

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Easement") is made this _____ day of February, 2007, by and between Golden Urban Renewal Authority, a body corporate and politic of the State of Colorado ("Grantee"), and Eileen B. Banks, an individual ("Owner").

RECITALS

- A. Owner is the owner of certain real property and improvements legally described as Lot 1, Block 26, Golden Gateway Station Minor Replat No. 1 in the City of Golden, County of Jefferson, State of Colorado ("Owner's Property").
- B. Grantee is the owner of certain real property and improvements legally described as Lot 3, Block 26, Golden Gateway Station Minor Replat No. 2 in the city of Golden, County of Jefferson, State of Colorado ("Grantee's Property"). Grantee intends to construct a multi-level parking structure on Grantee's Property (the "Project").
- C. As part of the construction of the Project, Grantee intends to install shoring on Grantee's Property during the excavation of the basement for the Project. Grantee anticipates that this shoring will require the installation of approximately ten (10) steel H-beams and associated wood lagging from Grantee's Property onto an underground portion of Owner's Property (collectively, the "Shoring"). Grantee anticipates that the Shoring will be installed to a depth of approximately twenty-five (25) feet below the existing grade of the Owner's Property.
- D. Grantee estimates that part of the shoring will encroach approximately six (6) feet onto an underground portion of Owner's Property as generally depicted on Exhibit A.
- E. In addition, Grantee intends to install certain footing ("Footings") in connection with the foundation work required for the basement of the Project. Grantee anticipates that the Footings will consist of concrete and reinforcing steel and will be installed to a depth of approximately eleven feet (11) feet below the existing grade on the Owner's Property.
- F. Grantee estimates that the Footings will encroach between zero (0) feet and five (5) feet, six (6) inches onto an underground portion of Owner's Property as depicted in Exhibit B.
- G. ~~Grantee shall provide consideration to Owner of~~ In partial consideration of the rights and privileges granted herein, Grantee and Owner will enter into an amendment to that certain Parking Easement Agreement between the parties dated April 26, 2006 ("Parking Agreement"), in order to grant to Owner an exclusive easement, for the use by Owner, of one (1) additional parking space having a minimum width of eight (8) feet six (6) inches within the parking garage ~~per~~ more specifically described in the Parking ~~Easement Agreement of the parties dated April 26, 2006.~~

AGREEMENT

Now, therefore, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Grantee agree as follows:

1. Subject to the terms and conditions set forth in this Easement, Owner hereby grants to Grantee and its designees, authorized agents, contractors, consultants and representatives (collectively, its "Agents") the following easements:

(a) a temporary easement (the Temporary Shoring Easement") for the purpose of installing, constructing, repairing, and maintaining the portion of the Shoring that encroaches onto the Owner's Property, as generally depicted on Exhibit A attached hereto and incorporated herewith (the "Footing Easement Area");

(b) a perpetual easement over the Footing Easement Area for the encroaching portion of the Footings for so long as any portion of the Footings exists (the "Permanent Footing Easement");

(c) a temporary easement (the "Temporary Footing Easement") for the purpose of installing and constructing the portion of the Footing that encroaches onto the Owner's Property as generally depicted on Exhibit B attached hereto and incorporated herewith (the "Shoring Easement Area"); and

(d) a perpetual easement over, across and through the Shoring Easement Area for the portion of the Shoring ~~exists~~which encroaches upon the Owner's Property, subject to the limitations set forth in Paragraph 3 below (the "Permanent Shoring Easement").

2. The Permanent Footing Easement shall commence as of the date hereof and shall be perpetual thereafter.

3. The Permanent Shoring Easement shall commence as of the date hereof and shall remain in place so long as the encroaching portion of the Shoring exists on Owner's Property, but shall automatically terminate with respect to any encroaching portion of the Shoring that is removed as provided below.

4. The Temporary Footing Easement and the Temporary Shoring Easement are being granted for an area that is up to twenty-five (25) feet below the existing grade of the Owner's Property, and shall include the right to disturb or alter the surface of the Footing Easement Area and the Shoring Easement Area, respectively, as required to install the Shoring and Footings. After completion of the construction and installation of the Shoring and Footing, this Easement shall not include any rights of Grantee to disturb or alter the surface of the Footing Easement Area or the Shoring Easement Area without Owner's prior consent. The Grantee shall provide prior notification to the Owner before the commencement of installation of the Shoring and Footings.

5. Grantee shall promptly restore Owner's Property to its substantial original conditions, repair any damage to Owner's Property caused by the installation of the Shoring and Footings, and to perform all activities pursuant to this Easement in a good and workmanlike manner in compliance with all laws, rules, regulations, orders, and ordinances of the applicable regulatory authorities, including backfill and compaction, asphalt paving, restriping of parking stalls, replacement of existing parking blocks and retaining wall repairs.

a. **Repair and Restoration.** Grantee's obligation to repair and restore Owner's Property shall be completed at Grantee's expense generally in conformity with a grading plan prepared prior to the expiration of the Temporary Footing Easement and Temporary Shoring Easement as provided in this Easement, in a form and substance to Owner's reasonable approval (which approval shall not be unreasonably withheld, conditioned or delayed). At a minimum, the grading plan shall be prepared by a Colorado registered professional engineer, and shall include detail on compaction, drainage, grading and asphalt paving of the Owner's Property.

6. During the term of this Easement, Owner agrees not to use or grant any right to use Owner's Property in a manner that materially interferes with the grant of the Easement contained herein.

7. Owner and Grantee acknowledge that Grantee intends to leave the Shoring in place on the Grantee's Property after completion of the Project; provided, however, that prior to completion of construction of the Project, Grantee shall cut off and remove the Shoring at a depth of five (5) feet below the surface grade of the Shoring Easement Area. After the original purpose of the Shoring has been fulfilled, Owner shall have the right, at Owner's sole cost and expense, to remove any encroaching portion of the Shoring on Owner's Property, at which time the Permanent Shoring Easement with respect to such encroaching portion of the shoring shall automatically terminate. Notwithstanding the foregoing, Owner agrees that for a period of twelve (12) months after the date of this Easement, Owner shall verify with Grantee that the Shoring is no longer required to fulfill its original purpose before removing any encroaching portion of the Shoring as set forth herein. After such twelve (12)-month period, Owner shall be entitled to presume the original purpose of the Shoring has been fulfilled unless Grantee notifies Owner otherwise.

8. This Easement shall run with the land and shall be appurtenant to and for the benefit of Grantee's Property and shall be recorded in the real property records of the County in which Owner's Property and grantee's Property are located.

9. Additional Provisions.

a. Parking Easement Amendment. ~~The~~ **Prior to completion of the parking garage more specifically described in the** Parking ~~Easement~~ **Agreement entered into by,** Grantee and Owner ~~dated April 28, 2006, shall be amended to provide that Grantee shall~~ **grant shall enter into an amendment of the Parking Agreement in order to grant Owner** an exclusive easement ~~for use by Owner of to~~ one (1) additional parking space, ~~having within said~~ **parking garage. The parking space will have** a minimum width of eight (8) feet six (6) inches,

~~within and Owner's use of~~ the parking garage as specified in the Parking Easement Agreement and space shall be subject to all the terms and conditions of such Parking Easement Agreement. ~~The parties hereto shall enter into an amendment to the Parking Easement Agreement to provide for such additional parking space for Owner before completion of the parking garage Agreement.~~

b. Construction of the Shoring and Footing Appurtenances. Construction of the Shoring and Footings on Owner's Property as provided herein, shall ~~be in~~ conformity generally conform with Carl Walker, Inc., Engineering Plans S3.1 and S2.0, as certified on September 29, 2006 by Robert W. Cory, Colorado registered professional engineer.

c. Timeline for Temporary Easements. The Temporary Shoring Easement and Temporary Footing ~~Easements~~ Easement set forth in Section 1(a) and 1(c) above, shall be for a maximum time period of eight (8) months from the start of construction, which is anticipated to commence on or before February 15, 2007. ~~Grantee shall be permitted no more than two (2) consecutive extensions of such Temporary Easements, with each such extension being limited to two (2) months, and upon~~ The duration of the Temporary Shoring Easement and Temporary Footing Easements shall automatically be extended for two (2) additional periods of sixty (60) days each in the event Grantee has not notified Owner of the completion of the Shoring and Footings, fifteen (15) days prior ~~notice to Owner of such extension request by Grantee~~ to the expiration of the Temporary Shoring Easement and Temporary Footing Easements, as extended.

d. Parking During Construction. Owner, inclusive of the Banks Insurance Agency employees and customers, will be permitted to park in the existing parking garage on 12th Street during the construction period.

f. Indemnification. To the extent permitted by law, without waiving the protections of the Colorado Governmental Immunity Act, Section 24-10-101, *et. seq.*, Grantee shall indemnify, defend and hold Owner harmless from and against any liability or expense, including reasonable attorneys fees, incurred by Owner in connection with construction, repair and restoration as required by this Easement Agreement.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK. THE SIGNATURE PAGE(S) FOLLOW(S).]

IN WITNESS WHEREOF, Grantee and Owner have respectively executed this Agreement as of the day and year first above written.

GRANTEE:

OWNER:

GOLDEN URBAN RENEWAL
AUTHORITY, a body corporate and politic
of the State of Colorado

Eileen B. Banks

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by _____, as _____ of Golden Urban Renewal Authority, a body corporate and politic of the State of Colorado.

Witness my hand and official seal.

My commission expires: _____

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by Eileen B. Banks.

Witness my hand and official seal.

My commission expires: _____

Notary Public

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Document 1	PowerDocs://BHFSDOCS/1024802/3
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Legend:	
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