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PATRICK F GILL, AUDITOR AND RECORDER
WOODBURY COUNTY IOWA

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Prepared by: Chris Myres P.O. Box 447, Sioux City, Iowa 51102 Telephone No. (712) 224-5502
After recording return to: Gabby Menard, Economic Development, City of Sioux City, Iowa,
P.O. Box 447, Sioux City, Iowa 51101

413 PIERCE STREET
MINIMUM ASSESSMENT AGREEMENT

BY AND AMONG
THE CITY OF SIOUX CITY, IOWA

AND

413 PIERCE STREET, LLC

AND

MOTOR MART., LLC

AND

HISTORICAL HOSPITAL, LLC

LEGAL DESCRIPTION: EXHIBIT A

GRANTOR:

413 PIERCE STREET, LLC

AND

See Page 2

Grantee: See Page 2

MOTOR MART., LLC

AND

HISTORICAL HOSPITAL, LLC
GRANTEE:

CITY OF SIOUX CITY, IOWA

STATE OF IOWA


Woodbury County

CITY OF SIOUX CITY

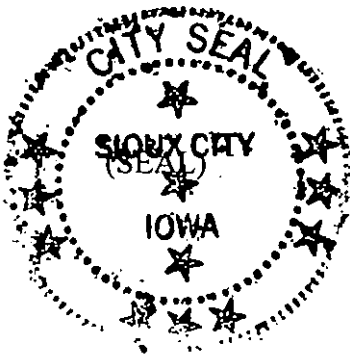
Office of the City Clerk

I, Lisa L. McCardle, City Clerk of the City of Sioux City and City Clerk of the City Council thereof, and as such, having charge of and in my possession, all the records and documents pertaining to said office now remaining therein, do hereby certify that it appears from such records that the foregoing is a true and correct copy of Resolution 2017-1156 adopted by the City Council of the City on the 18th day of December, 2017 upon the call of ayes and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 18th day of December, 2017.



LISA L. MCCARDLE
CITY CLERK



RESOLUTION NO. 2017:- 1156
with attachments

RESOLUTION APPROVING A DEVELOPMENT AGREEMENT WITH 413 PIERCE STREET, LLC, MOTOR MART, LLC, AND HISTORIC HOSPITAL, LLC AND MINIMUM ASSESSMENT AGREEMENTS WITH 413 PIERCE STREET, LLC AND MOTOR MART, LLC FOR THE DEVELOPMENT OF PROPERTIES LOCATED AT 413 PIERCE STREET, 520 NEBRASKA STREET AND 2825 DOUGLAS STREET

WHEREAS, 413 Pierce Street, LLC, Motor Mart, LLC, and Historic Hospital, LLC are real estate holding companies associated with J Development, a real estate development firm based in Omaha, Nebraska; and

WHEREAS, J Development proposes to redevelop the historic buildings located at 413 Pierce Street and 520 Nebraska Street, which are in the Combined Central Sioux City -CBD Urban Renewal Area, and the historic building located at 2825 Douglas Street, which is in the Pierce Street Urban Renewal Area, for use as mixed-use residential and commercial property; and

WHEREAS, J Development has committed a significant amount of private financing to the projects; and

WHEREAS, J Development's projects will provide much needed residential units in Sioux City to address the current housing shortage in the community; and

WHEREAS, the City Council believes it is in the best interest of the City to participate in the funding of the projects in the form of property tax rebates, grants and loans funded in part by tax increment financing; and

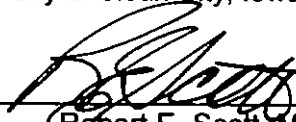
WHEREAS, a Development Agreement with 413 Pierce Street, LLC, Motor Mart, LLC, and Historic Hospital, LLC and Minimum Assessment Agreements with 413 Pierce Street, LLC and Motor Mart, LLC, copies of which are attached hereto and by this reference incorporated herein, sets forth the responsibilities and obligations of the parties in developing such improvements; and

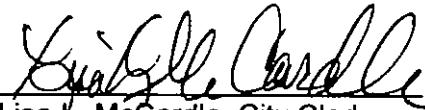
WHEREAS, said Development Agreement with 413 Pierce Street, LLC, Motor Mart, LLC, and Historic Hospital, LLC and Minimum Assessment Agreements with 413 Pierce Street, LLC and Motor Mart, LLC should be approved as to form and content.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA that the Development Agreement with 413 Pierce Street, LLC, Motor Mart, LLC, and Historic Hospital, LLC and Minimum Assessment Agreements with 413 Pierce Street, LLC and Motor Mart, LLC, for the developments of the historic properties located at 413 Pierce Street, 520 Commerce Street, and 2825 Douglas Street, referred to in the preamble hereof, be and the same are hereby approved as to form and content.

BE IT FURTHER RESOLVED that the Mayor and City Clerk be and they are hereby authorized and directed to execute said the Development Agreement with 413 Pierce Street, LLC, Motor Mart, LLC, and Historic Hospital, LLC and Minimum Assessment Agreements with 413 Pierce Street, LLC and Motor Mart, LLC, along with all necessary exhibits to said Development Agreement and Minimum Assessment Agreements, for and on behalf of the City of Sioux City, Iowa.

PASSED AND APPROVED: December 18, 2017


Robert E. Scott, Mayor

ATTEST: 
Lisa L. McCardle, City Clerk

413 PIERCE STREET

MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT, is dated as of DECEMBER 18TH, 2017, by and between the City of Sioux City, Iowa, a municipal corporation (the "City") and 413 Pierce Street, LLC, a Nebraska Limited Liability Company (the "Developer").

WITNESSETH:

WHEREAS, the City and Developer have entered into a Development Agreement dated as of DECEMBER 18TH, 2017 ("Development Agreement"), regarding certain real property located in the City, the legal description of which is contained in Attachment 1 attached hereto (the "Development Property"); and

WHEREAS, it is contemplated that Developer will undertake the construction of Minimum Improvements (as defined in the Development Agreement) in the nature of a mixed-use redevelopment to include residential and commercial leasable space (together, the "Minimum Improvements") on the Development Property, as provided in the Development Agreement; and

WHEREAS, pursuant to Section 403.6 of the Code of Iowa, as amended, the City and the Developer desire to establish a minimum actual value for the Development Property and the Minimum Improvements to be constructed thereon by the Developer pursuant to the Development Agreement; and

WHEREAS, the City and the Assessor of the City of Sioux City, Iowa has reviewed the preliminary plans and specifications for the Minimum Improvements which it is contemplated will be erected; and

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

1. Upon substantial completion of construction of the above-referenced Minimum Improvements, but no later than January 1, 2019, the minimum actual taxable value which shall be fixed for assessment purposes for the commercial portions of the Development Property and the Minimum Improvements to be constructed thereon shall be not less than Four Hundred Twelve Thousand Six Hundred Dollars (\$412,600) (hereafter collectively referred to as the "Minimum Actual Value"). The Minimum

Actual Value shall continue to be effective until termination of this Minimum Assessment Agreement on December 31, 2029 (the "Termination Date"). The Minimum Actual Value shall be maintained during such period regardless of: (a) any failure to complete the Minimum Improvements; (b) destruction of all or any portion of the Minimum Improvements; (c) diminution in value of the Development Property or the Minimum Improvements; or (d) any other circumstance, whether known or unknown and whether now existing or hereafter occurring.

2. The Developer 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 and the Minimum Improvements pursuant to the provisions of this Minimum Assessment Agreement and the Development Agreement. Such tax payments shall be made without regard to any loss, complete or partial, to the Development Property or the Minimum Improvements, any interruption in, or discontinuance of, the use, occupancy, ownership or operation of the Development Property or the Minimum Improvements by Developer or any other matter or thing which for any reason interferes with, prevents or renders burdensome the use or occupancy of the Development Property or the Minimum Improvements.

3. The Developer agrees that its obligation to make the tax payments required hereby, to pay the other sums provided for herein, and to perform and observe its other agreements contained in this Minimum Assessment Agreement shall be absolute and unconditional obligations of the Developer (not limited to the statutory remedies for unpaid taxes) and that the Developer shall not be entitled to any abatement or diminution thereof, or set off there from, nor to any early termination of this Minimum Assessment Agreement for any reason whatsoever.

4. The Developer agrees that prior to the Termination Date it will not:

(a) seek administrative review or judicial review of the applicability or constitutionality of any Iowa tax statute relating to the taxation of property contained as a part of the Development Property or the Minimum Improvements determined by any tax official to be applicable to the Development Property or the Minimum Improvements, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; or

(b) seek any tax deferral or abatement, either presently or prospectively authorized under Iowa Code Chapter 403 or 404, or any other State law, of the taxation of real property, including improvements and fixtures thereon, contained in the Development Property or the Minimum Improvements between the date of execution of this Agreement and the Termination Date; or

- (c) request the Assessor to reduce the Minimum Actual Value; or
- (d) appeal to the board of review of the City, County, State or to the Director of Revenue of the State to reduce the Minimum Actual Value; or
- (e) cause a reduction in the actual value or the Minimum Actual Value through any other proceedings.

5. This Minimum Assessment Agreement shall be promptly recorded by the City with the Recorder of Woodbury County, Iowa. Such filing shall constitute notice to any subsequent encumbrancer or purchaser of the Development Property (or part thereof), whether voluntary or involuntary, and this Minimum Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent purchaser or encumbrancer, including the holder of any mortgage. The City shall pay all costs of recording.

6. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, or shall be construed as, modifying the terms of the Development Agreement.

7. This Minimum Assessment Agreement shall not be assignable without the consent of the City and shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

8. Nothing herein shall be deemed to waive the rights of the Developer under Iowa Code Section 403.6(19) to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value established herein. In no event, however, shall Developer seek to reduce the actual value to an amount below the Minimum Actual Value established herein during the term of this Agreement. This Minimum Assessment Agreement may be amended or modified and any of its terms, covenants, representations, warranties or conditions waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance.

9. If any term, condition or provision of this Minimum Assessment Agreement is for any reason held to be illegal, invalid or inoperable, such illegality, invalidity or inoperability shall not affect the remainder hereof, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained herein.


10. The Minimum Actual Value herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate on the Termination Date.

11. Developer has provided a title opinion to City listing all lienholders of record as of the date of this Assessment Agreement and all such lienholders have signed consents to this Assessment Agreement, which consents are attached hereto and made a part hereof.

[Remainder of this page intentionally left blank. Signature pages to follow.]

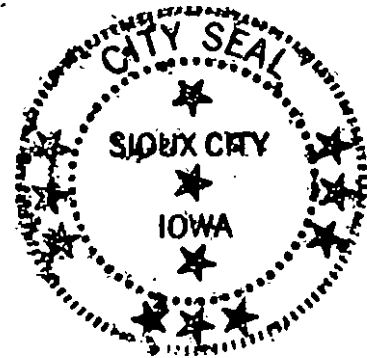
IN WITNESS WHEREOF, the parties have set their hands and seals the day and year above first written.

CITY OF SIOUX CITY, IOWA


Robert E. Scott, Mayor

ATTEST:


Lisa L. McCardle, City Clerk




STATE OF IOWA)
) SS
COUNTY OF WOODBURY)

On this 18th day of DECEMBER, 2017, before me a Notary Public in and for said State, personally appeared Robert E. Scott and Lisa L. McCardle, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Sioux 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 Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.



SUSAN BARNES
Commission Number 774988
My Comm. Exp. 09/25/18

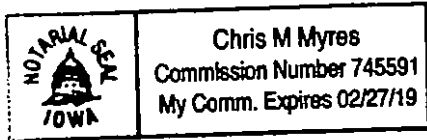

Notary Public in and for the State of Iowa

413 Pierce Street, LLC

BY: James T Royer
James T. Royer, Managing Member

STATE OF Iowa)
) SS
COUNTY OF Woodbury)

On this 13th day of December, 2017, before me the undersigned, a Notary Public in and for said State, personally appeared James T. Royer, to me personally known, who, being by me duly sworn, did say that he is the Managing Member of 413 Pierce Street, LLC, and that said instrument was signed on behalf of said Limited Liability Company; and that the said **James T. Royer**, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said Limited Liability Company, by it voluntarily executed.



Chris Myres
Notary Public in and for the State of Iowa

LIENHOLDER'S CONSENT

The undersigned Lienholder hereby consents to this Minimum Assessment Agreement and agrees to be bound hereby.

NAME OF LIENHOLDER: _____

By: _____
Signature

Date

STATE OF IOWA)
) SS
COUNTY OF WOODBURY)

On this ____ day of _____, 20 __, before me the undersigned, a Notary Public in and for said County, in said State, personally appeared _____ and _____, to me personally known, who, being by me duly sworn, did say that they are the _____ and _____, respectively, of _____ and that said instrument was signed on behalf of said company; and that the said _____, and _____ acknowledged the execution of said instrument to be the voluntary act and deed of said domestic company, by them voluntarily executed.

Notary Public in and for the State of Iowa

CERTIFICATION OF ASSESSOR

The undersigned, having reviewed the plans and specifications for the Minimum Improvements to be constructed and the market value assigned to the land upon which the Minimum Improvements are to be constructed, and being of the opinion that the minimum market value contained in the foregoing Minimum Assessment Agreement appears reasonable, hereby certifies as follows: The undersigned Assessor, being legally responsible for the assessment of the property described in the foregoing Minimum Assessment Agreement, certifies that the actual value assigned to that land and improvements upon completion shall not be less than Four Hundred Twelve Thousand Six Hundred Dollars (\$412,600) for the property assessed as commercial space, all until termination of this Minimum Assessment Agreement. **I understand that the Minimum Improvements will be completed in calendar year 2018 and that the agreed assessment amount will become effective on January 1, 2019.**

John Lawson

John Lawson,
Assessor for the City of Sioux City, Iowa

12-20-17

Date

STATE OF IOWA)
) SS
COUNTY OF WOODBURY)

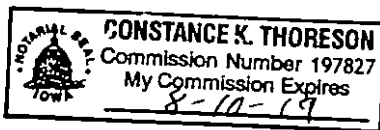
Subscribed and sworn to before me by John Lawson, Assessor for the City of Sioux City, Iowa.

Constance K. Thoreson

Notary Public in and for the State of Iowa

12-20-17

Date



ATTACHMENT 1 TO MINIMUM ASSESSMENT AGREEMENT

LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

Property "A" (413 Pierce Street)

Lot Ten (10) and the South One-half (S 1/2) of Lot Eleven (11) in Block Sixteen (16), Sioux City East Addition, in the County of Woodbury and State of Iowa. (Commonly known as 413 Pierce Street, Sioux City, IA 51101)

AN ATTACHMENT TO THE ASSESSMENT AGREEMENT
IOWA CODE SUBSECTION 403.6(19)

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

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

b. This assessment agreement with the certification of the assessor and a copy of this subsection shall be filed in the office of the county recorder of the county where the property is located. Upon completion of the improvements, the assessor shall value the property as required by law, except that the actual value shall not be less than the minimum actual value contained in the assessment agreement. This subsection does not prohibit the assessor from assigning a higher actual value to the property or prohibit the owner from seeking administrative or legal remedies to reduce the actual value assigned except that the actual value shall not be reduced below the minimum actual value contained in the assessment agreement. An assessor, county auditor, board of review, director of revenue, or court of this state shall not reduce or order the reduction of the actual value below the minimum actual value in the agreement during the term of the agreement regardless of the actual value which may result from the incomplete construction of improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording of an assessment agreement complying with this subsection constitutes notice of the assessment agreement to a subsequent purchaser or encumbrancer of the land or any part of it, whether voluntary or involuntary, and is binding upon a subsequent purchaser or encumbrancer.

Iowa Code Ann. § 403.6 (West)