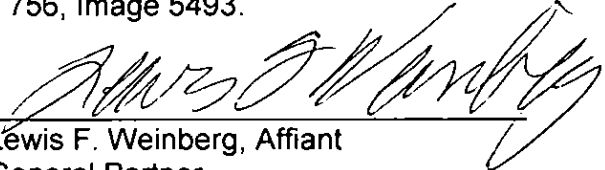


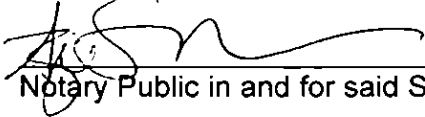


4. The purpose of said Resolution was to correct the legal description used in the Recordings and to exclude the previously included Unrelated Parcel.

5. The Resolution failed to address a similar erroneous legal description contained in a prior Assessment Agreement, recorded in Book 756, Image 5463, and a prior Development Agreement, recorded in Book 756, Image 5493.

  
\_\_\_\_\_  
Lewis F. Weinberg, Affiant  
General Partner  
Warrior Hotel Limited Partnership

Subscribed and sworn to (or affirmed) before me by Lewis F. Weinberg, General Partner of Warrior Hotel Limited Partnership on this 10<sup>th</sup> day of October, 2018.

  
\_\_\_\_\_  
Notary Public in and for said State



**RESOLUTION NO. 2018 - 0091**  
with attachments.

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AND ALL EXHIBITS THERETO WITH 413 PIERCE STREET, LLC, MOTOR MART, LLC, AND HISTORIC HOSPITAL, LLC AND A FIRST AMENDMENT TO THE MINIMUM ASSESSMENT AGREEMENT WITH MOTOR MART, LLC (520 NEBRASKA 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, on December 18, 2017, pursuant to Resolution 2017-1156, the City Council entered into 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 regarding the redevelopment of the above described three historic buildings in Sioux City, which Development Agreement was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8083-8231 and which Minimum Assessment Agreement with Motor Mart, LLC was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8069-8082; and

WHEREAS, since December 18, 2017, an error was discovered in the legal description for the property located at 520 Nebraska Street being redeveloped by Motor Mart, LLC which inadvertently included an unrelated parcel; and

WHEREAS, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC are necessary for purposes of accurately describing the property located at 520 Nebraska Street being redeveloped as part of this project; and

WHEREAS, there is attached hereto and by this reference made a part hereof, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, which First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC should be approved as to form and content.

Exhibit "A"

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA that the First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC, for and on behalf of the City of Sioux City, Iowa.

PASSED AND APPROVED: February 5, 2018

  
\_\_\_\_\_  
Robert E. Scott, Mayor

ATTEST:

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

Roll 757 Image 3689-3698  
Document 9296 Type AMEND Pages 10  
Date 2/20/2018 Time 9:26 AM  
Rec Amt \$52.00

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

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

BY AND AMONG

THE CITY OF SIOUX CITY, IOWA

AND

413 PIERCE STREET, LLC

AND

MOTOR MART, LLC

AND

HISTORIC HOSPITAL, LLC

LEGAL DESCRIPTION: EXHIBIT A

GRANTOR:

413 PIERCE STREET, LLC

AND

MOTOR MART, LLC

AND

HISTORIC 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 2018-0091 adopted by the City Council of the City on the 5th day of February, 2018 upon the call of ayes and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 6th day of February, 2018.

  
\_\_\_\_\_  
LISA L. MCCARDLE  
CITY CLERK



**RESOLUTION NO. 2018 - 0091**  
with attachments

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AND ALL EXHIBITS THERETO WITH 413 PIERCE STREET, LLC, MOTOR MART, LLC, AND HISTORIC HOSPITAL, LLC AND A FIRST AMENDMENT TO THE MINIMUM ASSESSMENT AGREEMENT WITH MOTOR MART, LLC (520 NEBRASKA 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, on December 18, 2017, pursuant to Resolution 2017-1156, the City Council entered into 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 regarding the redevelopment of the above described three historic buildings in Sioux City, which Development Agreement was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8083-8231 and which Minimum Assessment Agreement with Motor Mart, LLC was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8069-8082; and

WHEREAS, since December 18, 2017, an error was discovered in the legal description for the property located at 520 Nebraska Street being redeveloped by Motor Mart, LLC which inadvertently included an unrelated parcel; and

WHEREAS, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC are necessary for purposes of accurately describing the property located at 520 Nebraska Street being redeveloped as part of this project; and

WHEREAS, there is attached hereto and by this reference made a part hereof, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, which First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and First Amendment to the Minimum Assessment Agreement with 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC, for and on behalf of the City of Sioux City, Iowa.

PASSED AND APPROVED: February 5, 2018

  
Robert E. Scott, Mayor

ATTEST:   
Lisa L. McCardle, City Clerk



**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT  
(413 PIERCE STREET, LLC AND MOTOR MART, LLC AND HISTORIC HOSPITAL, LLC)**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT made on this 5<sup>TH</sup> day of FEBRUARY 2018, by and between the City of Sioux City, Iowa, an Iowa municipal corporation, (hereinafter referred to as "City") and 413 Pierce Street, LLC, Motor Mart, LLC, and Historic Hospital, LLC (hereinafter collectively referred to as "Developer").

**RECITALS**

WHEREAS, on December 18, 2017, the City and the Developer entered into a Development Agreement for the development of property located at 520 Nebraska Street, Sioux City, Iowa 51101, 413 Pierce Street, Sioux City, Iowa 51101, and 2825 Douglas Street, Sioux City, Iowa 51101 which Development Agreement was recorded on January 5, 2018 at Roll 756, Images 8083-8231 in the Woodbury County, Iowa Auditor and Recorder's Office; and

WHEREAS, subsequent to the recording of said Development Agreement, an error was discovered in the legal description pertaining to the portion of the Development Property located at 520 Nebraska Street, Sioux City, Iowa 51101 which inadvertently included a third parcel which is unrelated to the development project; and

WHEREAS, it is necessary to amend the Development Agreement and exhibits thereto to correct the legal description for the property being redeveloped by Motor Mart, LLC and located at 520 Nebraska Street by removing a third parcel which was inadvertently included in the legal description and is unrelated to Motor Mart, LLC's redevelopment project at 520 Nebraska Street; and

WHEREAS, both parties wish to amend said Development Agreement and all necessary exhibits thereto correct the legal description of the Development Property.

NOW, THEREFORE, IT IS AGREED that the Development Agreement is amended as follows:

1. Exhibit A, Development Properties, is amended to read as follows:

Property "A", Commonly known as 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)

Property "B", Commonly known as 520 Nebraska Street  
Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East  
Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve  
(12), in Block Eleven (11), Sioux City, East Addition in the County of Woodbury and  
State of Iowa, except that portion described as Parcel 'A' in Plat of Survey filed June  
15, 2016 in Roll 747, Image 7320.

Property "C", Commonly known as 2825 Douglas Street

A new parcel approximately 40,000 square feet in area to be created from the existing parcel that is commonly known as 2825 Douglas Street, Sioux City, IA 51104 and further described as Pierces Addition Lots One (1) through Thirteen (13) including Block 12 and the vacated North-South Alley lying between Pearl Street and Stone Park Boulevard and 29<sup>th</sup> Street, in the County of Woodbury and State of Iowa (Commonly known as 2825 Douglas Street, Sioux City, IA 51104)

2. Exhibit C-2, Property "B": 520 Nebraska Street, Minimum Assessment Agreement, Attachment 1 to Minimum Assessment Agreement, Legal Description of Development Property, is amended to read as follows:

Property "B", Commonly known as 520 Nebraska Street

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City, East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel 'A' in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320.

3. Exhibit G-2, Mortgage (Open-End) Motor Mart, LLC, Paragraph 1, Subsection A., Land and Buildings, is amended to read as follows:

- A. Land and Buildings. All of Mortgagors' right, title and interest in and to the following described real estate situated in Woodbury County, Iowa (the "Land");

**LEGAL DESCRIPTION**

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City, East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel 'A' in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320.

Commonly known as 520 Nebraska Street, Sioux City, IA 51101.

and all buildings, structures and improvements now standing or at any time hereafter constructed or placed upon the Land (the "Buildings"), including all hereditaments, easements, appurtenances, riparian rights, mineral rights, water rights, rights in and to the lands lying in streets, alleys and roads adjoining the land, estates and other rights and interests now or hereafter belonging to or in any way pertaining to the Land.

4. Exhibit H-2, City of Sioux City, Iowa, Loan and Servicing Agreement, Motor Mart, LLC, Exhibit "A", Legal Description of Project Site, is amended to read as follows:

Legal Description:

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City, East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel 'A' in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320.

Commonly Known As: 520 Nebraska Street, Sioux City, Woodbury County, Iowa 51101

5. Exhibit I-2, City of Sioux City, Iowa, Promissory Note, Motor Mart, LLC, Exhibit "B", Development Property, is amended to read as follows:

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City, East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel 'A' in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320.

Commonly known as 520 Nebraska Street, Sioux City, IA 51101.

6. Exhibit J-2, City of Sioux City, Iowa, Security Agreement, Motor Mart, LLC, Exhibit "A", Legal Description of Project Site, is amended to read as follows:

**LEGAL DESCRIPTION**

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City, East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel 'A' in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320.

Commonly known as 520 Nebraska Street, Sioux City, IA 51101.

7. In all other respects, the Development Agreement by and between the City of Sioux City, Iowa and 413 Pierce Street, LLC, Motor Mart, LLC, and Historic Hospital, LLC shall remain in full force and effect.

CITY OF SIOUX CITY, IOWA

By:   
Robert E. Scott, Mayor

Attest:   
Lisa L. McCardle, City Clerk



STATE OF IOWA )

COUNTY OF WOODBURY )

BE IT REMEMBERED, on this 5<sup>TH</sup> day of FEBRUARY, 2018, before me the undersigned, a Notary Public in and for Woodbury County, personally appeared Robert E. Scott and Lisa L. McCardle, to me personally known, who, being by me duly sworn, did say that they are Mayor and City Clerk, respectively, of the City of Sioux City, Iowa; that the seal affixed hereto is the seal of the City of Sioux City, Iowa; that the said instrument was signed and sealed on behalf of said City of Sioux City, Iowa, and that the said Mayor and City Clerk acknowledged the execution of said instrument to be the voluntary act and deed of said City of Sioux City, Iowa, by it and by them voluntarily executed.



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

  
NOTARY PUBLIC in and for said COUNTY and STATE



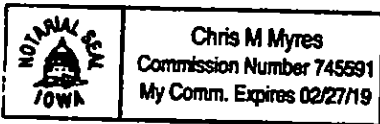
Historic Hospital, LLC

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

STATE OF IOWA )

COUNTY OF WOODBURY )

BE IT REMEMBERED, on this 1<sup>st</sup> day of February, 2018, before me the undersigned, a Notary Public in and for Woodbury County, personally appeared James T. Royer, to me personally known, who, being by me duly sworn, did say that he is the Managing Member of Historic Hospital, LLC; that the said instrument was signed on behalf of said Historic Hospital, LLC, and that the said Managing Member acknowledged the execution of said instrument to be the voluntary act and deed of Historic Hospital, LLC by it and by them voluntarily executed.



Chris M Myres  
NOTARY PUBLIC in and for said COUNTY and STATE

Roll 757 Image 3699-3705  
Document 9297 Type AMEND Pages 7  
Date 2/20/2018 Time 9:28 AM  
Rec Amt \$37.00

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

**FIRST AMENDMENT TO MINIMUM ASSESSMENT AGREEMENT**

BY AND AMONG

THE CITY OF SIOUX CITY, IOWA

AND

MOTOR MART, LLC

LEGAL DESCRIPTION:

PROPERTY "B" (520 NEBRASKA STREET)

PARCEL I: LOT ONE (1), TWO (2) AND THREE (3) IN BLOCK ELEVEN (11), SIOUX CITY EAST  
ADDITION IN THE COUNTY OF WOODBURY AND STATE OF IOWA; AND

PARCEL II: THE NORTH HALF OF LOT TEN (10), ALL OF LOT ELEVEN (11) AND ALL OF LOT  
TWELVE (12), IN BLOCK ELEVEN (11), SIOUX CITY, EAST ADDITION IN THE COUNTY OF  
WOODBURY AND STATE OF IOWA, EXCEPT THAT PORTION DESCRIBED AS PARCEL "A" IN PLAT  
OF SURVEY FILED JUNE 15, 2016 IN ROLL 747, IMAGE 7320

GRANTOR:

MOTOR MART, LLC

GRANTEE:

CITY OF SIOUX CITY, IOWA

**STATE OF IOWA**

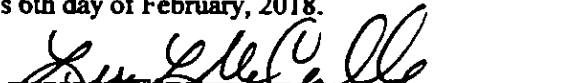
**Woodbury County**

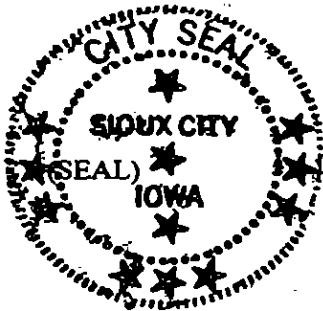
**CITY OF SIOUX CITY**

**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 2018-0091 adopted by the City Council of the City on the 5th day of February, 2018 upon the call of ayes and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 6th day of February, 2018.

  
LISA L. MCCARDLE  
CITY CLERK





**RESOLUTION NO. 2018 - 0091**  
with attachments

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AND ALL EXHIBITS THERETO WITH 413 PIERCE STREET, LLC, MOTOR MART, LLC, AND HISTORIC HOSPITAL, LLC AND A FIRST AMENDMENT TO THE MINIMUM ASSESSMENT AGREEMENT WITH MOTOR MART, LLC (520 NEBRASKA 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, on December 18, 2017, pursuant to Resolution 2017-1156, the City Council entered into 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 regarding the redevelopment of the above described three historic buildings in Sioux City, which Development Agreement was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8083-8231 and which Minimum Assessment Agreement with Motor Mart, LLC was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8069-8082; and

WHEREAS, since December 18, 2017, an error was discovered in the legal description for the property located at 520 Nebraska Street being redeveloped by Motor Mart, LLC which inadvertently included an unrelated parcel; and

WHEREAS, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC are necessary for purposes of accurately describing the property located at 520 Nebraska Street being redeveloped as part of this project; and

WHEREAS, there is attached hereto and by this reference made a part hereof, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, which First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and First Amendment to the Minimum Assessment Agreement with 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC, for and on behalf of the City of Sioux City, Iowa.

PASSED AND APPROVED: February 5, 2018

  
\_\_\_\_\_  
Robert E. Scott, Mayor

ATTEST:

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

**FIRST AMENDMENT TO MINIMUM ASSESSMENT AGREEMENT  
(MOTOR MART, LLC)**

THIS FIRST AMENDMENT TO MINIMUM ASSESSMENT AGREEMENT made on this 5<sup>TH</sup> day of FEBRUARY 2018, by and between the City of Sioux City, Iowa, an Iowa municipal corporation, (hereinafter referred to as "City") and Motor Mart, LLC (hereinafter referred to as "Developer").

**RECITALS**

WHEREAS, on December 18, 2017, the City and the Developer entered into a Minimum Assessment Agreement for the development of property located at 520 Nebraska Street, which Minimum Assessment Agreement was recorded on January 5, 2018 at Roll 756, Images 8069-8082 in the Woodbury County, Iowa Auditor and Recorder's Office; and

WHEREAS, subsequent to the recording of said Minimum Assessment Agreement, an error was discovered in the legal description which inadvertently included a third parcel which is unrelated to the development project at 520 Nebraska Street; and

WHEREAS, it is necessary to amend the Minimum Assessment Agreement to correct the original legal description for the property to be redeveloped by Motor Mart, LLC and located at 520 Nebraska Street by removing a third parcel which was inadvertently included in the legal description and is unrelated to Motor Mart, LLC's redevelopment project at 520 Nebraska Street; and

WHEREAS, both parties wish to amend said Minimum Assessment Agreement to correct the legal description of the Development Property.

NOW, THEREFORE, IT IS AGREED that the Minimum Assessment Agreement is amended as follows:

1. Attachment 1 to Minimum Assessment Agreement, Legal Description of Development Property, is amended to read as follows:

Property "B" (520 Nebraska Street)

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

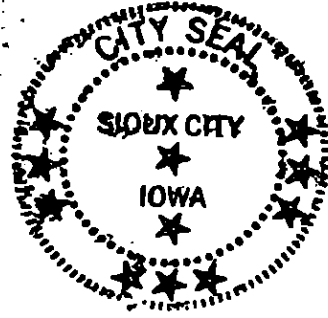
Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City, East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel 'A' in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320

2. In all other respects, the Minimum Assessment Agreement by and between the City of Sioux City, Iowa and Motor Mart, LLC shall remain in full force and effect.

CITY OF SIOUX CITY, IOWA

By: *Robert E. Scott*  
Robert E. Scott, Mayor

Attest: *Lisa L. McCardle*  
Lisa L. McCardle, City Clerk



STATE OF IOWA )  
                                  :  
COUNTY OF WOODBURY )

BE IT REMEMBERED, on this 5<sup>th</sup> day of FEBRUARY, 2018, before me the undersigned, a Notary Public in and for Woodbury County, personally appeared Robert E. Scott and Lisa L. McCardle, to me personally known, who, being by me duly sworn, did say that they are Mayor and City Clerk, respectively, of the City of Sioux City, Iowa; that the seal affixed hereto is the seal of the City of Sioux City, Iowa; that the said instrument was signed and sealed on behalf of said City of Sioux City, Iowa, and that the said Mayor and City Clerk acknowledged the execution of said instrument to be the voluntary act and deed of said City of Sioux City, Iowa, by it and by them voluntarily executed.

*Susan R Barnes*

NOTARY PUBLIC in and for said COUNTY AND STATE

MOTOR MART, LLC

By: *James T. Royer*  
James T. Royer, Managing Member



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

STATE OF IOWA )  
                                  :  
COUNTY OF WOODBURY )

BE IT REMEMBERED, on this 1<sup>st</sup> day of February, 2018, before me the undersigned, a Notary Public in and for Woodbury County, personally appeared James T. Royer, to me personally known, who, being by me duly sworn, did say that he is the Managing Member of Motor Mart, LLC; that the said instrument was signed on behalf of said Motor Mart, LLC, and that the said Managing Member acknowledged the execution of said instrument to be the voluntary act and deed of Motor Mart, LLC by it and by them voluntarily executed.

*Chris M Myres*

NOTARY PUBLIC in and for said COUNTY and STATE



EXHIBIT A

LEGAL DESCRIPTION

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel 'A' in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320

Roll 757 Image 3727-3734  
Document 9300 Type AGRMT Pages 8  
Date 2/20/2018 Time 9:40 AM  
Rec Amt \$42.00

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

**LOAN AND SERVICING AGREEMENT**

**BY AND AMONG**

**THE CITY OF SIOUX CITY, IOWA**

**AND**

**MOTOR MART, LLC**

**LEGAL DESCRIPTION: EXHIBIT "A"**

**GRANTOR:**

**MOTOR MART, LLC**

**GRANTEE:**

**CITY OF SIOUX CITY, IOWA**

**STATE OF IOWA**

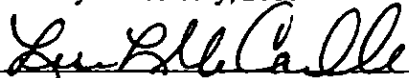
**Woodbury County**

**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 2018-0091 adopted by the City Council of the City on the 5th day of February, 2018 upon the call of ayes and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 6th day of February, 2018.

  
\_\_\_\_\_  
LISA L. MCCARDLE  
CITY CLERK



**RESOLUTION NO. 2018 - 0091**  
with attachments

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AND ALL EXHIBITS THERETO WITH 413 PIERCE STREET, LLC, MOTOR MART, LLC, AND HISTORIC HOSPITAL, LLC AND A FIRST AMENDMENT TO THE MINIMUM ASSESSMENT AGREEMENT WITH MOTOR MART, LLC (520 NEBRASKA 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, on December 18, 2017, pursuant to Resolution 2017-1156, the City Council entered into 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 regarding the redevelopment of the above described three historic buildings in Sioux City, which Development Agreement was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8083-8231 and which Minimum Assessment Agreement with Motor Mart, LLC was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8069-8082; and

WHEREAS, since December 18, 2017, an error was discovered in the legal description for the property located at 520 Nebraska Street being redeveloped by Motor Mart, LLC which inadvertently included an unrelated parcel; and

WHEREAS, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC are necessary for purposes of accurately describing the property located at 520 Nebraska Street being redeveloped as part of this project; and

WHEREAS, there is attached hereto and by this reference made a part hereof, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, which First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and First Amendment to the Minimum Assessment Agreement with 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC, for and on behalf of the City of Sioux City, Iowa.

PASSED AND APPROVED: February 5, 2018

  
\_\_\_\_\_  
Robert E. Scott, Mayor

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

**CITY OF SIOUX CITY, IOWA**  
**LOAN AND SERVICING AGREEMENT**  
**MOTOR MART, LLC**

Loan and Servicing Agreement, executed this 5<sup>TH</sup> day of FEBRUARY 2018, by and between the City of Sioux City, Iowa (the City), an Iowa municipal corporation with principal offices at City Hall, P.O. Box 447, 405 6th Street, Sioux City, Iowa 51102, and Motor Mart, LLC, (Borrower) a Nebraska Limited Liability Company, with principal offices at 2430 South 73<sup>rd</sup> Street, Suite 200, Omaha, Nebraska.

WITNESSETH

WHEREAS, the City and Borrower have heretofore or will hereafter enter into certain undertakings and agreements and execute certain instruments, including security and collateral instruments, for the purpose of enabling the City to lend to Borrower the initial sum of Four Hundred Thousand Dollars (\$400,000); and

WHEREAS, the City may lawfully lend said funds and Borrower may lawfully borrow same;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings of the parties expressed below, the parties hereby covenant and agree as follows:

1. Scope of Undertaking. It is understood and acknowledged that the City shall lend funds to Borrower to enable Borrower to expand its facility and operations in Sioux City, Iowa, as noted in the description attached hereto as Exhibit "A".
2. Loan. To further assist in the financial undertaking described in Section 1 above, the City shall lend Borrower the sum of Four Hundred Thousand Dollars (\$400,000), subject to the terms and conditions of this Agreement and any ancillary agreements and instruments.
3. Note. The loan to Borrower shall be evidenced by a promissory note in a form acceptable to the City, executed by Borrower's duly authorized official(s).
4. Payment. Repayment of the loan provided for in Sections 1 and 2 above shall be made under the terms and conditions contained in the promissory note for said loan.
5. Responsibility of the City. The City shall be responsible for the administration, monitoring and servicing of the loan provided for in Sections 1 and 2 above from the inception of said loan project through payment in full of all obligations to the City. All servicing actions of the City are expressly made subject to the terms of this Agreement, any promissory notes, security agreements and related instruments executed by and between the City and Borrower.
6. Method of Repayment. Borrower shall repay the City loan by making payments directly to the City at the address first written above in a sum computed as described in the promissory note evidencing said loan.
7. Additional Affirmative Covenants of Borrower. Borrower covenants, warrants, guarantees and represents:
  - (a) It shall fully and faithfully repay the principal and interest due on all other debt of Borrower now existing or hereafter acquired;
  - (b) It is duly authorized and existing in good standing under the laws of the State of Iowa and has the power to own its property and carry on its business as it is now being conducted;

(c) It has the full power and authority to enter into this Agreement, undertake the borrowings provided for or reflected herein, and deliver the note or notes, and to execute and deliver the instruments and documents which may be required pursuant hereto, all of which have been duly authorized by the proper, appropriate and necessary action of the officers; no consent or approval of any public authority or regulatory agency is required as a condition of validity of the obligation of Borrower under this Agreement; the note or notes or the documents or instruments contemplated hereby other than those consents or approvals which have already been obtained and copies of which have been delivered or will be delivered to the City pursuant to this or any ancillary agreements;

(d) There is no bylaw provision of Borrower and no provision of any existing mortgage, indenture, contract, or agreement binding upon Borrower which would conflict with or in any way prevent the execution, delivery or performance of the terms of this Agreement;

(e) It will provide and maintain hazard insurance in such amounts and for such coverages as shall be satisfactory to the City. All such policies shall specify the City as a mortgagee and loss payable. Borrower will further purchase Federal Flood Insurance in amounts and coverages satisfactory to the City if Borrower becomes located within a special flood hazard area as defined by FEMA during the term of this loan and Federal Flood Insurance is available;

(f) Upon the City's request the Borrower will submit to the City, financial statements consisting of an Income Statement, Balance Sheet and Profit and Loss Statements; and a statement of employment levels. The statements will be certified as true and correct copies by Borrower.

8. Employment Opportunity. Borrower shall not discriminate against any applicant for employment or employee on the basis of race, color, religion, sex, national origin, handicap or disability. Borrower shall undertake whatever affirmative measures are necessary so that no person shall, on the grounds of race, color, religion, national origin, sex, age, handicap, disability, gender identity, or sexual orientation be excluded from employment with the Borrower. Borrower has made certain representations regarding the job impact of the financial undertaking contemplated in Section 1 of this Agreement. To document the validity of those representations, Borrower shall provide such reports as may be required from time to time by the City.

9. Events of Default. If any of the following events shall occur and be continuing, the City may declare the loan to be in default:

(a) There is a material change in ownership or control, except death of a shareholder, of the Borrower without the prior written consent of the City, which shall not be unreasonably withheld;

(b) Borrower shall file a petition in the U.S. Bankruptcy Court or an involuntary petition shall be so filed against Borrower;

(c) Breach of any of the covenants, promises or conditions of any note, security agreement or other agreement with the holder, which breach shall not be remedied within 60 days of notice in writing by the City to the Borrower;

(d) The City, in good faith, deems itself insecure. In the event the City has wrongfully defaulted the Borrower in acceleration of this note, the City shall pay all costs to the Borrower occasioned by the wrongful default and acceleration.

(e) At the end of the project completion date, which is three (3) years from the date first written above, the Borrower has failed to fulfill the job attainment obligations set forth in Section 9 above.

(f) The Borrower, within five (5) years of the date of this agreement, relocates all or a substantial portion of Borrower's business outside of the municipal boundaries of the City of Sioux City, Iowa.

10. Actions Upon a Declaration of Default. Upon declaration of default by the City, the City may:

(a) By notice to the Borrower in writing, declare the loan payable under the Promissory Note and this Agreement to be forthwith due and payable, without presentment, demand, protests, or further notice of any kind, all of which are hereby expressly waived by the parties.

12. Conflicting Provisions. In the event of any conflict between any provision of this Agreement and any other document, instrument or agreement executed by and between the City and Borrower in connection with the financing described in Sections 1 and 2 above, the terms of such other document, instrument or agreement shall control.

IN WITNESS WHEREOF, the parties have executed this Loan and Servicing Agreement by their duly authorized representatives as of the date above first written.

MOTOR MART, LLC

CITY OF SIOUX CITY, IOWA

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

By: Robert E. Scott  
Robert E. Scott, Mayor

Attest: Lisa McCordle  
Lisa McCordle, City Clerk

**EXHIBIT "A"**

**Legal Description of Project Site**

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel "A" in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320

Roll 757 Image 3718-3726

Document 9299 Type AGRMT Pages 9

Date 2/20/2018 Time 9:33 AM

Rec Amt \$47.00

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

**SECURITY AGREEMENT**

**BY AND AMONG**

**THE CITY OF SIOUX CITY, IOWA**

**AND**

**MOTOR MART, LLC**

**LEGAL DESCRIPTION: EXHIBIT "A"**

**GRANTOR:**

**MOTOR MART, LLC**

**GRANTEE:**

**CITY OF SIOUX CITY, IOWA**

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**STATE OF IOWA**

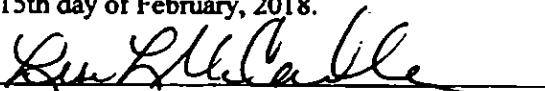
**Woodbury County**

**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 2018-0091 adopted by the City Council of the City on the 5th day of February, 2018 upon the call of ayes and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 15th day of February, 2018.

  
LISA L. MCCARDLE  
CITY CLERK



**RESOLUTION NO. 2018 - 0091**  
with attachments

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AND ALL EXHIBITS THERETO WITH 413 PIERCE STREET, LLC, MOTOR MART, LLC, AND HISTORIC HOSPITAL, LLC AND A FIRST AMENDMENT TO THE MINIMUM ASSESSMENT AGREEMENT WITH MOTOR MART, LLC (520 NEBRASKA 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, on December 18, 2017, pursuant to Resolution 2017-1156, the City Council entered into 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 regarding the redevelopment of the above described three historic buildings in Sioux City, which Development Agreement was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8083-8231 and which Minimum Assessment Agreement with Motor Mart, LLC was recorded in the office of the Woodbury County Recorder on January 5, 2018 at Roll 756, Image 8069-8082; and

WHEREAS, since December 18, 2017, an error was discovered in the legal description for the property located at 520 Nebraska Street being redeveloped by Motor Mart, LLC which inadvertently included an unrelated parcel; and

WHEREAS, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC are necessary for purposes of accurately describing the property located at 520 Nebraska Street being redeveloped as part of this project; and

WHEREAS, there is attached hereto and by this reference made a part hereof, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, which First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and First Amendment to the Minimum Assessment Agreement with 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC, for and on behalf of the City of Sioux City, Iowa.

PASSED AND APPROVED: February 5, 2018

  
\_\_\_\_\_  
Robert E. Scott, Mayor

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

**CITY OF SIOUX CITY, IOWA**

**SECURITY AGREEMENT**

**MOTOR MART, LLC**

WHEREAS, the undersigned, **Motor Mart, LLC**, a Nebraska Limited Liability Company (the "Company"), Debtor hereunder, has entered into a Loan Agreement, dated as of February 5<sup>th</sup> 2018 (the "Agreement"), with the **City of Sioux City, Iowa** (the "City"), Secured Party hereunder; and

WHEREAS, the Agreement provides for Company to collateralize the loan from the City by granting a security interest in certain fixtures and improvements acquired with the proceeds of the loan or acquired in substitution for, or as a renewal or replacement of, or modification or improvement to the project as described in Company's application for the loan.

NOW, THEREFORE, for value received and pursuant to the Promissory Note which is a part of the Agreement, Company hereby grants to the City a security interest in the machinery, equipment, goods, fixtures, improvements and other personal property set forth on Exhibit "B" attached hereto and incorporated herein by this reference; all additions to and replacements thereof; and all accessories and accessions now or hereafter affixed thereto (the "Collateral").

1. The Collateral is to be located at the facility of Company in the City of Sioux City, Woodbury County, Iowa, on a parcel of land legally described as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.
2. Company represents and warrants that it is or will be the owner of the Collateral free and clear of all liens and encumbrances (except those liens and encumbrances already on record by any secured party or lessor with respect to the property listed in Exhibit "B") and will not sell, assign, encumber, transfer or move or remove said property or any part thereof without the prior written consent of the City, until such time as all of the loan has been fully paid unless replaced by Company with comparable equipment.
3. A copy or other reproduction of this Security Agreement may be filed as a financing statement. If for fixtures, such a filing shall be filed for recording in the real estate records.
4. Company's principal place of operation is the address shown herein, and Company shall promptly give City written notice of any change thereof, unless prior written consent of City. All Collateral or replacements thereof is now kept, and shall continue to be kept upon the real estate described in the attached Exhibit "A".
5. Company covenants, represents and warrants that so long as any of the loan remains outstanding:
  - a. Company is duly organized, existing, and is qualified and in good standing in all states in which it is doing business, and the execution, delivery and performance of this Security Agreement are within Company's powers, have been duly authorized, and are not in contravention of law or the terms of Company's charter bylaws, if any, or any indenture agreement, or undertaking to which Company is a party, or by which it is bound;
  - b. Company will defend the Collateral against the claims and demands of all other parties except purchasers and lessees of the Collateral in the ordinary course of business;
  - c. Company will keep, in accordance with generally accepted accounting principles consistently applied, accurate and complete records concerning the Collateral; and will permit the City or their agents to make reasonable inspections of the Collateral and to audit and make extracts from such records or any of the books, ledgers, reports, correspondence and other record of the Company. Company shall make available to City such

records, books, ledgers, reports, correspondence and other record of the Company at a site convenient to City, upon reasonable notice and during normal business hours. City agrees to maintain the confidentiality of said records pursuant to Section 22.7(18), Code of Iowa.

d. Company will, upon demand, deliver to City copies of any documents of title representing or relating to Collateral or any part thereof; schedules, invoices, shipping or delivery receipts, purchase orders, contracts or other documents representing or relating to purchases or other acquisitions or sales, leases or other dispositions of Collateral and proceeds thereof; and any other schedules, documents and statements which City may from time to time reasonably request;

e. Company will, in connection herewith, execute and deliver to City such financing statements and other documents reasonably requested by City;

f. Company will, upon request, execute and deliver to City appropriate amendments to and/or continuations of the filed financing statements, so as to more specifically identify by serial number, model number or otherwise, the property in which a security interest is granted or that may be necessary or desirable in order to create, preserve or perfect any security interest granted hereby or to enable City to exercise and enforce their rights hereunder or under any Collateral.

g. Company will pay or cause to be paid all taxes, assessments and other charges of every nature which may be levied or assessed against the Collateral.

h. Company shall maintain insurance upon the Collateral which is tangible property against all customarily insured risks for the full insurable value thereof (and furnish City with duplicate policies if City so request), loss to be payable to Company and City as their respective interests may appear. In the event of any loss or damage to any Collateral, Company will give City written notice thereof forthwith, promptly file proof of loss with the appropriate insurer and take all other steps necessary or appropriate to collect such insurance. If City so elect, City shall have full authority to collect all such insurance and to apply any amount collected to amounts owed hereunder, whether or not matured. City shall have no liability for any loss which may occur by reason of the omission or the lack of coverage of any such insurance.

6. In the event of any default as defined under the Agreement and/or Promissory Note attached thereto, entitling City to exercise the remedies therein provided, City hereunder shall have all of the rights and remedies of a secured party under Chapter 554, Code of Iowa (Uniform Commercial Code), and under any other applicable laws, in addition to such remedies as may be provided under the Agreement and Promissory Note attached thereto.

7. Each of the conditions and terms contained in this Security Agreement shall be construed in harmony with the provisions of the Agreement and Promissory Note attached thereto, and in the event of any inconsistency of any of the terms and conditions herein contained, it is expressly agreed that the provisions of the Agreement and Promissory Note attached thereto shall control and supersede any such inconsistent term or condition herein contained.

IN WITNESS WHEREOF, the undersigned parties have caused the execution of this Security Agreement as of  
February 5<sup>th</sup>, 2018

COMPANY (Debtor)  
MOTOR MART, LLC

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

CITY (Secured Party)  
CITY OF SIOUX CITY, IOWA

By: Robert E. Scott  
Robert E. Scott, Mayor

Attest:   
Lisa L. McCardle, City Clerk

Date: February 1, 2018

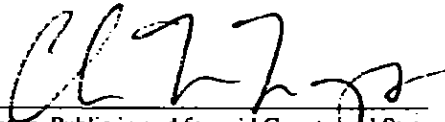
Date: 2-5-18

CORPORATE CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Iowa )  
 )  
COUNTY OF Woodbury ) ss  
 )

On this 1<sup>st</sup> day of February 2018, before me, a Notary Public in and for Woodbury County, State of Iowa, personally appeared James T. Royer, to me personally known, who being by me duly sworn did state that he is the Managing Member of said Limited Liability Company, that the (seal affixed to said instrument is the seal of same (said Limited Liability Company has no corporate seal) and that said instrument was signed on behalf of said Limited Liability Company by authority of its board of directors, and that the said Managing Member acknowledged the execution of said instrument to be the voluntary act and deed of said Limited Liability Company by each of them voluntarily executed.



  
Notary Public in and for said County and State

**EXHIBIT "A"**

**Legal Description of Project Site**

**LEGAL DESCRIPTION**

Parcel I: Lot One (1), Two (2) and Three (3) in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa; and

Parcel II: The North Half of Lot Ten (10), all of Lot Eleven (11) and all of Lot Twelve (12), in Block Eleven (11), Sioux City East Addition in the County of Woodbury and State of Iowa, except that portion described as Parcel "A" in Plat of Survey filed June 15, 2016 in Roll 747, Image 7320

**EXHIBIT "B"**

**Description of Machinery, Equipment, Goods  
and Other Tangible Personal Property and Fixtures.**

Security in all inventory, furniture, fixtures, machinery, and equipment now owned or hereafter acquired, and all products of, proceeds of additions to, increase in, and replacement of such collateral and all accessions, parts and equipment now or hereafter affixed to such collateral.

Roll 757 Image 3706-3717  
Document 9298 Type MG Pages 12  
Date 2/20/2018 Time 9:29 AM  
Rec Amt \$62.00

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

MORTGAGE

BY AND AMONG

THE CITY OF SIOUX CITY, IOWA

AND

MOTOR MART, LLC

LEGAL DESCRIPTION:

PARCEL L: LOT ONE (1), TWO (2) AND THREE (3) IN BLOCK ELEVEN (11), SIOUX CITY EAST  
ADDITION IN THE COUNTY OF WOODBURY AND STATE OF IOWA; AND

PARCEL IL: THE NORTH HALF OF LOT TEN (10), ALL OF LOT ELEVEN (11) AND ALL OF LOT  
TWELVE (12), IN BLOCK ELEVEN (11), SIOUX CITY, EAST ADDITION IN THE COUNTY OF  
WOODBURY AND STATE OF IOWA, EXCEPT THAT PORTION DESCRIBED AS PARCEL 'A' IN PLAT  
OF SURVEY FILED JUNE 15, 2016 IN ROLL 747, IMAGE 7320

GRANTOR:

MOTOR MART, LLC

GRANTEE:

CITY OF SIOUX CITY, IOWA

**STATE OF IOWA**


**Woodbury County**

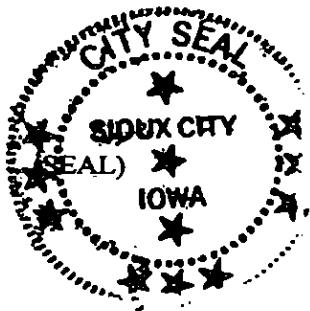
**CITY OF SIOUX CITY**

**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 2018-0091 adopted by the City Council of the City on the 5th day of February, 2018 upon the call of ayes and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 6th day of February, 2018.

  
\_\_\_\_\_  
LISA L. MCCARDLE  
CITY CLERK





**RESOLUTION NO. 2018 - 0091**  
with attachments

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AND ALL EXHIBITS THERETO WITH 413 PIERCE STREET, LLC, MOTOR MART, LLC, AND HISTORIC HOSPITAL, LLC AND A FIRST AMENDMENT TO THE MINIMUM ASSESSMENT AGREEMENT WITH MOTOR MART, LLC (520 NEBRASKA STREET)**

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WHEREAS, there is attached hereto and by this reference made a part hereof, a First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, which First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and First Amendment to the Minimum Assessment Agreement with 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC amending the legal description for the development property located at 520 Nebraska Street in each of the Agreements, 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 First Amendment to the Development Agreement and all exhibits thereto with 413 Pierce Street, LLC, Motor Mart, LLC and Historic Hospital, LLC and the First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC, for and on behalf of the City of Sioux City, Iowa.

PASSED AND APPROVED: February 5, 2018

  
\_\_\_\_\_  
Robert E. Scott, Mayor

ATTEST:

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

**MORTGAGE**  
(Open-End)

**413 PIERCE STREET, LLC**

DATE AND PARTIES. The date of this Mortgage ("Mortgage") is December 18 2017, and the parties and their addresses are as follows:

**MORTGAGORS:**           **413 PIERCE STREET, LLC**  
2430 South 73<sup>rd</sup> Street  
Suite 200  
Omaha, NE 68124

**MORTGAGEE:**           **CITY OF SIOUX CITY, IOWA**  
c/o Economic Development Dept.  
PO Box 447  
405 Sixth Street  
Sioux City, Iowa 51102

THIS MORTGAGE ("Mortgage") encumbers both real and personal property, contains an after-acquired property clause and secures present and future loans and advances.

NOTICE: This Mortgage secures credit in the amount of **Two Hundred Thousand Dollars (\$200,000)**. Loans and advances up to this amount, together with interest are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

If this box is checked, this Mortgage also constitutes a Construction Mortgage as defined in the Iowa Code.

This Mortgage is made between **413 Pierce Street, LLC** ("Mortgagors") and the **City of Sioux City, Iowa** ("Mortgagee").

1. **Grant of Mortgage and Security Interest.** Mortgagors hereby sell, convey and mortgage unto Mortgagee, and grant a security interest to Mortgagee in the following described property:

A. **Land and Buildings.** All of Mortgagors' right, title and interest in and to the following described real estate situated in Woodbury County, Iowa (the "Land"):

**LEGAL DESCRIPTION**

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.**

and all buildings, structures and improvements now standing or at any time hereafter constructed or placed upon the Land (the "Buildings"), including all hereditaments, easements, appurtenances, riparian rights, mineral rights, water rights, rights in and to the lands lying in streets, alleys and roads adjoining the land, estates and other rights and interests now or hereafter belonging to or in any way pertaining to the Land.

B. **Personal Property.** All fixtures and other personal property integrally belonging to, or hereafter becoming an integral part of the Land or Buildings, whether attached or detached, including but not limited to, light fixtures, shades, rods, blinds, venetian blinds, awnings, storm windows, screens, linoleum, water softeners, automatic heating and air conditioning equipment and all proceeds, products, increase, issue, accessions, attachments, accessories, parts, additions, repairs, replacements and substitutes of, to, and for the foregoing (the "Personal Property").

C. **Revenues and Income.** All rents, issues, profits, leases, condemnation awards and insurance proceeds now or hereafter arising from the ownership, occupancy or use of the Land, Buildings and Personal Property, or any part thereof (the "Revenues and Income").

TO HAVE AND TO HOLD the Land, Buildings, Personal Property and Revenues and Income (collectively called the "Mortgaged Property"), together with all privileges, hereditaments thereunto now or hereafter belonging, or in any way appertaining and the products and proceeds thereof, unto Mortgagee, its successors and assigns.

2. **Obligations.** This Mortgage secures the following (hereinafter collectively referred to as the "Obligations"):

A. The payment of the loan made by Mortgagee to 413 Pierce Street, LLC, evidenced by a promissory note dated December 18, 2017, in the principal amount of Two Hundred Thousand Dollars (\$200,000), any renewals, extensions or refinancing thereof and any promissory notes issued in substitution therefor; and

B. All other obligations of Mortgagors to Mortgagee, now existing or hereinafter arising, whether direct or indirect, contingent or absolute and whether as maker or surety, including, but not limited to, future advances and amounts, advanced and expenses incurred by Mortgagee pursuant to this Mortgage.

THIS PARAGRAPH SHALL NOT CONSTITUTE A COMMITMENT TO MAKE ADDITIONAL LOANS IN ANY AMOUNT.

3. **Representations and Warranties of Mortgagors.** Mortgagors represent, warrant and covenant to Mortgagees that (i) Mortgagors hold clear title to the Mortgaged Property and title in fee simple in the Land; (ii) Mortgagors have the right, power and authority to execute this Mortgage and to mortgage, and grant a security interest in the Mortgaged Property; (iii) The Mortgaged Property is free and clear of all liens and encumbrances, except for real estate taxes not yet delinquent and except as otherwise stated in subparagraph 1A. herein; (iv) Mortgagors will warrant and defend title to the Mortgaged Property and the lien and priority of this Mortgage against all claims and demands of all persons, whether now existing or hereafter arising; and (v) All buildings and improvements now or hereafter located on the Land are, or will be, located entirely within the boundaries of the Land.

4. **Payment and Performance of Obligations.** Mortgagors will pay all amounts payable under the Obligations in accordance with the terms of the Obligations when and as due and will timely perform all other Obligations of Mortgagors under the Obligations. The provisions of the Obligations are hereby incorporated by reference into this Mortgage as if fully set forth herein.

5. **Taxes.** Mortgagors shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Mortgaged Property before the same becomes delinquent, without notice or demand, and shall deliver to Mortgagee proof of such payment within fifteen (15) days after the date in which such tax or assessment becomes delinquent.

6. **Liens.** Mortgagors shall not create, incur or suffer to exist any lien, encumbrance, security interest or charge on the Mortgaged Property or any part thereof which might or could be held to be equal or prior to the lien of this Mortgage, other than the lien of current real estate taxes and installments of special assessments with respect to which no penalty is yet payable. Mortgagors shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Mortgaged Property.

7. **Compliance With Laws.** Mortgagors shall comply with all present and future statutes, laws, rules, orders, regulations and ordinances affecting the Mortgaged Property, any part thereof or the use thereof.

8. **Permitted Contest.** Mortgagors shall not be required to (i) pay any tax, assessment or other charge referred to in paragraph 5 hereof, (ii) discharge or remove any lien, encumbrance or charge referred to in paragraph 6 hereof, or (iii) comply with any statute, law, rule, regulation or ordinance referred to in paragraph 7 hereof, so long as

Mortgagors shall contest, in good faith, the existence, amount or the validity thereof, the amount of damages caused thereby or the extent of Mortgagors' liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent: (A) the collection of, or other realization upon the tax, assessment, charge or lien, encumbrances or charge so contested, (B) the sale, forfeiture or loss of the Mortgaged Property or any part thereof, and (C) any interference with the use or occupancy of the Mortgaged Property or any part thereof. Mortgagors shall give prompt written notice to Mortgagee of the commencement of any contest referred to in this paragraph 8.

9. **Care of Property.** Mortgagors shall take good care of the Mortgaged Property; shall keep the Buildings and Personal Property now or later placed upon the Mortgaged Property in good and reasonable repair and shall not injure, destroy or remove either the Buildings or Personal Property during the term of this Mortgage. Mortgagors shall not make any material alteration to the Mortgaged Property without the prior written consent of Mortgagee.

10. **Insurance.**

A. **Risks to be Insured.** Mortgagors, at their sole cost and expense, shall maintain insurance as follows:

(i) If this is a Construction Mortgage, during the period of construction, Mortgagors will maintain builder's risk insurance, written on the so-called "builder's risk completed value basis", in an amount equal to 100% of the insurable value of the Mortgaged Property at the date of completion, and with coverage available on the so-called all risk, non-reporting form of policy; provided that, to the extent that any contractor for such construction shall provide a duplicate insurance policy or builder's risk policy or certificate of insurance showing that the same coverage as is herein required is being carried by such contractor and adequately protects the interest of Mortgagee and Mortgagors with respect to the Mortgaged Property or a part thereof. Mortgagee shall not be required to maintain separate coverage. The insurance provided for by this subparagraph (i) with respect to the Mortgaged Property or such part thereof shall not be required while the Mortgaged Property or part thereof is so insured. Mortgagee's interest shall be protected in accordance with a standard mortgagee clause.

(ii) If this is a Construction Mortgage, during the period of construction, Mortgagors will maintain comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, complete operations and contractual liability insurance) against bodily injury and property damage in amounts satisfactory to Mortgagee. If this is not a Construction Mortgage, or upon completion of construction, Mortgagors will maintain comprehensive general public liability insurance and property damage liability insurance in amounts satisfactory to Mortgagee to protect Mortgagors from claims (including all costs and expenses of defending the same) for personal injury, sickness, disease or death or for damage or injury to or destruction of property (including loss of use thereof) occurring in, on or about the Mortgaged Property.

(iii) If this is not a Construction Mortgage, or upon completion of construction, Mortgagors will maintain insurance on the Buildings and other improvements now existing or hereafter erected on the Land and on the Personal Property included in the Mortgaged Property against loss by fire, extended coverage perils and such other hazards as Mortgagee may from time to time require, such insurance to have a "Replacement Cost" endorsement attached thereto, with the amount of the insurance at least equal to the balance of the Obligations. At Mortgagors' option, such policy may have a coinsurance clause of not less than 90% of replacement cost provided the policy contains an appropriate form of cost escalation endorsement. Mortgagors will at their sole cost and expense, from time to time, and at any time at the request of Mortgagee, provide Mortgagee with evidence satisfactory to Mortgagee of the replacement cost of Mortgaged Property.

(iv) If this is a Construction Mortgage, during the period of construction, Mortgagors will maintain worker's compensation insurance with respect to all employees of Mortgagors and each contractor, and, if this is not a Construction Mortgage, or upon completion of construction, Mortgagors will maintain worker's compensation insurance with respect to all employees of Mortgagors.

(v) At all times, Mortgagors will maintain such other insurance as Mortgagee may reasonably require.

B. Policy Provisions. All insurance policies and renewals thereof maintained by Mortgagors pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Mortgagee, contain a mortgagee clause in favor of and in form acceptable to Mortgagee, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after thirty (30) days prior written notice to Mortgagee, and be reasonably satisfactory to Mortgagee in all other respects.

C. Delivery of Policy or Certificate. If requested by Mortgagee, Mortgagors will deliver to Mortgagee original policies satisfactory to Mortgagee evidencing the insurance which is required under this Mortgage, and Mortgagors shall promptly furnish to Mortgagee all renewal notices and, upon request of Mortgagee, evidence of payment thereof. At least ten (10) days prior to the expiration date of a required policy, Mortgagors shall deliver to Mortgagee a renewal policy in form satisfactory to Mortgagee.

D. Assignment of Policy. If the Mortgaged Property is sold at a foreclosure sale or if Mortgagee shall acquire title to the Mortgaged Property, Mortgagee shall have all of the right, title and interest of Mortgagors in and to any insurance policies required hereunder, and the unearned premiums thereon, and in and to the proceeds thereof resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

E. Notice of Damage or Destruction; Adjusting Loss. If the Mortgaged Property or any part thereof shall be damaged or destroyed by fire or other casualty, Mortgagors will, within five (5) calendar days after the occurrence of such damage or destruction, give written notice thereof to the insurance carrier and to Mortgagee and will not adjust any damage or loss which is estimated by Mortgagors in good faith to exceed \$25,000 unless Mortgagee shall have joined in or concurred with such adjustment; but if there has been no adjustment of any such damage or loss within four (4) months from the date of occurrence thereof and if an Event of Default shall exist at the end of such four (4) month period or at any time thereafter, Mortgagee may alone make proof of loss, adjust and compromise any claim under the policies, and appear in and prosecute any action arising from such policies. In connection therewith, Mortgagors do hereby irrevocably authorize, empower and appoint Mortgagee as attorney-in-fact for Mortgagor (which appointment is coupled with an interest) to do any and all of the foregoing in the name and on behalf of Mortgagors.

F. Application of Insurance Proceeds. All sums paid under any insurance policy required by this Mortgage shall be paid to Mortgagee, which shall, at its option, apply the same (after first deducting therefrom Mortgagee's expenses incurred in collecting the same including but not limited to reasonable attorney's fees) to the reduction of the Obligations or to the payment of the restoration, repair, replacement or rebuilding of Mortgaged Property that is damaged or destroyed in such manner as Mortgagee shall determine and secondly to the reduction of the Obligations. Any application of insurance proceeds to principal of the Obligations shall not extend or postpone the due date of the installments payable under the Obligations or change the amount of such installments.

G. Reimbursement of Mortgagee's Expenses. Mortgagors shall promptly reimburse Mortgagee upon demand for all of Mortgagee's expenses incurred in connection with the collection of the insurance proceeds, including but not limited to reasonable attorneys' fees, and all such expenses shall be additional amounts secured by this Mortgage.

11. Inspection. Mortgagee, and its agents, shall have the right at all reasonable times, to enter upon the Mortgaged Property for the purpose of inspecting the Mortgaged Property or any part thereof. Mortgagee shall, however, have no duty to make such inspection. Any inspection of the Mortgaged Property by Mortgagee shall be entirely for its benefit and Mortgagors shall in no way rely or claim reliance thereon.

12. Protection of Mortgagee's Security. Subject to the rights of Mortgagors under paragraph 8 hereof, if Mortgagors fail to perform any of the covenants and agreements contained in this Mortgage or if any action or proceeding is commenced which affects the Mortgaged Property or the interest of the Mortgagee therein, or the title thereto, then Mortgagee, at Mortgagee's option, may perform such covenants and agreements, defend against or investigate such action or proceeding, and take such other action as Mortgagee deems necessary to protect Mortgagee's interest. Any amounts or expenses disbursed or incurred by Mortgagee in good faith pursuant to this

paragraph 12 with interest thereon at the rate of 9% per annum, shall become an Obligation of Mortgagors secured by this Mortgage. Such amounts advanced or disbursed by Mortgagee hereunder shall be immediately due and payable by Mortgagors unless Mortgagors and Mortgagee agree in writing to other terms of repayment. Mortgagee shall, at its option, be subrogated to the lien of any mortgage or other lien discharged in whole or in part by the Obligations or by Mortgagee under the provisions hereof, and any such subrogation rights shall be additional and cumulative security for this Mortgage. Nothing contained in this paragraph shall require Mortgagee to incur any expense or do any act hereunder, and Mortgagee shall not be liable to Mortgagors for any damage or claims arising out of action taken by Mortgagee pursuant to this paragraph.

13. **Condemnation.** Mortgagors shall give Mortgagee prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assign, transfer and set over to Mortgagee the entire proceeds of any award or claim for damages for all or any part of the Mortgaged Property taken or damaged under the power of eminent domain or condemnation. Mortgagee is hereby authorized to intervene in any such action in the names of Mortgagors, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds. Any expenses incurred by Mortgagee in intervening in such action or compromising and settling such action or claim, or collecting such proceeds shall be reimbursed to Mortgagee first out of the proceeds. The remaining proceeds or any part thereof shall be applied to reduction of that portion of the Obligations then most remotely to be paid, whether due or not, or to the restoration or repair of the Mortgaged Property, the choice of application to be solely at the discretion of Mortgagee.

14. **Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to the Personal Property and for this purpose the name and address of the debtor is the name and address of Mortgagors as set forth in paragraph 20 herein and the name and address of the secured party is the name and address of the Mortgagee as set forth in paragraph 20 herein.

15. **Events of Default.** Each of the following occurrences shall constitute an event of default hereunder ("Event of Default"):

A. Mortgagors shall default in the due observance or performance of or breach its agreement contained in paragraph 4 hereof or shall default in the due observance or performance of or breach any other covenant, condition or agreement on its part to be observed or performed pursuant to the terms of this Mortgage.

B. Mortgagors shall make an assignment for the benefits of its creditors, or a petition shall be filed by or against Mortgagors under the United States Bankruptcy Code or Mortgagors shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties or of the Mortgaged Property or shall not, within thirty (30) days after the appointment of a trustee, receiver or liquidator of any material part of its properties or of the Mortgaged Property, has such appointment vacated.

C. A judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien on or be issued or levied against the Mortgaged Property or any part thereof which is not released, vacated or fully bonded within thirty (30) days after its entry, issue or levy.

D. An event of default, however defined shall occur under any other mortgage, assignment or other security document constituting a lien on the Mortgaged Property or any part thereof.

16. **Acceleration; Foreclosure.** Upon the occurrence of any Event of Default and at any time thereafter while such Event of Default exists, Mortgagee may, at its option, exercise one or more of the following rights and remedies (and any other rights and remedies available to it):

A. Mortgagee may declare immediately due and payable all Obligations secured by this Mortgage, and the same shall thereupon be immediately due and payable, without further notice or demand.

B. Mortgagee shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default to a secured party under the Iowa Uniform Commercial Code. If notice to Mortgagors of

intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Mortgagors at least ten (10) days prior to the date of intended disposition.

C. Mortgagee may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Mortgagee appoint a receiver to take immediate possession of the Mortgaged Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as he may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Mortgagors only for the net profits, after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and upon the Obligations.

17. **Redemption.** It is agreed that if this mortgage covers less than ten (10) acres of land, and in the event of the foreclosure of this Mortgage and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six (6) months provided the Mortgagee, in such action files an election to waive any deficiency judgment against Mortgagors which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after sale such right of redemption shall be exclusive to the Mortgagee, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

It is further agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to sixty (60) days if all of the three following contingencies develop:

(1) The real estate is less than ten (10) acres in size;

(2) The Court finds affirmatively that the said real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of such foreclosure; and

(3) Mortgagee in such action files an election to waive any deficiency judgment against Mortgagors or their successor in interest in such action. If the redemption period is so reduced, Mortgagors or their successors in interest or the owner shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Mortgagors shall be a presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code.

18. **Attorney's Fees.** Mortgagors shall pay on demand all costs and expenses incurred by Mortgagee in enforcing or protecting its rights and remedies hereunder, including, but limited to, reasonable attorneys' fees and legal expenses.

19. **Forbearance Not a Waiver, Rights and Remedies Cumulative.** No delay by Mortgagee in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy, and no waiver by Mortgagee of any particular provisions of this Mortgage shall be deemed effective unless in writing signed by Mortgagee. All such rights and remedies provided for herein or which Mortgagee or the holder of the Obligations may have otherwise, at law or in equity, shall be distinct, separate and cumulative and may be exercised concurrently, independently or successively in any order whatsoever, and as often as the occasion therefor arises.

20. **Notices.** All notices required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the United States mail, postage prepaid, sent certified or registered, addressed as follows:



A. If to Mortgagors, to:

413 Pierce Street, LLC  
2430 South 73<sup>rd</sup> Street  
Suite 200  
Omaha, NE 68124

B. If to Mortgagee, to:

City of Sioux City, Iowa  
c/o Economic Development Dept.  
P.O. Box 447  
405 Sixth Street  
Sioux City, Iowa 51102

or to such other address or person as hereafter designated in writing by the applicable party in the manner provided in this paragraph for the giving of notices.

21. **Severability.** In the event any portion of this Mortgage shall, for any reason, be held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Mortgage is invalid, illegal, or unenforceable as written, but that by limiting such provision it would become valid, legal and enforceable then such provision shall be deemed to be written, construed and enforced as so limited.

22. **Further Assurances.** At any time and from time to time until payment in full of the Obligations, Mortgagors will, at the request of Mortgagee, promptly execute and deliver to Mortgagee such additional instruments as may be reasonably required to further evidence the lien of this Mortgage to further protect the security interest of Mortgagee with respect to the Mortgaged Property, including, but not limited to, additional security agreements, financing statements and continuation statements. Any expenses incurred by Mortgagee in connection with the recordation of any such instruments shall become additional Obligations of Mortgagors secured by this Mortgage. Such amounts shall be immediately due and payable by Mortgagors to Mortgagee.

23. **Successors and Assigns bound; Number; Gender; Agents; Captions.** The rights, covenants and agreements contained herein shall be binding upon and inure to the benefit of the respective legal representatives, successors and assigns of the parties. Words and phrases contained herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the contexts. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

24. **Governing Law.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Iowa.

25. **Release and Rights of Dower; Homestead and Distributive Share.** Each of the undersign hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property.

26. **Acknowledgment of Receipt of Copies of Debt Instrument.** Mortgagors hereby acknowledge the receipt of a copy of this Mortgage together with a copy of each promissory note secured hereby.

27. **Additional Provisions.**

Mortgage  
413 Pierce Street, LLC  
page 8

Dated: December 13, 2017.

**MORTGAGORS:**

413 Pierce Street, LLC

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

**I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE; AND THAT BY SIGNING THIS MORTGAGE, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS MORTGAGED PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS MORTGAGE.**

Dated: December 13, 2017

James T Royer  
James T Royer, Managing Member

STATE OF Iowa )  
 ) SS:  
COUNTY OF Woodbury )

On this 13<sup>th</sup> day of December, 2017, before me, the undersigned, a Notary Public, personally appeared James T. Royer to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

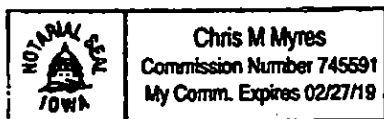


Chris M Myres  
Notary Public in and for said County and State

**CERTIFICATE OF ACKNOWLEDGMENT**

STATE OF Iowa )  
 ) ss  
COUNTY OF Woodbury )

On this 13<sup>th</sup> day of December, 2017, before me, a Notary Public in and for Woodbury County, State of Iowa, personally appeared James T. Royer, to me personally known, who being by me duly sworn did state that he is the Managing Member of said company, that said Limited Liability Company has no corporate seal and that said instrument was signed on behalf of said Limited Liability Company by authority of its board of directors, and that the said Managing Member acknowledged the execution of said instrument to be the voluntary act and deed of said Limited Liability Company by each of them voluntarily executed.



Chris M Myres  
Notary Public in and for said County and State

<input checked="" type="checkbox"/>	Regular Session
<input type="checkbox"/>	Study Session
<input type="checkbox"/>	Closed Session

**CITY OF SIOUX CITY  
REQUEST FOR CITY COUNCIL ACTION**

**MEETING DATE:** February 5, 2018                      **ACTION ITEM #** 16D

**FROM:** Chris Myres, Economic Development Specialist

**SUBJECT:** Resolution approving a First Amendment to the Development Agreement and all Exhibits Thereto with 413 Pierce Street, LLC, Motor Mart, LLC, and Historic Hospital, LLC and a First Amendment to the Minimum Assessment Agreement with Motor Mart, LLC (520 Nebraska Street)

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<b>Reviewed By:</b>	<input checked="" type="checkbox"/>	Department Director	Finance Department	City Attorney	City Manager
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**RECOMMENDATION:**

Staff respectfully requests Council approval of the above resolution.

**DISCUSSION:**

**Background:**

On December 18, 2017, Council approved a Development Agreement and Minimum Assessment Agreement with Motor Mart, LLC (J Development) for the redevelopment of the Commerce Building located at 520 Nebraska Street.

**Amendments:**

Following approval of the agreements, it was discovered that the legal description for the property located at 520 Nebraska Street inadvertently included a third parcel which is not a subject of this redevelopment project. The proposed amendments correct the legal description in both the development agreement and minimum assessment agreement by removing the third parcel from the agreements.

**FINANCIAL IMPACT:**

None. The City's commitment to this project is not altered by the proposed amendments.

**RELATIONSHIP TO STRATEGIC PLAN:**

This project supports the Strategic Focus Areas of Growing Sioux City, including expanding development opportunities, promoting and engaging historic preservation, and leveraging assets to develop critical mass downtown.

**ALTERNATIVES:**

None recommended

**ATTACHMENTS:**

Resolution

First Amendment to Development Agreement (**Hard Copy**)

First Amendment to Minimum Assessment Agreement (**Hard Copy**)

DOCUMENT NUMBER 2018- 0091

FINAL ACTION DATE

2-5-18

RESOLUTION

MOTION

OTHER

Motion Scott  
 Second Moore  
 Ayes ALL  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Nays \_\_\_\_\_  
 Abstain \_\_\_\_\_  
 Absent \_\_\_\_\_

Deleted \_\_\_\_\_  
 Failed \_\_\_\_\_  
 Deferred \_\_\_\_\_ to \_\_\_\_\_  
 \_\_\_\_\_ to \_\_\_\_\_  
 \_\_\_\_\_ to \_\_\_\_\_  
 Other \_\_\_\_\_

ORDINANCE  
First Consideration

ORDINANCE  
Second Consideration

ORDINANCE  
Third Consideration

Second and Third Considerations/Rules Waived

Date: \_\_\_\_\_  
 Motion \_\_\_\_\_  
 Second \_\_\_\_\_  
 Ayes \_\_\_\_\_  
 \_\_\_\_\_  
 Nays \_\_\_\_\_  
 Abstain \_\_\_\_\_  
 Absent \_\_\_\_\_

Date: \_\_\_\_\_  
 Motion \_\_\_\_\_  
 Second \_\_\_\_\_  
 Ayes \_\_\_\_\_  
 \_\_\_\_\_  
 Nays \_\_\_\_\_  
 Abstain \_\_\_\_\_  
 Absent \_\_\_\_\_

DOCUMENTS SENT TO:

4 cert. Resolutions  
 Airport \_\_\_\_\_  
 Art Center Security Agreements  
 City Clerk Loan & Security Agre  
 Comm Dev 1st Amend to Develop Agre  
 Econ Dev 1st Amend to Min. Assess Agre  
 Events Facilities \_\_\_\_\_  
 Field Services \_\_\_\_\_  
 Finance \_\_\_\_\_  
 Fire \_\_\_\_\_  
 Human Resources \_\_\_\_\_  
 Human Rights \_\_\_\_\_  
 Legal \_\_\_\_\_  
 Library \_\_\_\_\_  
 Museum \_\_\_\_\_  
 Parking \_\_\_\_\_  
 Parks \_\_\_\_\_  
 Police \_\_\_\_\_  
 Public Works \_\_\_\_\_  
 Purchasing \_\_\_\_\_  
 Real Estate \_\_\_\_\_  
 Transit \_\_\_\_\_  
 Utilities \_\_\_\_\_