspension or termination of the Economic Development Grants, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act (including an allocation of all or any portion thereof to the reduction of any eligible City costs), and the City shall have no obligations to Developer with respect to the use thereof.

Section 8.4. Real Property Taxes. Owner or Developer or their successors shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property acquired and owned or leased by them and pursuant to the provisions of this Agreement. Until Developer's or Owner's obligations have been assumed by any other person or legal title to the property is vested in another person, all pursuant to the provisions of this Agreement, Developer or Owner shall be solely responsible for all assessments and taxes.

Owner, Developer and their successors agree that prior to the Termination Date:

a. They will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property, Minimum Improvements or Developer and Owner, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; and

b. They will not seek any tax exemption deferral or abatement either presently or prospectively authorized under any State, federal or local law with respect to taxation of real property contained on the Development Property between the date of execution of this Agreement and the Termination Date.

ARTICLE IX. INDEMNIFICATION

Section 9.1. Release and Indemnification Covenants.

a. Owner and Developer release the City and the governing body members, officers, agents, servants and employees thereof (hereinafter, for purposes of this Article IX, the "indemnified parties") from, covenant and agree that the indemnified parties shall not be liable for, and agree to indemnify, defend, and hold harmless the indemnified parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Existing Facilities, Minimum Improvements or Development Property.

b. Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the indemnified parties, Owner and Developer agree to protect and defend the indemnified parties, now or forever, and further agree to hold the indemnified parties harmless, from any claim, demand, suit, action or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from: (i) any violation of any agreement or condition of this Agreement (except with respect to any suit, action, demand or other proceeding brought by Owner and Developer against the City to enforce its rights under this Agreement); (ii) the acquisition and condition of the Development Property and Existing Facilities and the construction, installation, ownership, and operation of the Minimum Improvements; or (iii) any hazardous substance or environmental contamination located in or on the Development Property.

c. The indemnified parties shall not be liable for any damage or injury to the persons or property of Owner and Developer or their officers, agents, servants or employees or any other person who may be about the Existing Facilities, Minimum Improvements or Development Property due to any act of negligence of any person, other than any act of negligence on the part of any such indemnified party or its officers, agents, servants or employees.

d. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City, and not of any governing body member, officer, agent, servant or employee of the City in the individual capacity thereof.

e. The provisions of this Article IX shall survive the termination of this Agreement.

ARTICLE X. REMEDIES

Section 10.1. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events during the Term of this Agreement:

a. Failure by Developer to cause the construction of the Minimum Improvements to be completed and the operations to continue pursuant to the terms and conditions of this Agreement;

b. Failure by Developer to repay any amount of the Forgivable Loan not forgiven in accordance with the terms of this Agreement.

c. Failure by Owner to comply with any and all obligations as guarantor on the Promissory Note.

d. Failure by Developer to comply with Sections 6.6 and 6.8 of this Agreement.

e. Failure by Owner and Developer to comply with Section 6.7 of this Agreement.

f. Transfer of Developer's or Owner's interest in the Development Property or any interest in this Agreement or the assets of Developer or Owner in violation of the provisions of this Agreement;

g. Failure by Developer or Owner to pay ad valorem taxes on the Existing Facilities, Development Property and Minimum Improvements;

h. Failure by Developer or Owner to substantially observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement;

i. The holder of any Mortgage on the Development Property, or any improvements thereon, or any portion thereof, commences foreclosure proceedings as a result of any default under the applicable Mortgage documents;

j. Developer or Owner shall:

i. file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act of 1978, as amended, or under any similar federal or state law; or

ii. make an assignment for the benefit of its creditors; or

iii. admit in writing its inability to pay its debts generally as they become due; or

iv. be adjudicated as bankrupt or insolvent; or if a petition or answer proposing the adjudication of Owner or Developer as a bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of Owner or Developer or the Minimum Improvements, or part thereof, shall be appointed in any proceedings brought against Owner or Developer, and shall not be discharged within ninety (90) days after such appointment, or if Owner or Developer shall consent to or acquiesce in such appointment; or

k. Any representation or warranty made by Owner or Developer in this Agreement or in any written statement or certificate furnished by Owner or Developer pursuant to this Agreement, shall prove to have been incorrect, incomplete or misleading in any material respect on or as of the date of the issuance or making thereof.

Section 10.2. Remedies on Default. Whenever any Event of Default referred to in Section 10.1 of this Agreement occurs and is continuing, the City, as specified below, may take any one or more of the following actions after the giving of thirty (30) days' written notice by the City to Owner and Developer and the holder of the First Mortgage (but only to the extent the City has been informed in writing of the existence of a First Mortgage and been provided with the address of the holder thereof) of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and Owner and Developer does not provide assurances reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible:

a. The City may suspend its performance under this Agreement until it receives assurances from Owner or Developer, or both if both in default, deemed adequate by the City, that Owner or Developer will cure the default and continue its performance under this Agreement;

b. The City may terminate this Agreement;

c. The City may withhold the Certificate of Completion;

d. The City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of Owner or Developer, as the case may be, under this Agreement;

e. The City shall be entitled to recover from the Developer, and the Developer shall repay to the City, an amount equal to the full amount of the Economic Development Grants previously made to Developer under Article VIII hereof, with interest thereon at the highest rate permitted by State law. The City may take any action, including any legal action it deems necessary, to recover such amount from Developer; or

f. The City shall be entitled to recover from the Owner or Developer, and the Owner or Developer shall repay to the City, an amount equal to the amount of the Forgivable Loan provided by the City to the Developer that is not forgiven due to the Owner's or Developer's failure to comply with Article IV of this Agreement. Such amount not forgiven shall be repaid in full with interest at the rate of 4% per annum beginning to accrue thirty days following the date on which the City makes a payment demand for any amount not forgiven. The City may make a payment demand at any time following the determination that any amount of the Forgivable Loan will not be forgiven.

Section 10.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 10.4. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party,

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such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 10.5. Agreement to Pay Attorneys' Fees and Expenses.

a. Owner, Developer and the City shall each pay for its own attorney's fees associated with this Agreement; and

b. Whenever any Event of Default occurs and the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of Owner or Developer herein contained, Owner and Developer agree that they shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the City in connection therewith.

ARTICLE XI. PROPERTY DONATION AND GAS MAIN RELOCATION

Section 11.1. Property Donation. By September 1, 2012, the City agrees to vacate and convey to the Developer, the alley running north/south between 7th and 8th Streets SW and S. Federal and S. Washington Avenue, as more particularly described in Exhibit F, (the "Donated Property").

Section 11.2. Infrastructure Relocation. The City agrees to pay to Developer up to a maximum amount of twenty-five thousand dollars (\$25,000) to relocate public infrastructure or private utilities necessitated by the construction of the Minimum Improvements, based on the submission of paid invoices and receipts for such relocation costs.

ARTICLE XII. MISCELLANEOUS

Section 12.1. Conflict of Interest. Owner and Developer represent and warrant that, to their best knowledge and belief after due inquiry, no officer or employee of the City, or their designees or agents, nor any consultant or member of the governing body of the City, and no other public official of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has had or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work or services to be performed in

connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 12.2. Notices and Demands. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- a. In the case of Developer, is addressed or delivered personally to Harley-Davidson Inc. of Mason City, 706 S. Federal Avenue, Mason City, Iowa, 50401, Attn: Ronald Minert;
- b. In the case of Owner, is addressed or delivered personally to Harley-Davidson Inc. of Mason City, 706 S. Federal Avenue, Mason City, Iowa, 50401, Attn: Ronald Minert; and
- c. In the case of the City, is addressed to or delivered personally to the City at City Hall, 10 First Street N.W., Mason City, Iowa, 50401, Attn: Brent Trout, City Administrator;

or to such other designated individual or officer or to such other address as any party shall have furnished to the other in writing in accordance herewith.

Section 12.3. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 12.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 12.5. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

Section 12.6. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement among the parties regarding the subject matter hereof, and supersedes and replaces all prior agreements, negotiations or discussions, whether oral or written. This Agreement may not be amended except by a subsequent writing signed by all parties hereto.

Section 12.7. Successors and Assigns. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 12.8. Termination Date. This Agreement shall terminate and be of no further force or effect on December 31, 2025, unless terminated earlier under the provisions of this Agreement.

Section 12.9. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit D, to serve as notice to the public of the existence and provisions of this Agreement, and the rights and interests held by the City by virtue hereof.

Section 12.10. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, contractor, subcontractor, material supplier, or any other person or entity, and no such contractor, landowner, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Administrator, Developer has caused this Agreement to be duly executed in its name and behalf by its authorized representatives, and Owner has executed this Agreement in his name, all on or as of the day first above written.

[Signatures start on the next page]

(SEAL)

CITY OF MASON CITY, IOWA

By: _____
Eric Bookmeyer, Mayor

ATTEST:

By: Brent Trout, City Administrator

STATE OF IOWA)
) SS
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2012, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Administrator acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

(SEAL)

HARLEY-DAVIDSON INC. OF MASON CITY

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

STATE OF IOWA)
) SS
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2012, before me a Notary Public in and for said State, personally appeared _____ and _____, to me personally known, who being duly sworn, did say that they are the _____ and _____, respectively, of Harley-Davidson Inc. of Mason City, and that said instrument was signed on behalf of said corporation, and that the said _____ and _____ as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.

Notary Public in and for the State of Iowa

RONALD D. MINERT

STATE OF IOWA)
) ss.
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2012, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Ronald D. Minert, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for the State of Iowa

EXHIBIT A

DEVELOPMENT PROPERTY

The entire city block bounded by 7th Street SW on the north, South Washington Avenue on the west, 8th Street SW on the south and South Federal Avenue on the east, including the public alley between 7th and 8th Streets SW (to be vacated) except for L 3 BLK 20 SOUTH MASON CITY EXC COM AT NE COR L 3 TH S 37.5' W 35' N 15.5' W 27.75' N 22' E TO POB, all in the City of Mason City, Cerro Gordo County.

The Parcel Numbers for the Existing Facilities are as follows:

Assessed Valuation as of 1/1/2011
(Building only)

070947900600	\$137,300
070947900700	\$ 3,950
070947900800	\$ 6,250
070947900900	\$ 78,060
070947900500	\$ -0-
070947900400	\$ -0-
070947900300	\$ -0-
070947900100	\$ <u>41,640</u>
	\$267,200

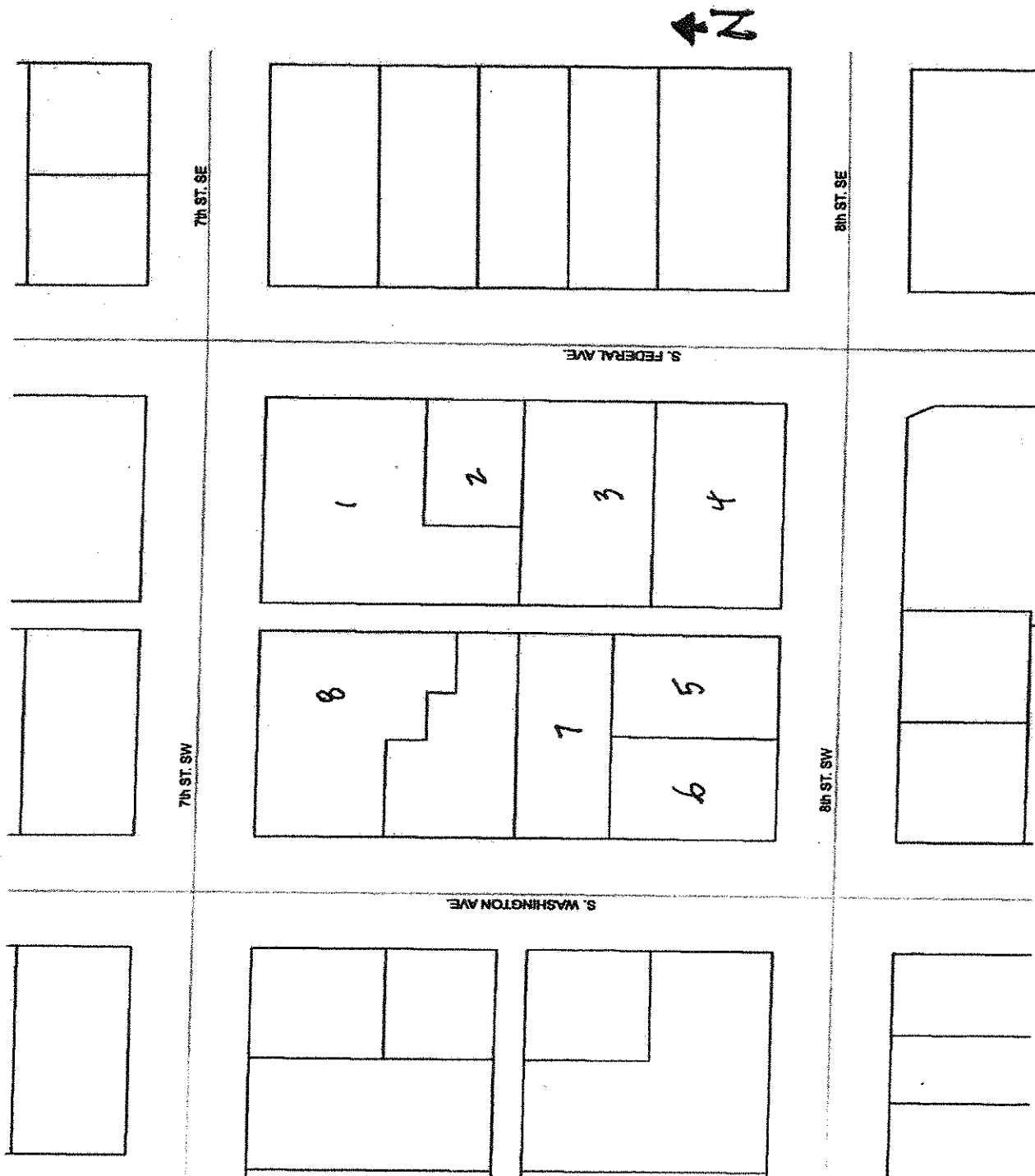
See maps depicting Development Property on the following page

EXHIBIT A-1



EVERYTHING BUT HATCHED AREA.

EXHIBIT A-2



Execution Version 4/3/2012

EXHIBIT B

MINIMUM IMPROVEMENTS

Minimum Improvements shall mean the construction, expansion, and renovation of the Existing Facilities and new building construction on the Development Property to be constructed in three phases as follows:

Phase I: Exterior renovations on two buildings located on the west side of Federal Avenue (Lots 1, 2, 3, and 4 as depicted in Exhibit A-2) to be completed by October 1, 2012;

Phase II: Interior renovations on two buildings located on the west side of Federal Avenue (Lots 1, 2, 3, and 4 as depicted in Exhibit A-2) to be completed by December 31, 2012;

Phase III: Construction of a new motorcycle shop building located on 7th Street SW (Lot 8 as depicted in Exhibit A-2) to be completed by October 1, 2013. The building will be used for the operation of a Harley-Davidson motorcycle dealership.

The assessed value of the Existing Facilities was \$267,200 as of January 1, 2011 (buildings only). See Exhibit A. The assessed value of the Existing Facilities will not be considered for any Economic Development Grants. Upon completion of the Minimum Improvements, the assessed value of the Existing Facilities is expected to increase by approximately \$1,000,000 for a total of \$1,267,200 (buildings only).

Estimated Schedule of Performance

<u>Activity to be Completed</u>	<u>Completed Date</u>
Phase I of Minimum Improvements	October 1, 2012
Phase II of Minimum Improvements	December 31, 2012
Phase III of Minimum Improvements	December 31, 2013

EXHIBIT C

CERTIFICATE OF COMPLETION FOR PHASE

(Use separate form for each Phase)

WHEREAS, the City of Mason City, Iowa (the "City") and Harley-Davidson Inc. of Mason City (the "Developer"), an Iowa corporation having an office for the transaction of business at 706 S. Federal Avenue, Mason City, Iowa, did on or about the ____ day of _____, 2012, make, execute and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within the City and as more particularly described as follows:

The entire city block bounded by 7th Street SW on the north, South Washington Avenue on the west, 8th Street SW on the south and South Federal Avenue on the east, including the public alley between 7th and 8th Streets SW (to be vacated) except for L 3 BLK 20 SOUTH MASON CITY EXC COM AT NE COR L 3 TH S 37.5' W 35' N 15.5' W 27.75' N 22' E TO POB, all in the City of Mason City, Cerro Gordo County.

The Parcel Numbers are as follows:

070947900600
070947900700
070947900800
070947900900
070947900500
070947900400
070947900300
070947900100

(the "Development Property"); and

WHEREAS, the Agreement incorporated and contained certain covenants and restrictions with respect to the development of the Development Property, and obligated Harley-Davidson Inc. of Mason City, to construct certain Minimum Improvements (as defined therein) in three separate phases in accordance with the Agreement; and

WHEREAS, Developer has to the present date performed said covenants and conditions insofar as they relate to Phase ____ of the construction of said Minimum

Improvements in a manner deemed by the City to be in conformance with the Agreement to permit the execution and recording of this certification.

NOW, THEREFORE, pursuant to Section 3.4 of the Agreement, this is to certify that all covenants and conditions of the Agreement with respect to the obligations of Developer and its successors and assigns, to construct Phase _____ of the Minimum Improvements on the Development Property have been completed and performed by Developer and are hereby released absolutely and forever terminated insofar as they apply to Phase _____ and the land described herein. The County Recorder of Cerro Gordo County is hereby authorized to accept for recording and to record the filing of this instrument, to be a conclusive determination of the satisfactory termination of the covenants and conditions of said Agreement with respect to the construction of Phase _____ of the Minimum Improvements on the Development Property.

All other provisions of the Agreement shall otherwise remain in full force and effect until termination as provided therein.

(SEAL)

CITY OF MASON CITY, IOWA

By: _____

Eric Bookmeyer, Mayor

ATTEST:

By: _____

Brent Trout, City Administrator

STATE OF IOWA)
) SS
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2012, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Administrator acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

EXHIBIT D

MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the City of Mason City, Iowa (the "City"), Harley-Davidson Inc. of Mason City ("Developer") and Ronald D. Minert ("Owner"), did on or about the ____ day of _____, 2012, make, execute and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement and the South Federal/Gateway Urban Renewal Plan (the "Plan"), to develop certain real property owned by Owner and located within the City and within the South Federal/Gateway Urban Renewal Area, and as more particularly described as follows:

The entire city block bounded by 7th Street SW on the north, South Washington Avenue on the west, 8th Street SW on the south and South Federal Avenue on the east, including the public alley between 7th and 8th Streets SW (to be vacated) except for L 3 BLK 20 SOUTH MASON CITY EXC COM AT NE COR L 3 TH S 37.5' W 35' N 15.5' W 27.75' N 22' E TO POB, all in the City of Mason City, Cerro Gordo County.

The Parcel Numbers are as follows:

070947900600
070947900700
070947900800
070947900900
070947900500
070947900400
070947900300
070947900100

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the ____ day of _____, 2012 and terminates December 31, 2025, unless otherwise terminated as set forth in the Agreement; and

WHEREAS, the City, Developer and Owner desire to record a Memorandum of the Agreement referring to the Development Property and their respective interests therein.

Execution Version 4/3/2012

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement for Private Development shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.

2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Agreement for Private Development made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.

3. That a copy of the Agreement and any subsequent amendments thereto, if any, shall be maintained on file for public inspection during ordinary business hours in the office of the City Clerk, Mason City, Iowa.

IN WITNESS WHEREOF, the City, Developer and Owner have executed this Memorandum of Agreement for Private Development on the _____ day of _____, 2012.

(SEAL)

CITY OF MASON CITY, IOWA

By: Eric Bookmeyer, Mayor

ATTEST:

By: _____
Brent Trout, City Administrator

STATE OF IOWA)
) SS
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2012, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Administrator acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

(SEAL)

HARLEY-DAVIDSON INC. OF MASON CITY

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

STATE OF IOWA)
) SS
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2012, before me a Notary Public in and for said State, personally appeared _____ and _____, to me personally known, who being duly sworn, did say that they are the _____ and _____, respectively, of Harley-Davidson Inc. of Mason City, and that said instrument was signed on behalf of said corporation, and that the said _____ and _____ as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.

Notary Public in and for the State of Iowa

RONALD D. MINERT

STATE OF IOWA)
) ss.
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2012, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Ronald D. Minert, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for the State of Iowa

EXHIBIT E

PROMISSORY NOTE

_____, 201____
\$100,000

As of _____, 201____ (Date of Note), for valuable consideration received in the total amount of One Hundred Thousand Dollars (\$100,000), Harley-Davidson Inc. of Mason City (the "Borrower") agrees and promises to pay to the CITY OF MASON CITY (the "Lender") the amount of One Hundred Thousand Dollars (\$100,000). The following are the terms of this Promissory Note ("Note").

1. The entire principal balance hereof or the portion due and owing shall be payable upon demand of the Lender under the terms of an Agreement for Private Development dated _____, 2012 ("Development Agreement") unless this Note is forgiven or cancelled pursuant to the terms of the Development Agreement. If Lender does not forgive or cancel this Promissory Note, or if Borrower has not repaid the entire amount of the principal or the portion due and owing upon demand of the Lender, then Borrower will be in Default and subject to the consequences for Default in Paragraph 3 of this Promissory Note and the Development Agreement.
2. The Borrower may at any time prepay without penalty all or any part of the unpaid principal balance of this Promissory Note.
3. Upon Default in the payment of this Promissory Note, the entire unpaid principal shall become immediately due and payable without demand or notice, and the Lender may, at its option, exercise any and all rights and remedies available to it under this Promissory Note, or any applicable law, including, without limitation, the right to collect from the Borrower all sums due under this Note. Upon Default, interest shall be due at an annual rate of 4% from Date of Note until paid. The Borrower hereby waives presentment, demand for payment, notice of nonpayment, notice of dishonor, protest, and all other notices or demands in connection with the delivery, acceptance, performance, or Default of this Promissory Note.
4. If this Note is placed in the hands of an attorney for collection after Default in the payment of principal or interest, or if all or any part of the indebtedness represented hereby is proved, established, or collected in any court or in any bankruptcy, receivership, debtor relief, probate, or other court proceeding, the Borrower shall pay all reasonable costs and expenses incurred by or on behalf of Lender in connection with the

Lender's exercise of any or all of its rights and remedies under this Note, including, without limitation, court costs, and attorneys' fees.

5. No delay or failure of the Lender to exercise any power or right shall operate as a waiver thereof, and such rights and powers shall be deemed continuous; nor shall a partial exercise preclude full exercise of such rights and powers. No right or remedy of the Lender shall be deemed abridged or modified by any course of conduct, and no waiver thereof shall be predicated thereon.

6. The obligations of the Borrower under the terms of this Promissory Note shall be binding on the successors-in-interest, legal representatives, and assigns of the Borrower, and shall inure to the benefit of the Lender and the Lender's successors-in-interest, legal representatives, and assigns.

7. This Promissory Note is also subject to the terms and conditions of the Development Agreement.

Dated as of _____, 201__.

HARLEY-DAVIDSON INC.
OF MASON CITY

I, Ronald D. Minert, as Guarantor, do hereby absolutely, irrevocably and unconditionally guarantee to the Lender payment when due (whether by acceleration or otherwise) of the principal of, interest on, and all other indebtedness under this Promissory Note and the full, faithful and timely performance of any and all other liabilities and obligations of Borrower whether now existing or hereafter incurred under this Promissory Note.

Dated as of _____, 201__.

Ronald D. Minert

EXHIBIT F

DONATED PROPERTY

North-South alley in Block 20, South Mason City, Iowa more particularly described as a strip of land sixteen and one-half feet (16.5') in width lying North of the North right-of-way line of Eighth Street Southwest and lying South of the South right-of-way line of Seventh Street Southwest; bounded on the West by Lots 2, 3, 6, and 7, Block 20, South Mason City, Iowa, and bounded on the East by Lots 1, 4, 5, and 8, Block 20, all in South Mason City, Iowa.

00825778-1\10866-161

RESOLUTION NO. 12 -

RESOLUTION FIXING DATE FOR A MEETING ON THE
PROPOSAL TO ENTER INTO A DEVELOPMENT
AGREEMENT WITH HARLEY-DAVIDSON INC. OF MASON
CITY AND RONALD D. MINERT, AND PROVIDING FOR
PUBLICATION OF NOTICE THEREOF

WHEREAS, by Resolution No. 01-204, adopted October 16, 2001, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the South Federal/Gateway Urban Renewal Plan (the "Plan") for the South Federal/Gateway Urban Renewal Area (the "Urban Renewal Area" or "Area") described therein, which Plan is on file in the office of the Recorder of Cerro Gordo County; and

WHEREAS, it is desirable that properties within the Area be redeveloped as part of the overall redevelopment area covered by said Plan; and

WHEREAS, the City has received a proposal from Harley-Davidson Inc. of Mason City (the "Developer") and Ronald D. Minert ("Owner"), in the form of a proposed Development Agreement (the "Agreement") by and between the City, the Developer and the Owner, pursuant to which, among other things, the Developer and Owner would agree to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the South Federal/Gateway Urban Renewal Area ("Development Property") as defined and legally described in the Agreement and consisting of the construction of expansion, and renovation of the Existing Facilities and new building construction on the Development Property to be constructed in three phases as follows: Phase I: Exterior renovations on two buildings located on the west side of Federal Avenue; Phase II: Interior renovations on two buildings located on the west side of Federal Avenue; Phase III: Construction of a new motorcycle shop building located on 7th Street SW. The building will be used for the operation of a Harley-Davidson motorcycle dealership. Upon completion of the Minimum Improvements, the assessed value of the Existing Facilities is expected to increase by approximately \$1,000,000 for a total of \$1,267,200 (buildings only); and

WHEREAS, the Agreement further proposes that the City will make (i) a forgivable loan in the amount of \$100,000 for costs associated with the expansion and (ii) up to twenty (20) consecutive semi-annual payments of 100% of the Tax Increments to Developer generated by the expansion, under the terms and following satisfaction of the conditions set forth in the Agreement; and

WHEREAS, the Agreement includes an employment retention and creation obligation; and

WHEREAS, Iowa Code Chapters 15A and 403 (the "Urban Renewal Law") authorize cities to make grants for economic development in furtherance of the objectives

of an urban renewal project and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapter, and to levy taxes and assessments for such purposes; and

WHEREAS, the Council has determined that the Agreement is in the best interests of the City and the residents thereof and that the performance by the City of its obligations thereunder is a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Chapters 15A and 403 of the Iowa Code, taking into account the factors set forth therein; and

WHEREAS, neither the Urban Renewal Law nor any other Code provision sets forth any procedural action required to be taken before said economic development activities can occur under the Agreement, and pursuant to Section 364.6 of the Code of Iowa, it is deemed sufficient if the action hereinafter described be taken and the City Clerk publish notice of the proposal and of the time and place of the meeting at which the Council proposes to take action thereon and to receive oral and/or written objections from any resident or property owner of said City to such action.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF MASON CITY IN THE STATE OF IOWA:

Section 1. That this Council meet in the Mason City Room of the Mason City Public Library, 225 2nd Street SE, Mason City, Iowa, at 7:00 o'clock P.M. on the 3rd day of April, 2012, for the purpose of taking action on the matter of the proposal to enter into a Development Agreement with Harley-Davidson Inc. of Mason City and Ronald D. Minert.

Section 2. That the City Clerk is hereby directed to cause at least one publication to be made of a notice of said meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in said City, said publication to be not less than four (4) clear days nor more than twenty (20) days before the date of said public meeting.

Section 3. The notice of the proposed action shall be in substantially the following form:

(One publication required)

NOTICE OF MEETING OF THE CITY COUNCIL OF
THE CITY OF MASON CITY IN THE STATE OF
IOWA, ON THE MATTER OF THE PROPOSAL TO
ENTER INTO A DEVELOPMENT AGREEMENT WITH
HARLEY-DAVIDSON INC. OF MASON CITY AND
RONALD D. MINERT, AND THE HEARING
THEREON

PUBLIC NOTICE is hereby given that the Council of the City of Mason City in the State of Iowa, will hold a public hearing on the 3rd day of April, 2012, at 7:00 o'clock P.M. in the Mason City Room of the Mason City Public Library, 225 2nd Street SE, Mason City, Iowa, at which meeting the Council proposes to take action on the proposal to enter into a Development Agreement (the "Agreement") with Harley-Davidson Inc. of Mason City (the "Developer") and Ronald D. Minert (the "Owner").

The Agreement would obligate the Developer and the Owner to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the South Federal/Gateway Urban Renewal Area ("Development Property") as defined and legally described in the Agreement and consisting of the construction of expansion, and renovation of the Existing Facilities and new building construction on the Development Property to be constructed in three phases as follows: Phase I: Exterior renovations on two buildings located on the west side of Federal Avenue; Phase II: Interior renovations on two buildings located on the west side of Federal Avenue; Phase III: Construction of a new motorcycle shop building located on 7th Street SW. The building will be used for the operation of a Harley-Davidson motorcycle dealership. Upon completion of the Minimum Improvements, the assessed value of the Existing Facilities is expected to increase by approximately \$1,000,000 for a total of \$1,267,200 (buildings only).

The Agreement would further obligate the City to make (i) a forgivable loan in the amount of \$100,000 for costs associated with the expansion and (ii) up to twenty (20) consecutive semi-annual payments of 100% of the Tax Increments to Developer generated by the expansion, under the terms and following satisfaction of the conditions set forth in the Agreement. The Agreement would include an employment retention and creation obligation.

A copy of the Agreement is on file for public inspection during regular business hours in the office of the City Clerk, City Hall, City of Mason City, Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of said City, to the proposal to enter into the Agreement with the Developer and Owner. After all objections have been received and considered, the Council will at this meeting or at any adjournment thereof, take additional action on the proposal or will abandon the proposal to authorize said Agreement.

This notice is given by order of the City Council of the City of Mason City in the State of Iowa, as provided by Section 364.6 of the Code of Iowa.

Dated this 20th day of March, 2012.

/s/Brent Trout

City Clerk, City of Mason City in the State of Iowa

(End of Notice)

PASSED AND APPROVED this 20th day of March, 2012.

Eric Bookmeyer, Mayor

ATTEST:

Brent Trout, City Clerk