

RESOLUTION NO. 2009-152-UR

A RESOLUTION APPROVING AND AUTHORIZING THE PARKING LEASE AGREEMENT BY AND BETWEEN THE BROOMFIELD URBAN RENEWAL AUTHORITY AND PARK 36 INVESTMENT, LLC

BE IT RESOLVED BY THE BROOMFIELD URBAN RENEWAL AUTHORITY:

Section 1. The Parking Lease Agreement attached hereto by and between the Broomfield Urban Renewal Authority, a body corporate and politic of the State of Colorado, and Park 36 Investment, LLC a Colorado limited liability company is hereby approved.

Section 2. The chair or vice chair of the Broomfield Urban Renewal Authority is authorized to sign and the secretary to attest the Intergovernmental Agreement in a form approved by the city & county attorney.

Section 3. This resolution is effective upon its approval by the Broomfield Urban Renewal Authority.

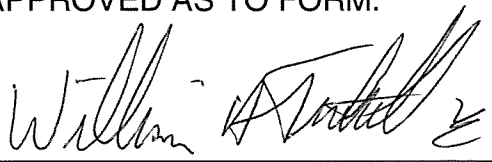
APPROVED on August 25, 2009.

BROOMFIELD URBAN RENEWAL  
AUTHORITY

  
\_\_\_\_\_  
Chair

*Lricia Keeney*  
\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City & County Attorney

PARKING LEASE AGREEMENT

1.0 PARTIES The parties to this Parking Lease Agreement, hereinafter the "Agreement," are the Broomfield Urban Renewal Authority, a body corporate and politic of the State of Colorado, "Authority" and Park 36 Investment, LLC, a Colorado limited liability company, the "Lessor," collectively, the "Parties," or individual, a "Party."

2.0 RECITALS The Recitals to this Agreement are incorporated herein by this reference as though fully set forth in the body of this Agreement.

2.1 The Lessor owns the real property commonly known as 11302 Central Court, Broomfield, Colorado, with a legal description of PARCEL X, BROOMFIELD URBAN TRANSIT VILLAGE - FILING NO. 4, CITY AND COUNTY OF BROOMFIELD, STATE OF COLORADO, which is 5.09 acres situated at the southwest corner of Parkland Street and Broomfield Lane in the Arista Development and which is depicted in Exhibit A, hereinafter referred to as the "Premises"; and

2.2 The Authority desires to lease the Premises for use as parking for the Broomfield event center: and

2.3 Broomfield Sports and Entertainment LLC (BSE) was the manager of the Broomfield Event Center located at 11450 Broomfield Lane, Broomfield Colorado (Event Center); and

2.4 The Lessor and Authority desire that the rent for the first and second years of the Term of this Agreement be transferred the Authority for payment of past due amounts owed by BSE to the City and County of Broomfield and the Authority for Broomfield Event Center expenses and for the Capital Reserve Fund as set forth in the Operations Agreement, between the Authority and BSE, dated August 9, 2005, ("Operations Agreement") and that rent for the third year of the Term be paid to the Lessor in advance.

3.0 TERMS AND CONDITIONS OF AGREEMENT. In consideration of the mutual covenants and promises of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

3.1 LEASED PREMISES. Lessor, for and in consideration of the covenants and agreements set forth in this Agreement, hereby leases to Authority the Premises, described in the attached Exhibit A, situated in the City and County of Broomfield, the State of Colorado, on the terms and conditions set forth in this Agreement. Authority shall have the exclusive right to use Premises pursuant to the terms of this Agreement, including the right to enter, reenter, and occupy, the Premises for all purposes necessary associated with the use of the Premises for



Premises for all purposes necessary associated with the use of the Premises for parking for the Broomfield Event Center.

3.2 TERM. The term of this Agreement shall be from September 1, 2009 until August 31, 2012, hereinafter referred to as the "Term."

3.3 RENT DURING TERM. Lessor hereby agrees that the Authority shall retain the rent, in the amount of one hundred and seven thousand, four hundred and ten dollars (\$107,410.00) for each of the first and second years of the Term, for payment of past due amounts owed by BSE to the City and County of Broomfield for past due police security services and water and sewer bills for the Broomfield Event Center and for payment of amounts owed the Authority by BSE for the capital reserve fund pursuant to the Operations Agreement all for the benefit of the Broomfield Event Center. Lessor hereby agrees that the Authority shall pay Lessor rent, in the amount of one hundred thousand dollars (\$100,000.00) for the third year of the Term, with said amount to be paid to the Lessor not later than September 30, 2009.

3.4 CONDITION OF PREMISES. Upon Termination as provided herein, the Leased Premises will be returned to the Lessor in the same condition, reasonable wear and tear excepted, as received by the Authority.

3.5 PURCHASE OFFER. In the third year of the Term, in the event the Lessor has a valid business or development reason or a bona fide offer to purchase, all or part of the Leased Premises, which reason or purchase does not include use of the Leased Premises for a commercial parking operation, ("Purchase Offer"), the Lessor shall notify the Authority of the Purchase Offer in writing. Within 15 days of the Authority's receipt of the Lessor's written notice of such Purchase Offer, the Lessor may propose in writing an alternative location or locations ("Alternative Location") for the same number of parking spaces and amount of square footage of the Leased Premises that would no longer be available to the Authority, provided such Alternative Location is within a 3500 foot radius of the front door of the Event Center. If such Alternative Location is acceptable to the Authority, which acceptance will not be unreasonably withheld, the Authority may accept in writing such Alternative Location and all of the other provisions of this Lease Agreement will remain the same for such Alternative Location.

3.6 CONSIDERATION. The Authority shall maintain the Premises consistent with Authority's maintenance of similar surface parking areas owned or managed by the Authority. Authority shall have the right to make any changes or alterations to the Premises as the Authority desires for surface parking, including adding to and/or modifying the landscape and grading.

3.7 INSURANCE: Authority will provide for general liability insurance coverage for the Premises for the period of this Agreement.



3.8 **LESSOR'S TITLE TO PREMISES.** The Lessor represents and covenants to Authority that it comprises all of the parties who have a fee interest in said Premises, and that it has full and lawful authority to execute this Agreement, and will provide the Authority with the written consent of Lessor's lender(s) for the Premises in advance of Lessor's execution of this Agreement.

3.9 **BINDING EFFECT.** Each and every one of the benefits and burdens hereunder shall inure to and be binding upon the respective legal representatives, heirs, successors, executors, administrators, and assigns of the Parties hereto.

4.0 **ASSIGNMENT.** This Agreement shall not be assigned by the other Party without the prior written consent of the other Party.

5.0 **NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if personally served or if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other Party or Parties. Such notice shall be deemed to have been given when deposited in the mail of the United States Postal Service.

6.0 **EXHIBITS.** Exhibits, if any, referred to in this Agreement are by reference incorporated herein for all purposes.

7.0 **EXECUTION REQUIRED.** This Agreement shall not be binding upon either Party hereto unless and until the Parties have executed this Agreement.

8.0 **RECORDING.** This Agreement may be recorded by the Authority with the county clerk and recorder in the county in which the Premises is located.

9.0 **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Colorado.

10.0 **EXECUTION IN COUNTERPARTS.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

11.0 **NO PRESUMPTION.** The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

IN WITNESS WHEREOF, This Agreement is executed by the Parties hereto in their respective names as of August 25, 2009.





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PARK 36 INVESTMENT, LLC  
a Colorado limited liability company

*David Hostetler*

By: DAVID HOSTETLER  
Title: MANAGER

ATTEST:

*[Signature]*

STATE OF COLORADO )  
County of Broomfield )ss.

The foregoing instrument was acknowledged before me this 25 day of August 2009 by David Hostetler as Manager of the Park 36 Investment, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.



*[Signature]*

Notary Public

My Commission Expires 05/13/2012  
My commission expires: 5/13/2012



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Exhibit A

