FIRST AMENDMENT TO PARKING RIGHTS AND AGREEMENT REGARDING MID-AMERICA CENTER, FIELDHOUSE, RETAIL SPINE AND HOTEL DEVELOPMENTS BY AND BETWEEN THE CITY OF COUNCIL BLUFFS, IOWA AND MAC VENTURES, LLC

THIS FIRST AMENDMENT TO PARKING RIGHTS AND AGREEMENT REGARDING MID-AMERICA CENTER, FIELDHOUSE, RETAIL SPINE AND HOTEL DEVELOPMENTS (the "Amendment") is made on this ____ day of _____, 2021, by and between the CITY OF COUNCIL BLUFFS, IOWA, a municipality (the "City") and MAC VENTURES, LLC, an Iowa limited liability company ("Developer").

WHEREAS, on March 9, 2017, the City and Developer entered into the Parking Rights and Agreement Regarding Mid-America Center, Fieldhouse, Retail Spine and Hotel Developments (the "Agreement"); and

WHEREAS, the parties desire to modify the Agreement to clarify certain operational matters as more fully described below.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. All terms used but not defined in this Amendment shall have the definitions ascribed to them in the Agreement.

2. Under the heading, CONSIDERATION FOR PARKING LOT USAGE, the Agreement contemplates a monthly fee ("Fee") payable to the City by Developer or its assigns.. The parties wish to amend this section of the Agreement to correct certain inaccuracies in the breakdown of the Fee and to clarify how the Fee shall be calculated and administered, as follows:

- The Fee is $13.90 for every 1,000 sq. ft. of occupied space.
- Developer shall provide to the City no later than December 1, 2021, a list of all tenants in the Retail Spine and the amount of enclosed square feet that they occupy, and shall notify the City of any subsequent changes in tenants.
- The City shall start billing Developer the Fee, as calculated above, effective January 1, 2022.
- The Fee shall remain payable and calculated at the rate described herein through December 31, 2026, unless otherwise modified pursuant to the terms of the Agreement.

3. It was and continues to be the parties' intent that upon the change in ownership of any of the Retail Spine facilities serviced by the common parking areas, then such new owner(s) shall

negotiate and enter into an agreement with the City for the rights of ingress, egress and parking in the applicable parking areas, and Developer's obligations under the Agreement with respect to such divested Retail Spine facilities shall terminate. The City agrees it is in the City's interest to be reasonable when taking part in such negotiations.

4. Except as expressly set forth in this Amendment, the Agreement is hereby ratified and affirmed by the Parties. All other terms of the Agreement not inconsistent with the language contained in this Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the City has caused this First Amendment to PARKING RIGHTS AND AGREEMENT to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk and MAC Ventures, LLC has caused this First Amendment to the PARKING RIGHTS AND AGREEMENT to be duly executed in its name and behalf by its authorized representative, all on or as of the day first above written.

CITY OF COUNCIL BLUFFS, IOWA,

_____
Matthew J. Walsh, Mayor

ATTEST:

_____
Jodi Quakenbush, City Clerk

STATE OF IOWA)
)ss.
COUNTY OF POTTAWATTAMIE)

On this ____ day of _____, 2021, before me, a Notary Public in and for said County and said State, personally appeared MATTHEW J. WALSH and JODI QUAKENBUSH, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the said City of Council Bluffs, Iowa, a municipal corporation, that the seal affixed hereto is the seal of said municipal corporation; that said instrument was by authority of its City Council ; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa by authority of its City Council; and that said MATTHEW J. WALSH and JODI QUAKENBUSH, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, and by them voluntarily executed.

_____
Notary Public

MAC VENTURES, LLC,
An Iowa Limited Liability Company,

Iowa West Foundation, sole member

_____
Brenda Mainwaring, President and CEO

STATE OF IOWA)
)ss.
COUNTY OF POTTAWATTAMIE)

On this ____ day of _____, 2021, before me the undersigned, a Notary Public in and for said County and said State, personally appeared BRENDA MAINWARING, did say that she is the President and Chief Executive Officer of Iowa West Foundation, sole member of MAC Ventures, LLC and that said instrument was signed on behalf of Iowa West Foundation and MAC Ventures, LLC and that the said President and Chief Executive Officer as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of Iowa West Foundation and MAC Ventures, LLC, by them is voluntarily executed.

_____
Notary Public