

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**In re:  
PARKER DEVELOPMENT, LLC,**

**Case No. 16-73359-SCS  
Chapter 11**

**Debtor in Possession.**

**MOTION FOR AUTHORITY TO USE CASH COLLATERAL  
AND  
TO PROVIDE ADEQUATE PROTECTION**

The debtor-in-possession, Parker Development, LLC (the “**Debtor**”), moves the Court for entry of an interim order, pursuant to 11 U.S.C. §§ 105, 361, 362 and 363 and Fed. R. Bankr. P. 4001, approving the use of cash collateral of SummitBridge National Investments III LLC (“**SummitBridge**”), providing adequate protection and setting an interim hearing and a final hearing pursuant to Fed. R. Bankr. P. 4001. In support of this Motion, the Debtor respectfully states as follows:

**STATEMENT OF RELIEF REQUESTED (RULE 4001(b)(1)(B))**

1. By this Motion, the Debtor requests an order:
  - a. Authorizing the use of cash collateral of one of the Debtor’s secured creditors, SummitBridge, pursuant to the budget (the “**Budget**”) attached hereto as **Exhibit A**;
  - b. Approving and ratifying the uses of cash collateral heretofore made, under the terms agreed to with SummitBridge; and
  - c. Granting SummitBridge adequate protection as necessary and appropriate, pursuant to 11 U.S.C. §§ 361, 362 and 363, to the extent SummitBridge’s cash collateral (the “**Cash Collateral**”) is used by the Debtor and to the extent of

any diminution in the value of SummitBridges's collateral, to the same extent and with the same priority in the Debtor's post-petition collateral, and proceeds thereof, that SummitBridge held in the Debtor's pre-petition collateral.

2. Without the use of cash collateral, the Debtor will not be able to pay ordinary and necessary business expenses associated with the collateral in question, including, but not limited to: utilities, insurance, costs associated with the maintenance of the property and other expenses as listed on the Budget.

3. The use of the cash collateral is needed in order to preserving the estate for all parties-in-interest.

4. The main provisions of the proposed use of the Cash Collateral are as follows:

a. The Debtor shall use the Cash Collateral to pay the reasonable and necessary general operating and administrative expenses during the pendency of the bankruptcy case, as more fully outlined in the attached Budget;

b. The Debtor may use all of the Cash Collateral, subject to the terms imposed by this Court pursuant to any order allowing this use and adequate protection provided by the Debtor; and

c. The Debtor may challenge the amount, extent, validity and priority of liens of its secured debts, including that of SummitBridge.

### **Background**

5. On September 28, 2016 (the "**Petition Date**"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "**Bankruptcy Code**")

6. The Debtor continues to operate its business as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108 of the Bankruptcy Code.
7. No Trustee, examiner, receiver, or creditors' committee has been appointed in this case.
8. The Debtor owns the property located at the properties located at 1130 Tabb Street, 850 Tidewater Drive and 852 Tidewater Drive, Norfolk, Virginia (collectively the "**Property**").
9. On or about April 15, 2011, the Debtor entered into a loan with Branch Banking and Trust Company ("**BB&T**"), with a principal original balance of \$1,550,000 (the "**Loan**"), and pledge the Property as security for the Loan.
10. The Loan is evidenced by, among other things a promissory note in favor of BB&T (the "**Note**"), and the indebtedness under the Note is secured by a first-priority duly perfected lien and security interest in the Property, as evidenced by the deed of trust (the "**Deed of Trust**") recorded with the Clerk's Office for the City of Norfolk on August 25, 2011.
12. SummitBridge became the holder of the Note following an assignment and transfer from BB&T to it, as evidenced by a Bill of Sale and Assignment of Loans and Loan Documents dated June 12, 2014 and an Allonge dated June 12, 2014.
13. As of the Petition Date the balance was, upon information and belief, approximately \$1,345,430, consisting of principal, accrued interest and expenses.
15. Any amount due to SummitBridge under the Loan is referred to herein as the "**Obligation.**"
16. The Debtor requires use of cash collateral to continue to maintain the Property and such use is necessary to avoid immediate and irreparable harm to the Debtor and its estate.

17. The Debtor, as adequate protection for the use of the Cash Collateral, offers to SummitBridge the following:

- a. Monthly payments, pursuant to 11 U.S.C. § 361, of \$5,510.89, which will be paid on the 15<sup>th</sup> day of each month, continuing until further order of the Court;
- b. A replacement lien, pursuant to 11 U.S.C. § 361, in and to all of the Property of the same kind and nature that currently secures the obligation owed to it by the Debtor; and
- c. Deposits of all monies collected or derived from the Property or from the use of the Cash Collateral and the Property into the debtor-in-possession bank accounts, to be used in the fashion as described in the proposed order granting the relief requested herein, which is attached as Exhibit B.

#### **Jurisdiction**

18. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This motion involves a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

19. The statutory bases for the relief sought in this Motion are: §§ 105, 361, 362, and 363 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Federal Rule of Bankruptcy Procedure 4001.

#### **Events Leading to the Filing of This Case**

20. Immediately prior to the commencement of the case, SummitBridge declared the Debtor in default as to certain obligations owed to it and it determined that it needed to seek bankruptcy relief in order to address its obligations in an orderly fashion.

21. The Debtor commenced this case in order to preserve and protect its business interests and assets.

22. The Debtor believes that, in this chapter 11 proceeding, it will be able to maximize recoveries to creditors, including SummitBridge.

**Basis for Granting Relief Requested**

23. As indicated on the Budget, the Debtor has identified the expenses that are necessary for continued maintenance of the Property, as well as the main source of the Cash Collateral, which payments have been consented to by SummitBridge, through its counsel.

24. Without the ability to use the Cash Collateral, Debtor will be unable to pay the expenses necessary to maintain the Property.

25. Pursuant to § 363(c) of the Bankruptcy Code, a debtor-in-possession may not use cash collateral without either the consent of the secured party or Court approval.

26. The Court may “prohibit or condition” the use of cash collateral as it deems “necessary to provide adequate protection of such interest.” 11 U.S.C. § 363(e). Adequate protection should “preserve the secured creditor’s position at the time of the bankruptcy.” *In re Dunes Casino Hotel*, 69 B.R. 784, 793 (Bankr. D.N.J. 1986).

27. SummitBridge’s interest shall be adequately protected in the form of maintaining the collateral, remittance of monthly payments and by giving SummitBridge a replacement lien in the collateral.

28. By using Cash Collateral, the Debtor will maintain the Property and protect and preserve the value of SummitBridge’s collateral and other assets.

29. The Debtor has not previously sought the relief requested herein from any court.

20. SummitBridge has consented to the use of cash collateral as contemplated herein.

WHEREFORE, the Debtor respectfully requests entry of an order allowing the Debtor to use the Cash Collateral to pay its expenses as outlined in the Budget and granting to SummitBridge a replacement lien on the same types and kinds of collateral originally held by it, retroactive to the Petition Date, and for such other and further relief as this Court deems just and proper.

PARKER DEVELOPMENT, LLC

BY: /s/W. Greer McCreedy, II

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**CERTIFICATE OF SERVICE**

I certify that, on February 1, 2017:

1. The foregoing motion will be electronically filed with the Clerk of Court using the CM/ECF system, which will send e-mail notice/service of such filing to those listed on the Electronic Mail Notice.
2. A copy of the foregoing motion will be sent by first class mail, postage paid to all creditors and parties in interest as reflected on the attached matrix filed with the Court.

/s/W. Greer McCreedy, II