

## ESTOPPEL CERTIFICATE, CONSENT AND AGREEMENT

\_\_\_\_\_, 2020

WELLS FARGO BANK, NATIONAL ASSOCIATION (together with its successors and assigns, "**Bank**")  
Attention: Joseph L. Gannon, Vice President  
101 N. Phillips Avenue, 1<sup>st</sup> Floor  
MAC N9714-013  
Sioux Falls, SD 57104

Re: Lease Agreement Between City of Rapid City and Cortez LLC for a Portion of Sixth Street Parking Ramp (the "**Parking Agreement**") dated September 10, 2019, by and between the City of Rapid City, a municipal corporation (the "**City**"), and Cortez LLC, a South Dakota limited liability company ("**Cortez**")

Bank:

The undersigned is a party to the Parking Agreement.

The undersigned, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby represents and warrants to Bank and its affiliates that as of the date of this Estoppel Certificate:

1. True, Correct and Complete Copy of the Parking Agreement. The document attached hereto as Exhibit A constitutes a true, correct and complete copy of the Parking Agreement; the Parking Agreement is in full force and effect and there are no further amendments or other modifications thereto.

2. Confirmation of Ownership. The City owns the Leased Area (as that term is defined in the Parking Agreement).

3. No Termination. There has been no occurrence of any event listed in Section 9 of the Parking Agreement which would give rise to the City's option to terminate prior to the end of the term of the Parking Agreement.

4. No Defaults under Parking Agreement. The undersigned has no knowledge of any existing breach or default under any provision or covenant of the Parking Agreement, nor does the undersigned have knowledge of any condition that, with the passage of time or the giving of notice or both, would constitute a breach or default under any provision or covenant of the Parking Agreement.

5. Consent to Collateral Assignment of Parking Agreement. Notwithstanding anything to the contrary set forth in the Parking Agreement, the undersigned hereby consents to any collateral assignment of the Parking Agreement given by Cortez in favor of Bank, and agrees that the undersigned shall recognize Bank as lessee under the Parking Agreement in the event that Bank succeeds to the interest of Cortez under the Parking Agreement.

6. Notices of Default and Termination. The undersigned agrees to deliver to Bank (at the address set forth above, or such other address provided by Bank) a copy of each notice of default,

termination or alleged default delivered by the undersigned under the Parking Agreement, in each case at the time such notice is delivered to Cortez.

7. Bank's Right to Cure. Notwithstanding anything to the contrary set forth in the Parking Agreement, Bank is entitled, but not obligated, to cure any default under the Parking Agreement and that Bank shall have the same period, after such default notice has been given to it, for remedying any default or causing the same to be remedied, as is given Cortez after the giving of such notice to Cortez, plus (i) in the case of a default in the payment of rent or any other monetary obligations of Cortez to the undersigned under the Parking Agreement, an additional period of ten (10) business days, and (ii) in the case of any other default, an additional period of thirty (30) days, and if such default cannot with due diligence be cured within such additional thirty (30) day period, an additional time thereafter, provided that such cure is initiated during such additional thirty (30) day period and thereafter, the curing of the same is prosecuted with diligence; and in all cases the undersigned shall accept any cure or performance by or on behalf of Cortez for all purposes under the Parking Agreement as if performed by Cortez. Unless there is a default under the Parking Agreement which is not cured within any applicable notice and/or cure period by Cortez, or by Bank in accordance with the foregoing, the undersigned shall not terminate the Parking Agreement until the loan(s) provided by Bank to Cortez are repaid in full.

8. No Assumption. Unless Bank expressly assumes the obligations of Cortez under the Parking Agreement, Bank shall not be deemed to have assumed any of the obligations of Cortez under the Parking Agreement, nor shall Bank be under any liability of any kind to the undersigned under the Parking Agreement. This Estoppel Certificate, Consent and Agreement does not release or affect in any way the obligations of Cortez to the undersigned.

The acknowledgements, agreements and certifications contained in this Estoppel Certificate, Consent and Agreement may be relied upon by Bank and its assignees or successors. This Estoppel Certificate may be evidenced by a facsimile or electronic (PDF) copy of the same.

*(Signature page follows)*

**CITY:**

CITY OF RAPID CITY, a municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

Copy of Parking Agreement

See attached.