

Boulder Junction Access District (BJAD) – Parking Special Meeting
November 3, 2015
10-11 am
City Council Chambers
Municipal Building
1777 Broadway

Agenda

1. Call to Order and Roll Call:
2. Disclosure of Conflicts of Interest
3. Public Participation
4. Request from 3001 Pearl for the District to Waive the \$2000 Penalty in the First Amendment to Depot Square Parking Purchase Agreement
 - Presentation by Staff
 - Questions to 3001 Pearl Representatives
 - Recusal by BJAD – Parking Commission
 - Discussion by BJAD – Parking Commission
5. Matters from Commissioners
6. Matters from Staff

Attachments:

- First Amendment to Depot Square Parking Purchase Agreement
- Second Amendment to Depot Square Parking Purchase Agreement
- Request from 3001 Pearl
- Maintenance Agreement

Upcoming Meetings/Topics

AMPS Study Session – November 12
 Regular Joint BJAD Meeting – November 19

Commissioner Terms:

<u>TDM Commission</u>	<u>Term Expires</u>	
John Pawlowski-Chair	3/2018	Property Owner/Rep
John Koval-Vice Chair	3/2016	Property Owner/Rep
Alex Hyde-Wright	3/2020	Citizen at Large
Susan Osborne	3/2019	Citizen at Large
Scott Pedersen	3/2017	Property Owner/Rep

<u>Parking Commission</u>	<u>Term Expires</u>	
Susan Osborne-Chair	3/2019	Citizen at Large
John Koval-Vice Chair	3/2016	Property Owner/Rep
Scott Pedersen	3/2017	Property Owner/Rep
Jeff Shanahan	3/2018	Property Owner/Rep
Thomas Wells	3/2020	Citizen at Large

BJAD 2015 Priorities:

- Boulder Junction's new community implementation
- Planning on Pollard site
- Installation of quiet zones
- "Last mile" transportation strategies
- Council / Commission knowledge collaboration
- BJAD two boards' consolidation potential
- Informational sessions with City Council

**FIRST AMENDMENT TO
DEPOT SQUARE PARKING PURCHASE AGREEMENT
(DISTRICT PARKING UNIT)**

THIS FIRST AMENDMENT to the Depot Square Parking Purchase Agreement (the "First Amendment") is executed to be effective as of June 18, 2015 by and between 3001 Pearl, LLC, a Colorado limited liability company ("Seller") and the Boulder Junction Access General Improvement District-Parking, a general improvement district under the laws of the State of Colorado and Charter of the City of Boulder ("BJAD-P") as the First Amendment to the Depot Square Parking Purchase Agreement between the parties dated July 26, 2013, and recorded on July 30, 2013 at Reception No. 03331517 in the records of Boulder County, Colorado (the "Agreement").

Recitals

- A. Section 5 of the Agreement provides for the First Note Payment to be made by BJAD-P within 30 days of completion of a list of events, including issuance of a certificate of occupancy for the Parking Structure; and
- B. The issuance of a certificate of occupancy for the Parking Structure requires the installation of a working parking management program that, *inter alia*, allows for charging for cars using the Parking Structure (the "Parking Program"), which Parking Program is not yet completed; and
- C. All requirements for a certificate of occupancy for the Parking Structure will be completed before the Parking Program which allows for parking management control ; and
- D. In order to facilitate the viability of the BJAD-P, the Commissioners of BJAD-P have a fiduciary duty to incentivize the opening of the Parking Structure with an operating Parking Program to avoid any negative impact to BJAD-P if RTD cannot commence using the Parking Structure on its August, 2015 runboard; and
- E. However, it is in the interest of both parties for the certificate of occupancy for the Parking Structure to be issued to allow use of the Parking Structure within the Depot Square development;
- F. So long as the additional events are added to the list of prerequisites to the First Note Payment, the Seller remains responsible for all maintenance, repair and operations costs and all liability for use and operation of the Parking Structure, and there is a financial penalty for missing the performance date for the Parking Program, all as set forth below, the Commissioners of BJAD-P support the issuance of a certificate of occupancy for the Parking Structure prior to operation of the Parking Program.

Therefore, the parties agree as follows:

1. Section 4 is amended by the addition of a subsection (h) to the requirements of Closing of the District Parking Unit as follows:

h. An agreement, in a form acceptable to the General Manager of the BJAD-P Commissioners, that the Seller will:

- (i) remain responsible for all costs of maintenance, repair, operations, damages and all liability for the Parking Structure until the Note Commencement Events occur, except as directly resulting from the use of the District owners/users under (ii) below, and
- (ii) allow District owners/users to use the Parking Structure, without charge until all of the Note Commencement Events occur, and
- (iii) deliver the GID Parking Unit and the Parking Program in new condition.

2. Section 5 is amended by the addition of a fourth Note Commencement Events which must occur before the First Note Payment is required as follows:

d. The Parking Program shall be operational by August 1, 2015, to allow for the charging for use of the Parking Structure as contemplated by the Parking Management Agreement. In the event that the Parking Program is not operational by August 1, 2015, the Purchase Price shall be reduced by \$2000.00 per day for every day between August 1, 2015 and the date the Seller delivers the Parking Program to BJAD-P as required in this amendment. Such amount shall be either (i) deducted from the First Note Payment due under the Promissory Note or (ii) payable directly by Seller within fifteen (15) days after written request from BJAD-P.

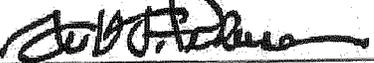
3. Section 7 is amended by revising the date of event of default (g) from May 31, 2015, to July 8, 2015.

4. All capitalized terms not defined herein shall have the definition provided in the Agreement.

IN WITNESS WHEREOF, the parties have executed this First Amendment effective as of the day and year first written above.

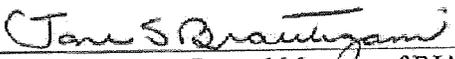
Seller:

3001 Pearl, LLC, a Colorado limited liability company

By: 
Scott Pedersen, Manager

Buyer:

Boulder Junction Access General Improvement District - Parking

By: 
City Manager as General Manager of BJAD-P

**SECOND AMENDMENT TO
DEPOT SQUARE PARKING PURCHASE AGREEMENT
(DISTRICT PARKING UNIT)**

THIS SECOND AMENDMENT to the Depot Square Parking Purchase Agreement (the "Second Amendment") is executed to be effective as of 13th day of August, 2015 by and between 3001 Pearl, LLC, a Colorado limited liability company ("Seller") and the Boulder Junction Access General Improvement District-Parking, a general improvement district under the laws of the State of Colorado and Charter of the City of Boulder ("BJAD-P") as the Second Amendment to the Depot Square Parking Purchase Agreement between the parties dated July 26, 2013, and recorded on July 30, 2013 at Reception No. 03331517 in the records of Boulder County, Colorado and the First Amendment thereto dated June 18, 2015 (collectively the "Agreement").

Recitals

- A. Recitals A-F of the First Amendment are incorporated herein; and
- B. The City of Boulder is entering into various agreements with Seller and its contractor and lender to facilitate completing punch list items necessary for issuance of certificates of occupancy for the Parking Structure and the residential and public areas of the Depot Square development; and
- C. As part of the City's efforts to facilitate completion of Depot Square, and in order to ensure the completion of the Parking Program, additional amendments to this Agreement are necessary.

Therefore, the parties agree as follows:

1. Section 5 is amended by the following revision to the fourth event and addition of a fifth and sixth Note Commencement Event which must occur before the First Note Payment is required as follows:

d. The Parking Program shall be operational by August 1, 2015, to allow for the charging for use of the Parking Structure as contemplated by the Parking Management Agreement. In the event that the Parking Program is not operational by August 1, 2015, the Purchase Price shall be reduced by \$2000.00 per day for every day between August 1, 2015 and the date the Seller delivers the Parking Program to BJAD-P as required in this amendment. Such amount shall be either (i) deducted as a credit towards the First Note Payment due under the Promissory Note or (ii) payable directly by Seller within fifteen (15) days after written request from BJAD-P.

e. In the event that the Parking Program is not operating as required under the Parking Management Agreement by 5:00 p.m. on Friday, August 28, 2015, upon written notice from BJAD-P:

i. Seller shall cause ProtectionTech to amend its existing agreement for the Parking Program to comply with the Parking Management Agreement and allow the City to become the contractor under the agreement.

ii. All costs incurred by the City from August 28, 2015 until completion of the Parking Program to comply with the Parking Management Agreement shall be credited as a payment by the City as part of the First Note Payment

f. Seller shall complete all punch list items and obtain an unqualified certificate of occupancy from the City by August 28, 2015.

2. All capitalized terms not defined herein shall have the definition provided in the Agreement.

IN WITNESS WHEREOF, the parties have executed this First Amendment effective as of the day and year first written above.

Seller:

3001 Pearl, LLC, a Colorado limited liability company

By: 

Scott Pedersen, Manager

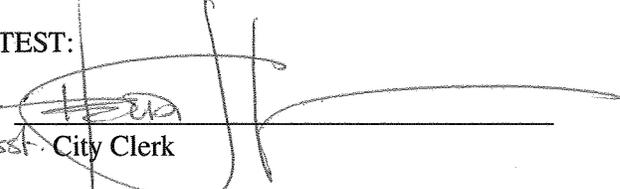
Buyer:

Boulder Junction Access General Improvement District - Parking

By: 

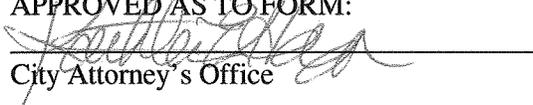
City Manager as General Manager of BJAD-P

ATTEST:

By: 

Asst. City Clerk

APPROVED AS TO FORM:


City Attorney's Office

Boulder Junction Access District
Board of Directors
c/o Molly Winter
Director, Downtown and University Hill Management Division/Parking Services
City of Boulder
1500 Pearl Street, Suite 302
Boulder, CO 80302

September 15, 2015

VIA EMAIL

Re: First Amendment to Depot Square Parking Purchase Agreement (First Amendment)

Dear BJAD-P Board:

The ***Depot Square Parking Purchase Agreement*** (Purchase Agreement) was executed on July 26, 2013. The Agreement required that the "Note Commencement Events" as described below were to be completed before BJAD-P was required to make the first Note payment:

5. *Promissory Note Payments. The first payment under the Promissory Note ("First Note Payment") shall be due within 30 days of completion of all of the following events which are the Note Commencement Events:*
 - a. *A certificate of occupancy is issued by the City of Boulder for the Parking Structure and Residential Unit (as defined in the Declaration) of Depot Square;*
 - b. *BJAD-P has approved any encumbrances against the title of the Parking Structure that were not part of the closing that created the Depot Square planned community, other than the Lender liens and encumbrances against the Parking Structure that were part of such closing, which BJAD-P hereby acknowledges are permitted; and*
 - c. *The construction of the hotel on the Hotel Unit (as defined in the Declaration) of Depot Square has passed sufficient interim building inspections to be within three months of receipt of issuance of a certificate of occupancy for the Hotel Unit from the City.*

Further, the above events were to be completed by May 31, 2015. Due to construction delays, item 5(a) was not complete and the May 31st date was not met so it was necessary to extend the Purchase Agreement.

When Seller asked staff to process an extension to the Purchase Agreement, staff took the opportunity to exercise leverage and change the terms. While the Purchase Agreement already protected BJAD-P by not requiring ANY payments until the Parking System was operational, staff wanted further exactions, ostensibly to protect the viability of BJAD-P.

Staff was aware that the Seller needed BJAD-P to extend the Purchase Agreement in order for Seller to close on permanent financing, and without discussion with Seller included the following unilateral Recitals in the First Amendment:

- B. *The issuance of a certificate of occupancy for the Parking Structure requires the installation of a working parking management program that, inter alia, allows for charging for cars using the Parking Structure (the "Parking Program"), which Parking Program is not yet completed; and*
- D. *In order to facilitate the viability of the BJAD-P, the Commissioners of BJAD-P have a fiduciary duty to incentivize the opening of the Parking Structure with an operating Parking Program to avoid any negative impact to BJAD-P if RTD cannot commence using the Parking Structure on its August, 2015 run board;*

Recital B is simply not true under any building department (or other City) requirements, and Recital D is unclear how the viability of BJAD-P would be affected, especially since the district is a non-profit entity and its expenses relating to the district parking unit don't commence until revenue can be generated. In addition, the operation of the Parking Management System had no bearing on RTD's use of the Parking Structure and RTD commenced operation on August 17, 2015.

The Seller had no other reasonable option except to execute the First Amendment as written.

The Parking Management System underwent rigorous and thorough testing by the parking vendor and the parking operator, SP+ and became fully operational on September 11, 2015. According to the penalty language in the First Amendment, Seller may be charged \$2,000/day from August 1 to September 11. This amount is \$84,000.00.

Based on the foregoing, the Seller respectfully requests that the BJAD-P board consider a request to waive the penalty clause in the First Amendment.

Sincerely,



Scott Pedersen
Manager, 3001 Pearl LLC

Cc: Jeff Shanahan (via email)
Rebecca Hall (via email)

Attachments:

Depot Square Parking Purchase Agreement
First Amendment to Depot Square Parking Purchase Agreement

**DEPOT SQUARE PARKING PURCHASE AGREEMENT
(DISTRICT PARKING UNIT)**

* ReRecord to fill in
Recording Dates.

21

THIS DEPOT SQUARE PARKING PURCHASE AGREEMENT ("Agreement") is made and entered into to be effective the 26th day of July, 2013, by and between 3001 Pearl, LLC, a Colorado limited liability company ("Seller") and the Boulder Junction Access General Improvement District – Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder ("BJAD-P").

RECITALS

A. BJAD-P is a general improvement district duly organized and validly existing as a general improvement district under the laws of the State of Colorado and the Charter and municipal code of the City of Boulder (the "City") created, *inter alia*, to implement the zoning requirements regarding parking applicable to the Property which were adopted to further the goals of the City set forth in the Transit Village Area Plan dated September, 2007 ("TVAP").

B. Seller is an affiliate of Pedersen Development Company who was the successful bidder to construct a bus transit facility for the Regional Transportation District ("RTD") on a portion of the property owned by RTD and the City of Boulder within the TVAP area and has proposed a development including the bus transit facility, renovation of the historic depot, and construction of housing units, a hotel, and a parking structure to serve the needs of such uses and provide parking consistent with TVAP.

C. As part of the acceptance of the proposal and the commitments of Pedersen Development Company to construct the improvements identified above and provide for parking that is shared, unbundled, managed and paid, the Regional Transportation District and the City sold property to the Seller known as "Depot Square," described as Lots 1 and 2, Boulder Transit Village Subdivision Replat A, County of Boulder, State of Colorado (the "Property").

D. Seller has two representatives on the Advisory Committee of BJAD-P, which representatives have recused themselves from participation as members of BJAD-P in discussions and decisions with respect to this Agreement in accordance with the applicable laws of the City.

E. Seller created the Depot Square Planned Community, according to the Community Declaration thereof recorded on July 29, 2013, at Reception No. 3330983, and the Community Map thereof recorded on July 29, 2013, at Reception No. 3330984 in the records of the Clerk and Recorder of the County of Boulder, State of Colorado (the "Declaration") on the Property, which community is referred to herein as "Depot Square."

F. Seller intends to construct on the Property a parking structure, which shall provide a total of approximately 392 parking spaces of which the Declaration creates five parking units,

COB791

one of which is designated as the GID Parking Unit for owners and users within the BJAD-P boundaries.

G. Seller desires to sell to BJAD-P, and BJAD-P desires to purchase from Seller, the "GID Parking Unit," as defined in the Declaration, on the terms and conditions set forth herein.

H. This Agreement is subject to the Conditions Precedent identified herein, development approvals by the City, and the City and BJAD-P entering into a Cooperation Agreement for the City to pay a portion of the Purchase Price.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals, promises, payments, covenants and undertakings hereinafter set forth, and other good and valuable consideration, which is hereby acknowledged and received for, Seller and BJAD-P agree as follows:

1. Definitions. The terms defined in the recitals of this Agreement shall have the meanings set forth therein, and all capitalized terms not defined in the recitals shall have the meanings set forth below whenever used in this Agreement.
 - a. "*Conditions Precedent*" means the events described in Section 2 below.
 - b. "*Deed of Trust*" means that certain Deed of Trust executed by BJAD-P, in form substantially similar to Exhibit A attached hereto, as security for payment under the Promissory Note.
 - c. "*GID Parking Unit*" means the area defined as the GID Parking Unit in the Depot Square Community Declaration dated July 26, 2013.
 - d. "*Partial Release of Deed of Trust*" means the form of the partial release of deed of trust to be executed by the Seller upon receipt of a Purchase Payment from BJAD-P, in form substantially similar to Exhibit B attached hereto.
 - e. "*Promissory Note*" means that certain Promissory Note executed by BJAD-P, in form substantially similar to Exhibit C attached hereto.
 - f. "*Purchase Payments*" means \$372,376 due from BJAD-P to the Seller, pursuant to the Promissory Note, annually for seven years commencing within ten days of the last Note Commencement Event to occur to total the Purchase Price.
 - g. "*Seller*" means 3001 Pearl, LLC or any affiliate thereof which has been approved by BJAD-P.
 - h. "*Parking Structure*" means the portion of Depot Square that is part of the structured parking, as defined in the Depot Square Community Declaration dated July 26, 2013, and owned by owners within Depot Square.

- i. "*Parking Management Agreement*" means the Parking Management Agreement dated July 26, 2013 executed by the Owners and Association as defined in the Declaration.
- j. "*Purchase Price*" means Two Million Six Hundred Six Thousand Six Hundred Thirty Three and No/100 (\$2,606,633.00) to be paid by the Lease Payments.
- k. "*Note Commencement Events*" means the events defined in Section 5 below.

2. Conditions Precedent of Agreement. This Agreement has been signed by the parties to be effective as provided above. However, the terms of this Agreement shall be effective only upon the occurrence of all of the following conditions:

- a. the Seller has provided all of its organizational documents to BJAD-P as of the date hereof;
- b. On or before July 31, 2013, the Seller owns Depot Square;
- c. On or before July 31, 2013, a Subdivision Agreement between the Seller and the City for the construction of Depot Square and all public improvements necessary to serve Depot Square has been executed;
- d. On or before July 31, 2013, BJAD-P has approved the construction drawings and specifications for the Parking Structure as provided herein;
- e. On or before July 31, 2013, Seller has provided a schedule for construction of the Parking Structure, which schedule shall become a part of this Agreement; and
- f. On or before July 31, 2013, the Seller has received a building permit for the Parking Structure.

This Agreement shall be null and void if any of the above conditions are not met by the dates set forth above and neither party shall have any further obligations or liability to the other party.

3. Requirements for Satisfaction of Conditions Precedent. BJAD-P has reviewed and approved the construction drawings and specifications for the Parking Structure, to ensure that the Parking Structure is designed and materials are used that will support the intended use of the Parking Structure, including adequate waterproofing of walls, floors and ceilings, discharge of water and snow from the Parking Structure, and other preventative measures to minimize future costs to maintain the Parking Structure.

Seller acknowledges and represents that it provided BJAD-P with a set of plans drawings by Short Elliot Hendrickson, Inc. (SHE), labeled "Permit Set dated May 31, 2012" for review by BJAD-P, through its consultant Wiss-Janney. Wiss-Janney reviewed and provided comments to the Seller on construction drawings and specifications in the form of a report dated July 23, 2012. The parties agree that, together, those documents constitute the approved construction drawings and specifications. The BJAD-P representation in the paragraph above is premised on the principle that Seller has made no substantive changes, including additions or deletions in the

design, construction plans, specifications or materials used from those reviewed and commented on by Wiss-Janney in June 2012. If there are any subsequent changes in the design, construction plans or materials used, those plans have not been submitted to BJAD-P for approval, and subsequent approval will be required.

In the event that BJAD-P desires construction alternatives to minimize future maintenance costs, BJAD-P shall notify Seller. If Seller determines that such alternative(s) causes a substantial increase in the costs of construction, Seller shall notify BJAD-P in writing of the amount of such substantial increase. BJAD-P shall notify Seller in writing whether to proceed with the construction alternative(s) that cause a substantial increase in the cost of construction. In the event that BJAD-P requires the construction drawings or specifications to be amended to include such alternative(s) as a condition of BJAD-P's approval of the construction drawings and specifications, BJAD-P shall pay the substantial cost difference to the Seller prior to construction.

Seller shall permit BJAD-P access to the Parking Structure during construction for the purpose of determining the quality of construction, compliance with all applicable codes approved construction drawings and specifications, and the requirements of this Agreement. Such inspections shall occur during normal business hours, with or without notice. Observations, inspections and tests by BJAD-P are for the express purpose of providing quality assurance for the sole benefit of the BJAD-P. Such activities shall not relieve the Seller from its quality control obligations or from its obligations to perform the work strictly in accordance with the requirements of this Agreement and all plans as approved by the City or BJAD-P. Inspections by BJAD-P shall be conducted in a manner to eliminate or minimize to the extent possible any interference with construction activities.

4. Purchase Price: Promissory Note. Seller shall give BJAD-P written notice when the construction of the Parking Structure is within four months of substantial completion. Seller shall convey the GID Parking Unit to BJAD-P and BJAD-P shall purchase the GID Parking Unit from Seller upon the occurrence of either of the following triggering events, which event shall be selected by BJAD-P at its option, upon written notice to Seller: (i) substantial completion of the Parking Structure as evidenced by issuance of a Certificate of Occupancy therefor, or (ii) the construction of the hotel on the Hotel Unit (as defined in the Declaration) having passed sufficient interim building inspections to be within three months of receipt of issuance of a certificate of occupancy for the Hotel Unit from the City. At the closing ("Closing") of such purchase and sale of the District Parking Unit:

- a. Seller and BJAD-P shall equally split all closing costs associated with the Closing;
- b. Seller shall represent and warrant to BJAD-P that, except as disclosed in the Phase I and II Environmental Site Assessment dated September 22, 2004 and prepared by Freedom Environmental Consultants, Inc., to the best of Seller's knowledge (i) neither Seller nor any other person has engaged in or permitted any

operations or activities upon, or any use or occupancy of Depot Square, or any portion thereof, for the purpose of or in any way involving the handling, manufacture, treatment, storage, use, generation, release, discharge, refining, dumping, or disposal of any Hazardous Substance (as hereinafter defined) whether legal or illegal, accidental or intentional, on, under, in or about Depot Square, or transported any Hazardous Substance to, from or across Depot Square (ii) nor are any Hazardous Substances presently constructed, stored, deposited or otherwise located upon, under or in Depot Square; (iii) nor have any Hazardous Substances migrated from Depot Square upon or beneath other properties; (iv) nor have any Hazardous Substances migrated from other properties upon or beneath Depot Square during the period Seller has owned Depot Square. For purposes of this Agreement, "Hazardous Substance" shall mean any substance the presence of which requires investigation or remediation under any federal, state or local statute, rule, regulation, ordinance, order or action;

- c. Seller shall deliver a special warranty deed to BJAD-P conveying title to the GID Parking Unit, free and clear of all liens and encumbrances other than (i) real property taxes and assessments for the year of the Closing and subsequent years; (ii) encumbrances existing or created at the time of the closing of the transactions creating the Depot Square planned community that are approved by BJAD-P; (iii) encumbrances made in accordance with the Declaration, and (iv) any matters affecting the title to the GID Parking Unit of record which have been approved by BJAD-P;
- d. BJAD-P shall execute and deliver originals of the original Promissory Note and Deed of Trust to Seller, and the Deed of Trust shall be recorded in the real property records of Boulder County, Colorado. BJAD-P acknowledges that Seller will collaterally assign the Promissory Note and Deed of Trust to Great Western Bank ("Lender") as security (in addition to other collateral) for Seller's loan obligations to Lender, and BJAD-P consents to such assignment.
- e. Real property taxes, if any, shall be prorated as of Closing, based on the most recent assessment and mill levy;
- f. In the event any warranties for construction or repairs of the GID Parking Unit continue after Closing, Seller shall convey the benefit of such warranties to BJAD-P; and
- g. As soon as practicable after the Closing, the title company shall deliver to BJAD-P the owner's title insurance policy for which a title commitment had been issued in form and substance satisfactory to BJAD-P in its reasonable discretion, at BJAD-P's expense.

5. Promissory Note Payments. The first payment under the Promissory Note ("First Note Payment") shall be due within 30 days of completion of all of the following events which are the Note Commencement Events:

- a. A certificate of occupancy is issued by the City of Boulder for the Parking Structure and Residential Unit (as defined in the Declaration) of Depot Square;
- b. BJAD-P has approved any encumbrances against the title of the Parking Structure that were not part of the closing that created the Depot Square planned community, other than the Lender liens and encumbrances against the Parking Structure that were part of such closing, which BJAD-P hereby acknowledges are permitted; and
- c. The construction of the hotel on the Hotel Unit (as defined in the Declaration) of Depot Square has passed sufficient interim building inspections to be within three months of receipt of issuance of a certificate of occupancy for the Hotel Unit from the City.

The remaining six payments under the Promissory Note shall be paid annually on the first anniversary of the date the First Note Payment was made. No interest or late penalty shall be due on any payments under the Promissory Note. In exchange for each Purchase Payment prior to the final payment under the Note, the Seller shall provide BJAD-P a fully executed Partial Release of Deed of Trust in the form attached as Exhibit B and incorporated by reference. The legal description on each Partial Release of Deed of Trust shall describe a portion of the GID Parking Unit containing 14 contiguous parking spaces. Upon payment in full of the Note, Seller shall provide BJAD-P a fully executed Release of Deed of Trust.

6. BJAD-P Rights and Obligations During Promissory Note Term. During the term of the Promissory Note, BJAD-P shall not assign, convey, transfer or encumber all or any portion of the GID Parking Unit, except as permitted in this Agreement and in the Declaration, without the prior written consent of Seller.

7. Event of Default. In the event either party fails or neglects to perform its obligations under this Agreement, and such failure or neglect is not cured within ten days after written notice of such failure or default, the other party may, in addition to any other rights or remedies which such party may have at law or in equity, institute legal action to enforce the provisions of this Agreement by specific performance or injunctive relief. All such rights and remedies shall be considered cumulative and non-exclusive. In the event of default by the Seller, BJAD-P may withhold any Purchase Payment. The submittal of disputes to non-binding mediation shall be a condition precedent to commencing litigation by either party. The following shall be considered events of default of this Agreement by either Seller or BJAD-P:

- a. A petition for bankruptcy is filed related to its affairs;
- b. A general assignment of such party's assets is made for the benefit of such party's creditors, or any of the funds due to such party under this Agreement are assigned for the benefit of such party's creditors; provided that a collateral assignment of the Note and Deed of Trust by Seller to Lender in form attached hereto as Exhibit D shall not be an event of default under this Agreement);

- c. A trustee or receiver is appointed for the Seller, Depot Square, or any of the Seller's property; provided however, in the event the trustee or receiver does not interfere with the use of the Parking Structure and the GID Parking Unit or other uses within Depot Square as contemplated in the Parking Management Agreement, BJAD-P waives its right to withhold any Purchase Payment for so long as such trustee or receiver allows the continued use of Depot Square, the Parking Structure and the GID Parking Unit as contemplated in the Parking Management Agreement;
- d. The Seller breaches any of the conditions of this Agreement;
- e. The Seller disregards any law, ordinance, regulation, rule, or order of any public body having jurisdiction;
- f. The building permit obtained to meet the Conditions Precedent expires or is revoked; and
- g. All of the Note Commencement Events have not occurred before May 31, 2015.

Notwithstanding the foregoing, BJAD-P acknowledges and agrees that prior to Seller's conveyance of the GID Parking Unit to BJAD-P in accordance with this Agreement, Seller shall have the right to encumber the GID Parking Unit with a deed of trust as security for the repayment of the \$ \$1,883,000.00 parking structure construction loan, provided that the Lender's rights thereunder to foreclose upon the GID Parking Unit shall be subject to the terms of this Agreement. The GID Parking Unit shall be released from such deed of trust shall be released prior to Seller's conveyance of the GID Parking Unit in accordance with Section 4 above.

8. Annual Appropriations. BJAD-P's obligation to make the Purchase Payments is subject to annual appropriations in accordance with Colorado law. In the event that BJAD-P does not appropriate funds to make any Purchase Payment and Seller is not in default of this Agreement, BJAD-P shall subdivide the GID Parking Unit in accordance with the Declaration. BJAD-P shall retain ownership of a portion of the subdivided GID Parking Unit ("Retained Parking Unit") containing the percentage number of the 100 parking spaces within the GID Parking Unit (rounded down to the nearest whole number) equal to the percentage of the original Promissory Note balance actually paid to Seller. BJAD-P shall immediately convey to Seller that portion of the GID Parking Unit containing all parking spaces not part of the Retained Parking Unit ("Subdivided Parking Unit" by special warranty deed, free and clear of all liens and encumbrances other than (i) real property taxes and assessments for the year of the Closing and subsequent years; (ii) encumbrances existing or created at Closing; (iii) encumbrances made in accordance with the Declaration, and (iv) any matters affecting the title to the GID Parking Unit of record which have been approved by Seller, and BJAD-P shall retain the Retained Parking Unit. Both the Retained Parking Unit and the Subdivided Parking Unit shall contain only contiguous parking spaces. Concurrently with such conveyance, Seller shall grant to Lender a first deed of trust encumbering the Subdivided Parking Unit to secure the then existing loan

balance owing by Seller to Lender. In the event of non-appropriation, this Agreement shall terminate upon conveyance by BJAD-P to Seller of the Subdivided Parking Unit.

The spaces within the Subdivided Parking Unit owned by Seller shall be Pooled Parking as such term is defined in the Parking Management Agreement and may not be used for any other purpose. Upon conveyance of all or a portion of the Subdivided Parking Unit to an Acceptable Owner to the extent permitted in the Declaration, the size of the Subdivided Parking Unit shall be reduced by the portion conveyed to an Acceptable Owner. Nothing herein shall be construed to allow the Seller to use any portion of the Subdivided Parking Unit for any purpose other than as Pooled Parking as provided in the Parking Management Agreement. This subparagraph regarding use of the Subdivided Parking Unit only as Pooled Parking shall survive termination of this Agreement.

9. Notices. Any notice required by this Agreement shall be in writing, made by hand-delivery or certified mail, return receipt requested, and addressed to the following:

To Seller: 3001 Pearl, LLC
Scott Pedersen, Manager
P.O. Box 328
Boulder, CO 80306

With a copy to: Great Western Bank
c/o Janet Haas
2100 N. Main Street
Longmont, CO 80521

To BJAD-P: City Manager and BJAD District Manager
City of Boulder
Boulder Municipal Building
P.O. Box 791
Boulder, Colorado 80306

Notice given by hand-delivery shall be effective immediately and notice by mail shall be effective three days after it is deposited in the United States mail depository correctly addressed with sufficient postage for delivery.

10. Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement. No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any obligation in this Agreement that, by its terms, is intended to be performed after termination or Closing shall survive the same.

11. Governing Law. The validity and effect of this Agreement shall be determined in accordance with the laws of the State of Colorado.

12. Severability. If any part of this Agreement is found, decreed or held to be void or unenforceable, such finding, decree or holding shall not affect the other remaining provisions of this Agreement which shall remain in full force and effect.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one agreement.

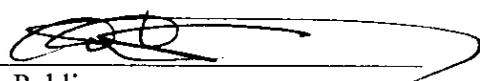
IN WITNESS WHEREOF, Seller and BJAD-P have executed this Agreement on the dates set forth in their respective acknowledgments intending that this Agreement be effective as of the day and year first above set forth.

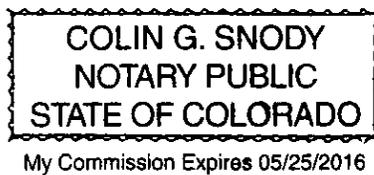
SELLER:
3001 PEARL, LLC

By: 
Scott Pedersen, Manager

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

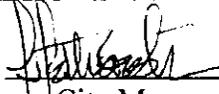
The foregoing instrument was acknowledged before me this 26TH day of July, 2013, by Scott Pedersen, as Manager of 3001 Pearl, LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: 5/25/2016

Notary Public



BJAD-P:

**BOULDER JUNCTION AREA GENERAL
IMPROVEMENT DISTRICT – PARKING**

By 
City Manager as General Manager
of BJAD-P

ATTEST:

By 
City Clerk

APPROVED AS TO FORM:


City Attorney 7-17-2013

EXHIBITS

- Exhibit A – form of Deed of Trust
- Exhibit B – form of Partial Release of Deed of Trust
- Exhibit C – form of Promissory Note
- Exhibit D - Collateral Assignment of Note and Deed of Trust

Exhibit A
Deed of Trust

WHEN RECORDED MAIL TO:
3001 Pearl, LLC
PO Box 328
Boulder, CO 80306

SPACE ABOVE FOR RECORDER'S USE

DEED OF TRUST

THIS DEED OF TRUST ("Security Instrument") is made on the ____ day of July, 2013 among the grantor, Boulder Junction Access General Improvement District – Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder ("Borrower"), the Public Trustee of Boulder County ("Trustee"), and the beneficiary, 3001 Pearl, LLC, a Colorado limited liability company, ("Lender") which is organized and existing under the laws of Colorado, and whose address is PO Box 328, Boulder, Colorado, 80306. Borrower owes Lender the principal sum of Two Million Six Hundred Six Thousand Six Hundred Thirty Three and No/100 Dollars (U.S \$2,606,633). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), due and payable as described therein. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with all renewals, extensions and modifications of the Note mutually agreed upon by Borrower and Lender; and (b) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower, in consideration of the debt and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in Boulder County, Colorado:

PSU-A, Depot Square Planned Community, according to the Community Declaration thereof recorded on July ____, 2013, at Reception No. _____ ("Declaration"), and the Community Map thereof recorded on July ____, 2013, at Reception No. ____ in the records of the Clerk and Recorder of the County of Boulder, State of Colorado

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances and fixtures now or hereafter a part of the property. This Security Instrument shall also cover all replacements and additions. All of the foregoing is referred to in this Security Instrument as the "Property" or the "GID Parking Unit."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Lender hereby acknowledges and agrees that this Security Instrument shall be subordinate to any and all deeds of trust, security instruments or loan documents executed by Borrower in connection with the Property, and Lender agrees to execute, within five (5) business days after written request therefor, such documentation as Borrower or Borrower's other lenders may determine reasonably necessary to evidence such subordination.

All capitalized terms not otherwise defined herein shall have the meanings set forth in that certain Depot Square Parking Purchase Agreement (GID Parking Unit) dated July ____, 2013.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Prepayment and Late Charges. Borrower shall promptly pay when due the principal of the debt evidenced by the Note.

2. Charges, Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property, which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay them on time directly to the person owed payment. Upon request by Lender, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien, which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth in this paragraph 2 within 10 days of the giving of notice.

3. Hazard or Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property self-insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall choose the insurance subject to Lender's approval, which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 5.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument whether or not then due. The 30-day period will begin when the notice is given. If under paragraph 16 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

4. Preservation, Maintenance and Protection of the Property. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 14, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest.

5. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or

regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien, which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 5, Lender does not have to do so. Any amounts disbursed by Lender under this paragraph 5 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at ten (10%) annually and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

6. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

7. Borrower Not Released by Lender Forbearance. Extension of the time for payment of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

8. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 13. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

9. [intentionally deleted]

10. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to Borrower at BJAD District Manager, City of Boulder, Boulder Municipal Building, P.O. Box 791, Boulder, Colorado 80306 or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

11. Governing Law; Severability. Federal law and the law of the jurisdiction in which the Property is located shall govern this Security Instrument. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note, which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

12. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

13. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is hereafter sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may enforce the remedy set forth in Section 16 below, at its option. However, Lender shall not exercise this option if federal law as of the date of this Security Instrument prohibits exercise.

14. [intentionally deleted]

15. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 15, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 15, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

16. Sole Remedy. If Borrower fails to make any payment due under the Note, Lender's sole remedy shall be as follows:

Borrower shall subdivide the GID Parking Unit in accordance with the Declaration. Borrower shall retain ownership of a portion of the subdivided GID Parking Unit ("Retained Parking Unit") containing the percentage number of the 100 parking spaces within the GID Parking Unit (rounded down to the nearest whole number) equal to the percentage of the original Note balance actually paid to Lender. Borrower shall immediately convey to Lender that portion of the GID Parking Unit containing all parking spaces not part of the Retained Parking Unit ("Subdivided Parking Unit") by special warranty deed, free and clear of all liens and encumbrances other than (i) real property taxes and assessments for the year of the Closing and subsequent years; (ii) encumbrances existing or created at Closing; (iii) encumbrances made in accordance with the Declaration, and (iv) any matters affecting the title to the GID Parking Unit of record which have been approved by Lender. Both the Retained Parking Unit and the Subdivided Parking Unit shall contain only contiguous parking spaces. Concurrently with such conveyance, Seller shall grant to Lender a first deed of trust encumbering the Subdivided Parking Unit to secure the then existing loan balance owing by Seller to Lender. Any foreclosure by Lender upon the GID Parking Unit shall be subject to the terms of the Depot Square Parking Purchase Agreement (District Parking Unit) dated July __, 2013.

17. Partial and Full Release. In exchange for each payment due under the Note, prior to the final payment thereunder, Lender shall provide Borrower with a fully executed Partial Release of Deed of Trust, the legal description on which shall describe a portion of the GID Parking Unit containing 14 parking spaces. Upon payment of all sums secured by this Security Instrument, Lender shall request that Trustee release his Security Instrument and shall produce for Trustee, duly canceled, all notes evidencing debts secured by this Security Instrument. Trustee shall release this Security Instrument without further inquiry or liability. Borrower shall pay any recordation costs and the statutory Trustee's fees.

18. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

BORROWER:

BOULDER JUNCTION AREA GENERAL IMPROVEMENT DISTRICT – PARKING

By _____
City Manager as General Manager of BJAD-P

ATTEST:

By _____
City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit B

Partial Release

Original Note and Deed of Trust Returned to:

WHEN RECORDED RETURN TO:

Prepared/Received by:

REQUEST FOR FULL / PARTIAL

RELEASE OF DEED OF TRUST AND RELEASE BY HOLDER OF THE EVIDENCE OF DEBT WITH PRODUCTION OF EVIDENCE OF DEBT PURSUANT TO § 38-39-102 (1) (a), COLORADO REVISED STATUTES

_____	Date
Boulder Junction Access General Improvement District – Parking	Original Grantor (Borrower)
P.O. Box 791, Boulder, CO 80306	Current Address of Original Grantor, Assuming Party, or Current Owner

<input type="checkbox"/> Check here if current address is unknown	
3001 Pearl, LLC	Original Beneficiary (Lender)

July , 2013	Date of Deed of Trust
_____	Date of Recording and/or Re-Recording of Deed of Trust
July , 2013	Recording Information

County Rept. No. and/or Film No. and/or Book/Page No. and/or Torrens Reg. No.	

TO THE PUBLIC TRUSTEE OF BOULDER COUNTY (The County of the Public Trustee who is the appropriate grantee to whom the above Deed of Trust should grant an interest in the property described in the Deed of Trust.)

PLEASE EXECUTE AND RECORD A RELEASE OF THE DEED OF TRUST DESCRIBED ABOVE. The indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied in regard to the property encumbered by the Deed of Trust as described therein as to a full release or, in the event of a partial release, only that portion of the real property described as: **(IF NO LEGAL DESCRIPTION IS LISTED THIS WILL BE DEEMED A FULL RELEASE)**

A portion of the GID Parking Unit known as Unit PSU-A, Depot Square, according to the Planned Community Map of Depot Square recorded on _____, 2013, under Reception No. _____, and according to the Community Declaration of Depot Square recorded on _____, 2013, under Reception No. _____, in the records of the Clerk and Recorder of Boulder County, State of Colorado, containing fourteen (14) contiguous parking spaces.

3001 Pearl, LLC P.O. Box 328 Boulder, CO 80306

Name and Address of Current Holder of the Evidence of Debt Secured by Deed of Trust (Lender)

Name, Title and Address of Officer, Agent, or Attorney of Current Holder

Signature _____

Signature _____

State of _____, County of _____

The foregoing Request for Release was acknowledged before me on _____ (date) by*

Notary Public

Date Commission Expires

*If applicable, insert title of officer and name of current holder

Notary Public

Witness my hand and official seal

RELEASE OF DEED OF TRUST

WHEREAS, the Grantor(s) named above, by Deed of Trust, granted certain real property described in the Deed of Trust to the Public Trustee of the County referenced above, in the State of Colorado, to be held in trust to secure the payment of the indebtedness referred to therein; and

WHEREAS, the indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied according to the written request of the current holder of the evidence of debt;

NOW THEREFORE, in consideration of the premises and the payment of the statutory sum, receipt of which is hereby acknowledged, I, as the Public Trustee in the County named above, do hereby fully and absolutely release, cancel and forever discharge the Deed of Trust or that portion of the real property described above in the Deed of Trust, together with all privileges and appurtenances thereto belonging.

Date

Date

(Public Trustee Seal)

Public Trustee

Date

Deputy Public Trustee

Public Trustee Seal

(If applicable, Name and Address of Person Creating New Legal Description as Required by § 38-35-106.5, Colorado Revised Statutes.)

Exhibit C
Promissory Note

PROMISSORY NOTE

\$2,606,633.00

Boulder Colorado
July __, 2013

All capitalized terms not otherwise defined herein shall have the meanings set forth in that certain Depot Square Parking Purchase Agreement (GID Parking Unit) dated July __, 2013 ("GID Parking Purchase Agreement").

1) **BORROWER'S PROMISE TO PAY**

In return for a loan received, Boulder Junction Access General Improvement District – Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder (the "Borrower") promises to pay Two Million Six Hundred Six Thousand Six Hundred Thirty Three and No/100 Dollars (U.S \$2,606,633) (the "Principal") to the order of 3001 Pearl, LLC, a Colorado limited liability company (the "Lender"). Borrower understands that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder".

2) **PAYMENT**

Borrower will pay the Principal in seven annual payments of \$372,376 each, commencing within ten days of the last Note Commencement Event as described in that certain Depot Square Parking Purchase Agreement of even date herewith ("GID Parking Purchase Agreement"), and for six years thereafter on the first anniversary date of such first payment (the date of such seventh payment shall be the "Maturity Date"). Borrower will make each payment to Lender at PO Box 328, Boulder, CO 80306.

3) **PREPAYMENT**

Borrower may prepay any amounts due hereunder at any time without penalty.

4) **SECURITY; BORROWER'S FAILURE TO PAY AS REQUIRED**

This Note is secured by a Deed of Trust ("Deed of Trust") of even date herewith, encumbering certain real property located in Boulder County, Colorado, defined in the GID Parking Purchase Agreement as the GID Parking Unit. If Borrower fails to make any payment due hereunder, Note Holder's sole remedy shall be as follows:

BJAD-P shall subdivide the GID Parking Unit in accordance with the Declaration. Borrower shall retain ownership of a portion of the subdivided GID Parking Unit ("Retained Parking Unit") containing the percentage number of the 100 parking spaces within the GID Parking Unit (rounded down to the nearest whole number) equal to the percentage of the original Note balance actually paid to Note Holder. Borrower shall immediately convey to Note Holder that portion of the GID Parking Unit containing all parking spaces not part of the Retained Parking Unit ("Subdivided Parking Unit") by special warranty deed, free and clear of all liens and encumbrances other than (i) real property taxes and assessments for the year of the Closing and subsequent years; (ii) encumbrances existing or created at Closing; (iii) encumbrances made in accordance with the Declaration, and (iv) any matters affecting the title to the GID Parking Unit of record which have been approved by Note Holder. Concurrently with such conveyance, Seller shall grant to Lender a first deed of trust encumbering the Subdivided Parking Unit to secure the then existing loan balance owing by Seller to Lender. Any foreclosure by Lender upon the GID Parking Unit shall be subject to the terms of the Depot Square Parking Purchase Agreement (District Parking Unit) dated July ___, 2013.

5) GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at BJAD District Manager, City of Boulder, Boulder Municipal Building, P.O. Box 791, Boulder, Colorado 80306 or at a different address if Borrower gives the Note Holder a notice of such different address. Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 2 above or at a different address if Note Holder is given a notice of that different address.

6) WAIVERS

Borrower, and any other person who has obligations under this Note, waives the rights of presentment and notice of dishonor. 'Presentment' means the right to require the Note Holder to demand payment of amounts due. 'Notice of dishonor' means that right to require the Note Holder to give notice to other persons that amounts due have not been paid.

7) GOVERNING LAW; JURY TRIAL

This Note is made and entered into in the State of Colorado, and all questions concerning the construction, validity and interpretation of this Note and the performance of the obligations imposed by this Note shall be governed by the substantive laws and procedural rules of the State of Colorado. BORROWER HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY.

BORROWER:

**BOULDER JUNCTION AREA GENERAL
IMPROVEMENT DISTRICT – PARKING**

By _____
City Manager as General Manager
of BJAD-P

ATTEST:

By _____
City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit D
Collateral Assignment of Note and Deed of Trust

EXHIBIT D

COMMERCIAL PLEDGE AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$5,463,099.00	04-29-2013	04-29-2014				***	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.

Grantor: 3001 Pearl, LLC, a Colorado Limited Liability Company
P.O. Box 328
Boulder, CO 80306

Lender: GREAT WESTERN BANK
Longmont Harvest Junction
25 E. Ken Pratt Blvd.
Longmont, CO 80501

THIS COMMERCIAL PLEDGE AGREEMENT dated April 29, 2013, is made and executed between 3001 Pearl, LLC, a Colorado Limited Liability Company ("Grantor") and GREAT WESTERN BANK ("Lender").

GRANT OF SECURITY INTEREST. For valuable consideration, Grantor grants to Lender a security interest in the Collateral to secure the Indebtedness and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Lender may have by law.

COLLATERAL DESCRIPTION. The word "Collateral" as used in this Agreement means Grantor's present and future rights, title and interest in and to the following described investment property, together with any and all present and future additions thereto, substitutions therefor, and replacements thereof, and further together with all Income and Proceeds as described herein:

A Promissory Note dated XXXXXX in the original principal amount of \$2,606,633.00 from Boulder Junction Access General Improvement District - Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder ("Maker") to 3001 Pearl, LLC, a Colorado Limited Liability Company ("Payee"); whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles and separate proceeds)

A Deed of Trust dated XXXXXX from Boulder Junction Access General Improvement District - Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder to 3001 Pearl, LLC, a Colorado Limited Liability Company

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Grantor's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Grantor holds jointly with someone else and all accounts Grantor may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Grantor authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Indebtedness against any and all such accounts.

REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE COLLATERAL. Grantor represents, and warrants to Lender that:

Ownership. Grantor is the lawful owner of the Collateral free and clear of all security interests, liens, encumbrances and claims of others except as disclosed to and accepted by Lender in writing prior to execution of this Agreement.

Right to Pledge. Grantor has the full right, power and authority to enter into this Agreement and to pledge the Collateral.

Authority; Binding Effect. Grantor has the full right, power and authority to enter into this Agreement and to grant a security interest in the Collateral to Lender. This Agreement is binding upon Grantor as well as Grantor's successors and assigns, and is legally enforceable in accordance with its terms. The foregoing representations and warranties, and all other representations and warranties contained in this Agreement are and shall be continuing in nature and shall remain in full force and effect until such time as this Agreement is terminated or cancelled as provided herein.

No Further Assignment. Grantor has not, and shall not, sell, assign, transfer, encumber or otherwise dispose of any of Grantor's rights in the Collateral except as provided in this Agreement.

Enforceability of Collateral. To the extent the Collateral consists of promissory notes or other instruments, as defined by the Uniform Commercial Code, the Collateral is enforceable in accordance with its terms, is genuine, and fully complies with all applicable laws and regulations concerning form, content and manner of preparation and execution, and all persons appearing to be obligated on the Collateral have authority and capacity to contract and are in fact obligated as they appear to be on the Collateral. There shall be no setoffs or counterclaims against any of the Collateral, and no agreements shall have been made under which any deductions or discounts may be claimed concerning the Collateral except those disclosed to Lender in writing.

No Defaults. There are no defaults existing under the Collateral, and there are no offsets or counterclaims to the same. Grantor will strictly and promptly perform each of the covenants, conditions, covenants and agreements, if any, contained in the Collateral which are to be performed by Grantor.

No Violation. The execution and delivery of this Agreement will not violate any law or agreement governing Grantor or to which Grantor is a party, and its membership agreement does not prohibit any term or condition of this Agreement.

Financing Statements. Grantor warrants Lender to file a UCC financing statement, or alternatively, a copy of this Agreement to perfect Lender's security interest. At Lender's request, Grantor additionally agrees to sign all other documents that are necessary to perfect, protect, and continue Lender's security interest in the Property. This includes making sure Lender is shown as the first and only security interest holder on the title covering the Property. Grantor will pay all filing fees, title transfer fees, and other fees and costs involved unless prohibited by law or where Lender is required by law to pay such fees and costs. Grantor irrevocably appoints Lender to execute documents necessary to transfer title if there is a default. Lender may file a copy of this Agreement as a financing statement. If Grantor changes Grantor's name or address, or the name or address of any person granting a security interest under this Agreement changes, Grantor will promptly notify the Lender of such change.

LENDER'S RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLLATERAL. Lender may hold the Collateral until all Indebtedness has been paid and satisfied. The Lender may deliver the Collateral to Grantor or to any other owner of the Collateral. Lender shall have the following rights in addition to all other rights Lender may have by law:

Maintenance and Protection of Collateral. Lender may, but shall not be obligated to, take such steps as it deems necessary or desirable to protect, maintain, insure, store, or care for the Collateral, including paying of any liens or claims against the Collateral. This may include such things as hiring other people, such as attorneys, appraisers or other experts. Lender may charge Grantor for any cost incurred in so doing. When applicable law provides more than one method of perfection of Lender's security interest, Lender may choose the method(s) to be used.

Income and Proceeds from the Collateral. Lender may receive all Income and Proceeds and add it to the Collateral. Grantor agrees to deliver to Lender immediately upon receipt, in the exact form received and without commingling with other property, all Income and Proceeds from the Collateral which may be received by, paid, or delivered to Grantor or for Grantor's account, whether as an addition to, in discharge of, in substitution of, or in exchange for any of the Collateral.

Application of Cash. At Lender's option, Lender may apply any cash, whether included in the Collateral or received as Income and Proceeds or through liquidation, sale, or retirement, of the Collateral, to the satisfaction of the Indebtedness or such portion thereof as Lender shall choose, whether or not matured.

Transactions with Others. Lender may (1) extend time for payment or other performance, (2) grant a renewal or change in terms or conditions, or (3) compromise, compound or release any obligation, with any one or more Obligors, or Guarantors of the Indebtedness as Lender deems advisable, without obtaining the prior written consent of Grantor, and no such act or failure to act shall affect Lender's rights against Grantor or the Collateral.

All Collateral Secures Indebtedness. All Collateral shall be security for the Indebtedness, whether the Collateral is located at one or more offices or branches of Lender. This will be the case whether or not the office or branch where Grantor obtained Grantor's loan knows about the Collateral or relies upon the Collateral as security.

Collection of Collateral. Lender at Lender's option may, but need not, collect the Income and Proceeds directly from the Obligors. Grantor authorizes and directs the Obligors, if Lender decides to collect the Income and Proceeds, to pay and deliver to Lender all Income and

**COMMERCIAL PLEDGE AGREEMENT
(Continued)**

EXHIBIT D

Page 2

Proceeds from the Collateral and to accept Lender's receipt for the payments.

Power of Attorney. Grantor irrevocably appoints Lender as Grantor's attorney-in-fact, with full power of substitution, (a) to demand, collect, receive, receipt for, sue and recover all income and Proceeds and other sums of money and other property which may now or hereafter become due, owing or payable from the Obligors in accordance with the terms of the Collateral; (b) to execute, sign and endorse any and all instruments, receipts, checks, drafts and warrants issued in payment for the Collateral; (c) to settle or compromise any and all claims arising under the Collateral, and in the place and stead of Grantor, execute and deliver Grantor's release and acquittance for Grantor; (d) to file any claim or claims or to take any action or institute or take part in any proceedings, either in Lender's own name or in the name of Grantor, or otherwise, which in the discretion of Lender may seem to be necessary or advisable; and (e) to execute in Grantor's name and to deliver to the Obligors on Grantor's behalf, at the time and in the manner specified by the Collateral, any necessary instruments or documents.

Perfection of Security Interest. Upon Lender's request, Grantor will deliver to Lender any and all of the documents evidencing or constituting the Collateral. When applicable law provides more than one method of perfection of Lender's security interest, Lender may choose the method(s) to be used. Upon Lender's request, Grantor will sign and deliver any writings necessary to perfect Lender's security interest. Grantor hereby appoints Lender as Grantor's irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect, amend, or to continue the security interest granted in this Agreement or to demand termination of filings of other secured parties.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Grantor fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Agreement or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Collateral and paying all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

LIMITATIONS ON OBLIGATIONS OF LENDER. Lender shall use ordinary reasonable care in the physical preservation and custody of the Collateral in Lender's possession, but shall have no other obligation to protect the Collateral or its value. In particular, but without limitation, Lender shall have no responsibility for (A) any depreciation in value of the Collateral or for the collection or protection of any income and Proceeds from the Collateral, (B) preservation of rights against parties to the Collateral or against third parties, (C) ascertaining any maturities, calls, conversions, exchanges, offers, tenders, or similar matters relating to any of the Collateral, or (D) informing Grantor about any of the above, whether or not Lender has or is deemed to have knowledge of such matters. Except as provided above, Lender shall have no liability for depreciation or deterioration of the Collateral.

DEFAULT. Each of the following shall constitute an Event of Default under this Agreement.

Payment Default. Grantor fails to make any payment when due under the indebtedness.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

Default in Favor of Third Parties. Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor's property or ability to perform Grantor's obligations under this Agreement or any of the Related Documents.

False Statements. Any warranty, representation or statement made or supplied to Lender by Grantor or on Grantor's behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Insolvency. The dissolution of Grantor, (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Creditor or Foreclosure Proceedings. Commencement of foreclosure or foreclosure proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any collateral securing the indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or foreclosure proceeding and if Grantor files Lender written notice of the creditor or foreclosure proceeding and deposits with Lender monies or a surety bond for the creditor or foreclosure proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or Grantor, endorser, surety, or accommodation party dies or becomes incompetent or revokes or disputes the validity of, or liability under, any surety of the indebtedness.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Agreement, at any time thereafter, Lender may exercise any one or more of the following rights and remedies:

Accelerate Indebtedness. Declare all indebtedness, including any prepayment penalty which Grantor would be required to pay, immediately due and payable, without notice of any kind to Grantor.

Collect the Collateral. Collect any of the Collateral and, at Lender's option and to the extent permitted by applicable law, retain possession of the Collateral while suing on the indebtedness.

Sell the Collateral. Sell the Collateral, at Lender's discretion, as a unit or in parcels, at one or more public or private sales. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender shall give or mail to Grantor, and other persons as required by law, notice at least ten (10) days in advance of the time and place of any public sale, or of the time after which any private sale may be made. However, no notice need be provided to any person who, after an Event of Default occurs, enters into and authenticates an agreement waiving that person's right to notification of sale. Grantor agrees that any requirement of reasonable notice as to Grantor is satisfied if Lender mails notice by ordinary mail addressed to Grantor at the last address Grantor has given Lender in writing. If a public sale is held, there shall be sufficient compliance with all requirements of notice to the public by a single publication in any newspaper of general circulation in the county where the Collateral is located, setting forth the time and place of sale and a brief description of the property to be sold. Lender may be a purchaser at any public sale.

Sell Securities. Sell any securities included in the Collateral in a manner consistent with applicable federal and state securities laws. If, because of restrictions under such laws, Lender is unable, or believes Lender is unable, to sell the securities in an open market transaction, Grantor agrees that Lender will have no obligation to delay sale until the securities can be registered. Then Lender may make a private sale to one or more persons or to a restricted group of persons, even though such sale may result in a price that is less favorable than might be obtained in an open market transaction. Such a sale will be considered commercially reasonable. If any securities held as Collateral are "restricted securities" as defined in the Rules of the Securities and Exchange Commission (such as Regulation D or Rule 144) or the rules of state securities departments under state "Blue Sky" laws, or if Grantor or any other owner of the Collateral is an affiliate of the issuer of the securities, Grantor agrees that neither Grantor, nor any member of Grantor's family, nor any other person signing this Agreement will sell or dispose of any securities of such issuer without obtaining Lender's prior written consent.

Foreclosure. Maintain a judicial suit for foreclosure and sale of the Collateral.

**COMMERCIAL PLEDGE AGREEMENT
(Continued)**

EXHIBIT D

Page 3

Transfer Title. Effect transfer of title upon sale of all or part of the Collateral. For this purpose, Grantor irrevocably appoints Lender as Grantor's attorney-in-fact to execute endorsements, assignments and instruments in the name of Grantor and each of them (if more than one) as shall be necessary or reasonable.

Other Rights and Remedies. Have and exercise any or all of the rights and remedies of a secured creditor under the provisions of the Uniform Commercial Code, at law, in equity, or otherwise.

Application of Proceeds. Apply any cash which is part of the Collateral, or which is received from the collection or sale of the Collateral, to reimbursement of any expenses, including any costs for registration of securities, commissions incurred in connection with a sale, attorneys' fees and court costs, whether or not there is a lawsuit and including any fees on appeal, incurred by Lender in connection with the collection and sale of such Collateral and to the payment of the indebtedness of Grantor to Lender, with any excess funds to be paid to Grantor as the interests of Grantor may appear. Grantor agrees, to the extent permitted by law, to pay any deficiency after application of the proceeds of the Collateral to the indebtedness.

Election of Remedies. Except as may be prohibited by applicable law, all of Lender's rights and remedies, whether evidenced by this Agreement, the Related Documents, or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Agreement, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. Grantor agrees to pay upon demand all of Lender's reasonable costs and expenses, including Lender's attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Grantor shall pay the reasonable costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Grantor also shall pay all court costs and such additional fees as may be directed by the court.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Governing Law. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Colorado without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of Colorado.

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Boulder County, State of Colorado.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No oral waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Notices. Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law) when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. This is otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

Successors and Assigns. Subject to any limitations stated in this Agreement on transfer of Grantor's interest, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Collateral becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Agreement and the indebtedness by way of forbearance or otherwise without releasing Grantor from the obligations of this Agreement or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Agreement.

DEFINITIONS: The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

Agreement. The word "Agreement" means this Commercial Pledge Agreement, as this Commercial Pledge Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Commercial Pledge Agreement from time to time.

Borrower. The word "Borrower" means 3001 Pearl, LLC, a Colorado Limited Liability Company and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Collateral. The word "Collateral" means all of Grantor's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Agreement.

Default. The word "Default" means the Default set forth in this Agreement in the section titled "Default".

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

Grantor. The word "Grantor" means 3001 Pearl, LLC, a Colorado Limited Liability Company.

Guaranty. The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

Income and Proceeds. The words "Income and Proceeds" mean all present and future income, proceeds, earnings, increases, and substitutions from or for the Collateral of every kind and nature, including without limitation all payments, interest, profits, distributions, benefits, rights, options, warrants, dividends, stock dividends, stock splits, stock rights, regulatory dividends, subscriptions, monies, claims for money due and to become due, proceeds of any insurance on the Collateral, shares of stock of different par value or no par value issued in substitution or exchange for shares included in the Collateral, and all other property Grantor is entitled to receive on account of such Collateral, including accounts, documents, instruments, chattel paper, investment property, and general intangibles.

Indebtedness. The word "indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Grantor is responsible under this Agreement or under any of the Related Documents.

Lender. The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

Note. The word "Note" means the Note dated April 29, 2013 and executed by 3001 Pearl, LLC, a Colorado Limited Liability Company in

**COMMERCIAL PLEDGE AGREEMENT
(Continued)**

EXHIBIT D

Page 4

the principal amount of \$5,463,099.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

Obligor. The word "Obligor" means without limitation any and all persons obligated to pay money or to perform some other act under the Collateral.

Property. The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Collateral Description" section of this Agreement.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

GRANTOR HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS COMMERCIAL PLEDGE AGREEMENT AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED APRIL 29, 2013.

GRANTOR:

3001 PEARL, LLC, A COLORADO LIMITED LIABILITY COMPANY

By: _____
Authorized Signer for 3001 Pearl, LLC, a Colorado
Limited Liability Company

By: _____
Authorized Signer for 3001 Pearl, LLC, a Colorado
Limited Liability Company

LENDER:

GREAT WESTERN BANK

By: _____
Authorized Officer

EXHIBIT D

RECORDATION REQUESTED BY:
GREAT WESTERN BANK
Longmont Harvest Junction
25 E. Ken Pratt Blvd.
Longmont, CO 80501

WHEN RECORDED MAIL TO:
GREAT WESTERN BANK
Longmont Harvest Junction
25 E. Ken Pratt Blvd.
Longmont, CO 80501

SEND TAX NOTICES TO:
GREAT WESTERN BANK
Longmont Harvest Junction
25 E. Ken Pratt Blvd.
Longmont, CO 80501

FOR RECORDER'S USE ONLY

ASSIGNMENT OF DEED OF TRUST



THIS ASSIGNMENT OF DEED OF TRUST dated April 29, 2013, is made and executed between Boulder Junction Access General Improvement District - Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder, whose address is _____, (referred to below as "Assigner") and GREAT WESTERN BANK, whose address is 25 E. Ken Pratt Blvd., Longmont, CO 80501 (referred to below as "Assignee").

DEED OF TRUST. Boulder Junction Access General Improvement District - Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder, the Grantor, executed and granted to Boulder County Public Trustee, as Trustee, for the benefit of 3001 Pearl, LLC, a Colorado Limited Liability Company, the Beneficiary, the following described Deed of Trust dated April 29, 2013 (the "Deed of Trust") which has been recorded in Boulder County, State of Colorado, as follows:

Recorded on _____ in the County of Boulder with record or Reception Number _____.

REAL PROPERTY DESCRIPTION. The Deed of Trust covers the following described real property located in Boulder County, State of Colorado:

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

The Real Property or its address is commonly known as: XXXXXXXXXXXX, Boulder, CO xxxxx.

ASSIGNMENT OF DEED OF TRUST. For his/her consideration, Assigner hereby assigns and conveys to Assignee all of Assignor's right, title, and interest in and to the above described Deed of Trust, together with all of Assignor's right, title and interest in and to the promissory note or notes (or other debt agreements) secured by the Deed of Trust.

ASSIGNOR:

BOULDER JUNCTION ACCESS GENERAL IMPROVEMENT DISTRICT - PARKING, A GENERAL IMPROVEMENT DISTRICT UNDER THE LAWS OF THE STATE OF COLORADO AND THE CHARTER OF THE CITY OF BOULDER

By: _____
Assigner for Boulder Junction Access General Improvement District - Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder

By: _____
Assigner for Boulder Junction Access General Improvement District - Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder

EXHIBIT D

ASSIGNMENT OF DEED OF TRUST
(Continued)

Page 2

GOVERNMENT ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned Notary Public,
personally appeared _____

and known to me to be (an) authorized agent(s) of the governmental entity that executed the Assignment of Deed of Trust and
acknowledged the Assignment to be the free and voluntary act and deed of the governmental entity, by authority of its enabling laws
or by resolution of its governing body, for the uses and purposes therein mentioned, and on oath stated that he or she/they is/are
authorized to execute this Assignment and in fact executed the Assignment on behalf of the governmental entity.

By _____ Residing at _____
Notary Public in and for the State of _____ My commission expires _____

EXHIBIT D

Number: _____



COLLATERAL RECEIPT

Principal \$5,463,099.00	Loan Date 04-29-2013	Maturity 04-29-2014	Loan No	Call / Coll	Account	Officer ***	Initials
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References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.

Grantor: 3001 Pearl, LLC, a Colorado Limited Liability Company
P.O. Box 328
Boulder, CO 80306

Lender: GREAT WESTERN BANK
Longmont Harvest Junction
25 E. Ken Pratt Blvd.
Longmont, CO 80501

Description of Collateral	Custody Control Signatures	Date Released
A Promissory Note dated XXXXXX in the original principal amount of \$2,606,633.00 from Boulder Junction Access General Improvement District - Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder ("Maker") to 3001 Pearl, LLC, a Colorado Limited Liability Company ("Payee"); whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles and accounts proceeds)		
A Deed of Trust dated XXXXXX from Boulder Junction Access General Improvement District - Parking, a general improvement district under the laws of the State of Colorado and the Charter of the City of Boulder to 3001 Pearl, LLC, a Colorado Limited Liability Company		

Initial Delivery Acknowledgment:

Grantor: _____
(Grantor's Signature)

GREAT WESTERN BANK
By: _____
(Authorized Officer)

Return Receipt Acknowledgment:

Grantor acknowledges the receipt of all collateral, including all unmatured coupons, if any.

X _____
(Grantor's Signature)

Instructions for Returning Collateral and Disposition of Coupons: _____

**FIRST AMENDMENT TO
DEPOT SQUARE PARKING PURCHASE AGREEMENT
(DISTRICT PARKING UNIT)**

THIS FIRST AMENDMENT to the Depot Square Parking Purchase Agreement (the "First Amendment") is executed to be effective as of June 18, 2015 by and between 3001 Pearl, LLC, a Colorado limited liability company ("Seller") and the Boulder Junction Access General Improvement District-Parking, a general improvement district under the laws of the State of Colorado and Charter of the City of Boulder ("BJAD-P") as the First Amendment to the Depot Square Parking Purchase Agreement between the parties dated July 26, 2013, and recorded on July 30, 2013 at Reception No. 03331517 in the records of Boulder County, Colorado (the "Agreement").

Recitals

- A. Section 5 of the Agreement provides for the First Note Payment to be made by BJAD-P within 30 days of completion of a list of events, including issuance of a certificate of occupancy for the Parking Structure; and
- B. The issuance of a certificate of occupancy for the Parking Structure requires the installation of a working parking management program that, *inter alia*, allows for charging for cars using the Parking Structure (the "Parking Program"), which Parking Program is not yet completed; and
- C. All requirements for a certificate of occupancy for the Parking Structure will be completed before the Parking Program which allows for parking management control ; and
- D. In order to facilitate the viability of the BJAD-P, the Commissioners of BJAD-P have a fiduciary duty to incentivize the opening of the Parking Structure with an operating Parking Program to avoid any negative impact to BJAD-P if RTD cannot commence using the Parking Structure on its August, 2015 runboard; and
- E. However, it is in the interest of both parties for the certificate of occupancy for the Parking Structure to be issued to allow use of the Parking Structure within the Depot Square development;
- F. So long as the additional events are added to the list of prerequisites to the First Note Payment, the Seller remains responsible for all maintenance, repair and operations costs and all liability for use and operation of the Parking Structure, and there is a financial penalty for missing the performance date for the Parking Program, all as set forth below, the Commissioners of BJAD-P support the issuance of a certificate of occupancy for the Parking Structure prior to operation of the Parking Program.

Therefore, the parties agree as follows:

1. Section 4 is amended by the addition of a subsection (h) to the requirements of Closing of the District Parking Unit as follows:

h. An agreement, in a form acceptable to the General Manager of the BJAD-P Commissioners, that the Seller will:

(i) remain responsible for all costs of maintenance, repair, operations, damages and all liability for the Parking Structure until the Note Commencement Events occur, except as directly resulting from the use of the District owners/users under (ii) below, and

(ii) allow District owners/users to use the Parking Structure, without charge until all of the Note Commencement Events occur, and

(iii) deliver the GID Parking Unit and the Parking Program in new condition.

2. Section 5 is amended by the addition of a fourth Note Commencement Events which must occur before the First Note Payment is required as follows:

d. The Parking Program shall be operational by August 1, 2015, to allow for the charging for use of the Parking Structure as contemplated by the Parking Management Agreement. In the event that the Parking Program is not operational by August 1, 2015, the Purchase Price shall be reduced by \$2000.00 per day for every day between August 1, 2015 and the date the Seller delivers the Parking Program to BJAD-P as required in this amendment. Such amount shall be either (i) deducted from the First Note Payment due under the Promissory Note or (ii) payable directly by Seller within fifteen (15) days after written request from BJAD-P.

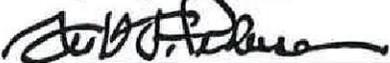
3. Section 7 is amended by revising the date of event of default (g) from May 31, 2015, to July 8, 2015.

4. All capitalized terms not defined herein shall have the definition provided in the Agreement.

IN WITNESS WHEREOF, the parties have executed this First Amendment effective as of the day and year first written above.

Seller:

3001 Pearl, LLC, a Colorado limited liability company

By: 
Scott Pedersen, Manager

Buyer:

Boulder Junction Access General Improvement District - Parking

By: 
City Manager as General Manager of BJAD-P

ATTEST:

By: 
Asst. City Clerk

APPROVED AS TO FORM:


City Attorney's Office

AGREEMENT FOR MAINTENANCE OF PARKING STRUCTURE

This Parking Structure Agreement (this "Agreement") is entered into this 14th day of August, 2015 by and between 3001 Pearl, LLC, a Colorado limited liability company ("Developer"), and Boulder Junction Access General Improvement District-Parking, a general improvement district under the laws of the State of Colorado and Charter of the City of Boulder ("BJAD-P").

RECITALS

- A. Developer and BJAD-P are parties to that certain Depot Square Parking Purchase Agreement between the parties dated July 26, 2013, and recorded on July 30, 2013 at Reception No. 03331517 in the records of Boulder County, Colorado (as amended to date by the First Amendment dated June 18, 2015 and the Second Amendment dated August 13, 2015, and as it may be amended by the parties, the "Parking Purchase Agreement") regarding the sale of the GID Parking Unit from Developer to BJAD-P.
- B. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Parking Purchase Agreement.
- C. Developer has transferred title to the GID Parking Unit to BJAD-P as of the date hereof.
- D. The parties wish to enter into an agreement relating to the maintenance, repair and use of the Parking Structure, and as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth below, the parties agree as follows:

1. Parking Structure Maintenance. From the date hereof through the occurrence of the Note Commencement Events (the "Term"), Developer shall be solely responsible for the Parking Structure, including all damage, liability, maintenance and repair. Upon occurrence of the Note Commencement Events, BJAD-P shall assume responsibility for the Parking Structure in "as new" condition.

2. Failure to Maintain. In the event that Developer fails to maintain or repair the Parking Structure in accordance with this Agreement, BJAD-P may provide written notice to Developer, and such notice shall specifically describe the unsatisfactory conditions to be remedied. Developer shall have 10 days from the date of such the written notice is delivered to commence the required maintenance. If Developer does not commence the required maintenance within such 10-day period, then BJAD-P may proceed with the work described in the notice, and Developer shall reimburse BJAD-P for all costs incurred in connection therewith within thirty (30) days of Developer's

receipt of an invoice for such expenses. In the event Developer has not reimbursed BJAD-P for any funds due hereunder, BJAD-P may deduct the unpaid amount from the First Note Payment.

3. Use of Parking Structure. The Parking Structure shall be open to the public for parking without charge until the Parking Program (as defined in the Parking Purchase Agreement) is operational to allow charging for the use thereof.

4. Termination. This Agreement shall remain in effect until the occurrence of the Note Commencement Events. Upon expiration of the Term, Developer shall deliver to BJAD-P the Parking Program. If requested by Developer, upon termination, BJAD-P shall confirm in writing that the Note Commencement Events have occurred and this Agreement has terminated.

5. Notice. Any notice hereunder shall be effective upon mailing by certified mail, return receipt requested or by sending by a nationally recognized overnight delivery service, if to Developer at P.O. Box 328, Boulder, Colorado 80306 and if to BJAD-P at P.O. Box 791, Boulder, Colorado 80306.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first written above.

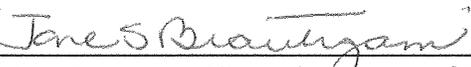
Developer:

3001 Pearl, LLC, a Colorado limited liability company

By: 
Scott Pedersen, Manager

BJAD-P:

Boulder Junction Access General Improvement District - Parking

By: 
City Manager as General Manager of BJAD-P

ATTEST:

By: 
Asst City Clerk

Approved as to Form:

City Attorney's Office