



## Zone Map Amendment (Rezoning) - Application

<b>PROPERTY OWNER INFORMATION*</b>		<b>PROPERTY OWNER(S) REPRESENTATIVE**</b>	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR FEE PAYMENT***		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR FEE PAYMENT***	
Property Owner Name	4120 FEDERAL LLC	Representative Name	Steven Ferris, The Real Estate Garge
Address	4120 FEDERAL BLVD	Address	1522 Blake St, Ste 350
City, State, Zip	DENVER, CO 80211-1638	City, State, Zip	Denver, CO 80202 <span style="float: right;">+</span>
Telephone		Telephone	303-435-5393
Email		Email	steve@realestategarage.net
*All standard zone map amendment applications must be initiated by owners (or authorized representatives) of at least 51% of the total area of the zone lots subject to the rezoning. See page 4.		**Property owner shall provide a written letter authorizing the representative to act on his/her behalf. ***If contact for fee payment is other than above, please provide contact name and contact information on an attachment.	
<b>SUBJECT PROPERTY INFORMATION</b>			
Location (address):	4120 FEDERAL BLVD, DENVER, CO 80211-1638		
Assessor's Parcel Numbers:	02204-18-026-000		
Area in Acres or Square Feet:	12,375 square feet		
Current Zone District(s):	U-SU-C1		
<b>PROPOSAL</b>			
Proposed Zone District:	U-MX-3 U-RX-3		
<b>PRE-APPLICATION INFORMATION</b>			
In addition to the required pre-application meeting with Planning Services, did you have a concept or a pre-application meeting with Development Services?	<input checked="" type="checkbox"/> Yes - State the contact name & meeting date	Edson Ibanez, 03/22/2021	
	<input type="checkbox"/> No - Describe why not (in outreach attachment, see bottom of p. 3)		
Did you contact the City Council District Office regarding this application ?	<input checked="" type="checkbox"/> Yes - if yes, state date and method		
	<input type="checkbox"/> No - if no, describe why not (in outreach attachment, see bottom of p. 3)		



## REZONING REVIEW CRITERIA (ACKNOWLEDGE EACH SECTION)

<p>General Review Criteria DZC Sec. 12.4.10.7.A</p> <p>Check box to affirm and include sections in the review criteria narrative attachment</p>	<p><input checked="" type="checkbox"/> <b>Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan.</b></p> <p>Please provide a review criteria narrative attachment describing <b>how</b> the requested zone district is consistent with the policies and recommendations found in <b>each</b> of the adopted plans below. Each plan should have its' own subsection.</p> <p><b>1. Denver Comprehensive Plan 2040</b></p> <p>In this section of the attachment, describe <b>how</b> the proposed map amendment is consistent with <i>Denver Comprehensive Plan 2040's</i> a) equity goals, b) climate goals, and c) any other applicable goals/strategies.</p> <p><b>2. Blueprint Denver</b></p> <p>In this section of the attachment, describe <b>how</b> the proposed map amendment is consistent with: a) the neighborhood context, b) the future place type, c) the growth strategy, d) adjacent street types, e) plan policies and strategies, and f) equity concepts contained in <i>Blueprint Denver</i>.</p> <p><b>3. Neighborhood/ Small Area Plan and Other Plans (List all from pre-application meeting, if applicable):</b> Sunnyside Neighborhood Plan and Federal Boulevard Corridor Plan</p>
<p>General Review Criteria: DZC Sec. 12.4.10.7. B &amp; C</p> <p>Check boxes to the right to affirm and include a section in the review criteria for Public Health, Safety and General Welfare narrative attachment.</p>	<p><input checked="" type="checkbox"/> <b>Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</b></p> <p><input checked="" type="checkbox"/> <b>Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</b></p> <p>In the review criteria narrative attachment, please provide an additional section describing <b>how</b> the requested rezoning furthers the public health, safety and general welfare of the City.</p>
<p>Review Criteria for Non-Legislative Rezoning: DZC Sec. 12.4.10.8</p> <p>For Justifying Circumstances, check box and include a section in the review criteria narrative attachment.</p> <p>For Neighborhood Context, Purpose and Intent, check box and include a section in the review criteria narrative attachment.</p>	<p><b>Justifying Circumstances - One of the following circumstances exists:</b></p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error;</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact;</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints of development created by the natural characteristics of the land, including, but not limited to , steep slopes, floodplain, unstable soils, and inadequate drainage;</p> <p><input checked="" type="checkbox"/> Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:</p> <p style="padding-left: 20px;">a. Changed or changing conditions in a particular area, or in the city generally; or</p> <p style="padding-left: 20px;">b. A City adopted plan; or</p> <p style="padding-left: 20px;">c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (overlay Zone Districts) of this Code.</p> <p>In the review criteria narrative attachment, please provide an additional section describing the selected justifying circumstance. If the changing conditions circumstance is selected, describe changes since the site was last zoned. Contact your pre-application case manager if you have questions.</p> <p><input checked="" type="checkbox"/> <b>The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</b></p> <p>In the review criteria narrative attachment, please provide a separate section describing <b>how</b> the rezoning aligns with a) the proposed district neighborhood context description, b) the general purpose statement, and c) the specific intent statement found in the Denver Zoning Code.</p>

Last updated: February 16, 2021

Return completed form and attachments to [rezoning@denvergov.org](mailto:rezoning@denvergov.org)

201 W. Colfax Ave., Dept. 205  
Denver, CO 80202

720-865-2974 • [rezoning@denvergov.org](mailto:rezoning@denvergov.org)



## REQUIRED ATTACHMENTS

Please check boxes below to affirm the following **required** attachments are submitted with this rezoning application:

- Legal Description of subject property(s). **Submit as a separate Microsoft Word document.** View guidelines at: <https://www.denvergov.org/content/denvergov/en/transportation-infrastructure/programs-services/right-of-way-survey/guidelines-for-land-descriptions.html>
- Proof of ownership document for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed, or (c) Title policy or commitment dated no earlier than 60 days prior to application date. If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.
- Review Criteria Narratives. See page 2 for details.

## ADDITIONAL ATTACHMENTS (IF APPLICABLE)

Additional information may be needed and/or required. Please check boxes below identifying additional attachments provided with this application.

- Written narrative explaining reason for the request** (optional)
- Outreach documentation attachment(s).** Please describe any community outreach to City Council district office(s), Registered Neighborhood Organizations (RNOs) and surrounding neighbors. If outreach was via email- please include email chain. If the outreach was conducted by telephone or meeting, please include contact date(s), names and a description of feedback received. If you have not reached out to the City Council district office, please explain why not. (optional - encouraged)
- Letters of Support.** If surrounding neighbors or community members have provided letters in support of the rezoning request, please include them with the application as an attachment (optional).
- Written Authorization to Represent Property Owner(s)** (if applicable)
- Individual Authorization to Sign on Behalf of a Corporate Entity** (e.g. if the deed of the subject property lists a corporate entity such as an LLC as the owner, this is document is required.)
- Other Attachments.** Please describe below.



## PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION

We, the undersigned represent that we are the owner(s) of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
<b>EXAMPLE</b> John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith Josie Q. Smith</i>	01/12/20	(A)	YES
4120 Federal LLC	4120 Federal Blvd Denver, CO 80211 307-275-2577 mike@klmcolorado.com	100%	<i>A</i>	<i>11/13/22</i>	B	YES
						YES
						YES
						YES



THE REAL ESTATE GARAGE

Steve Ferris, Principal  
[sferris@realestategarage.net](mailto:sferris@realestategarage.net)

Resubmittal as of January 30, 2022  
(Originally Submitted January 19, 2022. Supplemented February 3, 2022, May 15, 2022, and November 2, 2022)

City and County of Denver  
Community Planning & Development  
Planning Services Division  
201 W. Colfax Avenue, 2<sup>nd</sup> floor  
Denver, CO 80202  
As emailed to [rezoning@denvergov.org](mailto:rezoning@denvergov.org)

**RE: Application Resubmittal, Request to Rezone 4120 N Federal Blvd. from U-SU-C1 to U-RX-3 Application # 2021I-00038**

Dear Community Planning & Development:

This firm represents 4120 Federal LLC, the owners, and the corresponding property, 4120 Federal Blvd., regarding the attached application for a zoning map amendment (“rezoning”). Please accept this resubmittal in response to the staff email requesting additional information dated September 22, 2022. Based on staff’s input, this application seeks to change the zoning classification to U-RX-3. The additional information speaks to consistency in the adopted plans by making a reference to the pending adoption of the Near Northwest Plan (as a Neighborhood Plan), and is provided on pages 14 and 17 of this document, Exhibits B and C.

The subject property is located within the Sunnyside Neighborhood and consists of developed land and is currently zoned U-SU-C1. The parcel in question is a total of 12,375± square feet (0.28± acres) in size and contains a total of 5,302± square feet of an existing commercial building currently used for a medical office. The current buildout ratio for the property is 43%. The property adjoins Federal Blvd. to the west, property zoned U-MX-2x to the south, and properties zoned U-SU-C1 to the north and east.

In 2010, the City rezoned the subject property to U-SU-C1, which is a single unit district. This reclassification occurred despite the property’s former R-2 zone district, proximity

to the intersection of Federal Blvd. and W 41<sup>st</sup> Ave.<sup>1</sup>, existing commercial office use, adjacent zoning (U-MX-2x to the south), and platting configuration. Since that time, changing conditions along Federal Blvd. have occurred in terms of redevelopment and traffic volumes. The applicant would like to stress two points. First, while the applicant is now requesting a U-RX-3 zone district, they have entered into a Good Neighborhood Agreement (“GNA”) with Sunnyside Neighbors United Inc. (SUNI) that necessitates residential uses, as they believe residential uses would fit better into the existing neighborhood context and uses. The desired development by all parties to the agreement is a 3-story, 9-unit, townhome project, with the 3-story height specifically selected to accommodate on-site parking and livability. Secondly, at 12,375 square feet, the unique platting pattern in the area has resulted in an oversized lot that does not match the current U-SU-C1 zone district and created surface parking on both the north and east sides of the subject property.

In addition to the completed application, please find the following exhibits attached or referenced to this application:

**Exhibit A:** Property Legal Description (unchanged)

**Exhibit B:** Description of Consistency with Adopted City Plans/General Review Criteria (DZC 12.4.10.7., amended 2/12/21).

**Exhibit C:** Additional Criteria/Description of Justifying Circumstances and Neighborhood Context (DZC 12.4.10.8.)).

**Exhibit D:** Community Support and Outreach.

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<sup>1</sup> According to the [City and County of Denver’s Arterial and Collect Streets – List & Functional Summary Tables](#), Federal Blvd. is classified as an “Arterial”, while 41<sup>st</sup> Street is classified as a “Collector”.



## Exhibit A Legal Description

### 4120 N Federal Blvd.

Boulevard Heights, 2nd Filing, Block 18, Lots 8 to 11.

## Exhibit B

### Description of Consistency with Adopted City Plans/General Review Criteria (DZC 12.4.10.7.)

#### Denver Comprehensive Plan 2040

The Denver Comprehensive Plan 2040 provides a framework and common goals for *all* city plans by identifying vision elements, goals, and strategies to achieve these goals. The vision elements and goals emphasize economic mobility and diversification, growth in neighborhood businesses, a strong workforce, a globally competitive city, and economic vitality. Because this proposed rezoning is intended to facilitate the redevelopment of a developed parcel into an economically diverse and vibrant urban context, it is consistent with the following Denver Comprehensive Plan goals and strategies:

#### Vision Element: Equitable, Affordable, and Inclusive

**GOAL 1:** Ensure all Denver residents have safe, convenient, and affordable access to basic services and a variety of amenities.

**STRATEGY A:** Increase development of housing units close to transit and mixed-use developments.

**GOAL 2:** Build housing as a continuum to serve residents across a range of incomes, ages and needs.

#### Vision Element: Strong and Authentic Neighborhoods

**GOAL 1:** Create a city of complete neighborhoods.

**1.A.** Build a network of well-connected, vibrant, mixed-use centers and corridors.

**1.B.** Ensure neighborhoods offer a mix of housing types and services for a diverse population.

**1.C.** Ensure neighborhoods are safe, accessible, and well-connected for all modes.

**1.D.** Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities.

**GOAL 2:** Enhance Denver's Neighborhoods through high-quality urban design.

**2.C.** Create people-oriented places that embrace community character with thoughtful transitions, aspirational design, and an engaging public realm.



## Environmentally Resilient

**GOAL 8:** Clean our soils, conserve land, and grow responsibly.

**8.A.** Promote infill development where infrastructure and services are already in place.

**8.B.** Encourage mixed-use communities where residents can live, work, and play in their own neighborhoods.

### Applicant:

The subject property is located within the Sunnyside Neighborhood, which continues to be a desirable area to live, work, and play. The proposed *Urban - Residential Mixed Use - 3 stories* (“U-RX-3”) zone district offers increased opportunities for housing that would contribute to, and enhance, Sunnyside’s vibrant neighborhood character. If approved, the rezoning will enable the property owners to create and promote a safe, active, and pedestrian-scaled, diverse transition using building forms that clearly define and activate the public street edge.

Additionally, the U-RX-3 zone district would facilitate infill development of a 1 to 3 story townhomes along Federal Blvd., an existing Arterial Corridor. The subject location is conveniently located 70 feet from RTD’s northbound/southbound Federal Blvd. & W 41<sup>st</sup> Ave. bus stops (Stop IDs: 13721 & 13722) and is located due east from McDonough Park. This potential rezoning would allow future residents access to multi-modal transportation and provide adjacent access to a city owned and operated park.

The proposed U-RX-3 zone district would also provide more development flexibility and enable the support of a wider range of residential housing stock that is currently prohibited under the more restrictive and exclusionary single unit zone district. The U-RX-3 zone district would make the site developable to three-story townhomes, while enhancing the convenience, ease and enjoyment of transit, walking, shopping, and public gathering within and around the city’s neighborhoods.

In conclusion, this rezoning will enable a range of residential uses for new infill development, provide desperately needed housing near public transit and municipal amenities, thereby making it consistent with Denver Comprehensive Plan 2040 Vision Elements and Goals.

### **Blueprint Denver (2019)**

Blueprint offers explicit advice on how to consider its contents about rezonings, citing the applicability of the Neighborhood Context, Places map, Places description, Growth strategy, and Street Types. It notes that Plan Policies and Strategies and Equity Concepts are only applicable in some cases.

## Neighborhood Contexts

Blueprint states that neighborhood contexts demonstrate the differences in built environment between Denver’s neighborhoods. The subject properties have the following contexts:

### Future Neighborhood Context

The **Blueprint Denver Future Neighborhood Context** for the subject property is ‘Urban’. Briefly, the Land Use and Built Form description for the Urban Context has [s]mall multi-unit residential and low-intensity mixed-use buildings typically embedded in single-unit and two-unit residential areas. Block patterns are a regular grid with consistent alley access. Where they occur, multi-unit buildings are low-scale. Mixed-use buildings are sited in a pedestrian-friendly manner near the street. (222).

In this case, the applicant is seeking to develop “small multi-unit residential” townhomes under the U-RX-3 zone district that is embedded in a block that contains pre-existing commercial, multi-family units, and single-family homes.

### Future Place Type

**Blueprint’s Future Place Type** designation is *Residential - Low*. According to Blueprint Denver, Residential areas are areas where the predominant use is residential. Although they are primarily residential, they are supported by a variety of embedded uses needed for a complete neighborhood such as schools, parks, and commercial/retail uses (230).

Residential - Low areas are predominantly single- and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible. Some civic and institutional uses are compatible integrated throughout and limited mixed-use can occur along arterial and collector streets, as well as where commercial uses have been already established. Vacant institutional uses on corners or select sites may be appropriate locations to introduce additional residential intensity. Medium building coverage. Buildings are generally up to 2.5 stories in height.

Here, the proposed U-RX-3 zoning offers consistency with the Urban Neighborhood’s Residential - Low Future Place Type for the following reasons:

- That subject site adjoins an existing arterial street (Federal) and is just south of a collector (W 41st Ave).



- The subject site contains a pre-existing commercial use<sup>2</sup> that was established prior to the creation of the Denver Zoning Code and the *current* “Property Type” is classified by the City and County of Denver’s Property Taxation and Assessment System as “commercial”.
- Compared to the Mixed-Use districts, the Residential Mixed-Use districts are primarily intended to accommodate *residential uses*. The applicant is *only* proposing *residential uses* given the requirements of the GNA. It should be also noted that the subject property is (1) adjoining an existing arterial roadway, (2) the subject site has been and is a preexisting commercial use classified as “commercial” by Denver’s Property Taxation and Assessment System, and (3) its proximity to a mixed-use zone district to the south, Federal Blvd. to the west, W 41st Ave to the south, public transit access, and vital public infrastructure. Further, the overall intensity of this residential mixed-use zone district is lower than other Urban zone districts, and its adjacency to a U-MX-2x zone district to the south and multi-family units to the north makes it an appropriate location to introduce additional residential “missing middle housing”.
- The three (3) bullet points above are reiterated and incorporated into this bullet point for the sake of discussing the Urban - Residential - Low area language, which states, “[v]acant institutional uses on corners *or* select sites may be appropriate locations to introduce additional residential intensity.” The applicant would like to plead with staff, Planning Board, City Council, and their fellow citizens about the interpretation of the term select site. In reviewing the above sentence, the applicant interprets the conjunction ‘or’ by employing the plain meaning doctrine to interpret the phrasing of these sentences. By using the conjunction ‘or’, the language provides exclusiveness between choices. For example, by saying “A or B”, it means only one between A and B can be considered. If you choose A, then it is not B. And vice versa. The first choice presented by this conjunction is the very specific phrase “vacant institutional uses on a corner”. Clearly, this site is not a vacant institutional use, nor is it sited on a corner. However, the second and latter choice presented by the conjunction is the vaguer term ‘select sites’. Here, the applicant believes that the subject property is a select site in which it is appropriate to introduce additional residential intensity due to the pre-existing use, the surrounding uses on that specific block, and the fact that the maximum height difference between U-RX-3 and the current zone district of U-SU-C1 is eight (8) feet.
- Blueprint Denver states that “[b]uildings are generally up to 2.5 stories in height”. The operative word in this sentence is “generally”, which means “in most cases”. However, in considering the best height and housing alternative for this site, the U-RX-3 dramatically limits height compared to another Urban zone district. And, to reiterate, the applicant is only proposing residential under U-RX-3 zone district given the requirements of the GNA, and residential better fits

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<sup>2</sup> According to city property records, the effective year built for the structure dates to 1952.

the building form of the proposed zone district and surrounding neighborhood. Additionally, 3-stories are also prevalent along arterials like Federal Blvd. In this case, a three-story zone district will enable the site to promote “missing middle” housing containing enclosed, on-site parking, while accommodating a livable size and ensuring attainable housing for the neighborhood. Additionally, the city should take into consideration a slightly higher height (0.5 stories or 8 feet) for this site due to its proximity to Federal Blvd., W. 41st Ave McDonough Park, the commercial property adjoining it to the south, proximity to two (2) public transit stops, and the nature of land across the alley.

- Blueprint Denver is a guiding document, not regulatory, and stipulates that it is a “...citywide plan, and therefore cannot provide specific detailed guidance on all aspects of a place. The building heights identified in this plan provide a general sense of scale and are not intended to set exact minimums or maximums.” Factors to consider when applying Blueprint Denver building height guidance may include:
  - Guidance from a current small area plan
  - Surrounding context, including existing and planned building height
  - Transitions, including transitions from higher intensity to lower intensity areas
  - Adjacency to transit, especially mobility hubs Achieving plan goals for community benefits, including affordable housing
  - Furthering urban design goals

Here, the Applicant is requesting three (3) stories to make the proposed development more livable, an effective height increase of 8’ from 2.5 stories/30’ to 3 stories/38’, and the development would be limited to a townhouse design dictated by the Good Neighborhood Agreement (GNA). Regarding the Blueprint height guidance criteria, the following is true:

- A small area plan that labels the subject property as “Mixed Use”, R-2 zoning (Former Chapter 59), encourages development along corridors (like Federal Blvd) and intersections, and the reuse of existing commercial buildings.
- While Blueprint’s guidance shows Residential - Low and calls for 2.5 stories, this is *not* a maximum story limit. Blueprint is a guiding document, not a regulatory document. Further, the existing context provides spurring land uses that are varied, a subject site that is and has served as a commercial property, and there is an existing commercial building/U-MX-2x (two stories) zoned property directly to the south. The Applicant is asking for three (3) stories to make the proposed development more livable, and an overall effective height increase of 8’ from 2.5 stories/30’ to 3 stories/38’ is not detrimental. Further, the development shall be limited to a townhouse design dictated by the good neighborhood agreement (GNA). In this context, the Applicant will also consider



surrounding building heights of what is existing and would exist under the current zoning.

- Regarding transitions: the primary and pre-existing uses along N. Federal Blvd. between W 42<sup>nd</sup> Ave and W 41<sup>st</sup> Ave. are already multi-family and commercial uses.
  - To the west, the subject property adjoins Federal Blvd. (a four-lane arterial with RTD transit stops),
  - To the north, the *only* single-family residence along Federal Blvd. between W 42<sup>nd</sup> Ave and W 41<sup>st</sup> Ave is currently buffered by a 32' wide commercial driveway/surface parking lot with a wood fence/foilage at the property line. And again, it is adjoined by pre-existing multi-family uses to the north and pre-existing commercial uses to the south.
  - To the east, there is a 12' service alleyway with an adjoining 36' off-street parking area (48').
  - To the south, there is another 50' wide commercial driveway/surface parking lot.
  - In short, pre-existing commercial properties and multi-family properties are *already* the predominant land uses along N Federal Blvd. between W42nd Ave. and W 41<sup>st</sup> Ave. And, by rezoning the property to U-RX-3, the city will implement “new development contributes positively to established residential neighborhoods and character and improves the transition between commercial development and adjacent residential neighborhoods” (DZC 5.2.4.1.C). This will be accomplished through setbacks, stepbacks, different heights, and architectural scaling devices required under the U-RX-3 zone district.
- The property is approximately seventy feet from two (2) existing RTD bus stops along Federal Blvd. Once rezoned, the development will be arranged to site building density, uses, heights, and scaling devices to reinforce the interface with the public right-of-way, public transit, and to transition to adjoining areas.
- Increasing the supply of attainable multifamily housing is crucial to alleviate severe housing supply constraints within the City and County of Denver. The proposed rezoning, coupled with zoning code design criteria and a residential GNA, would implement “missing middle” housing and add more housing supply. A residential development under U-RX-3 works because it allows for developable housing with an additional story to that of U-MX-2 or 2x. In other words, it would be extremely difficult, if not impossible, to successfully develop two-story townhomes on this site.
- The DZC states that the Urban Context - Residential Mixed Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and

character and improves the transition between commercial development and adjacent residential neighborhoods.

By rezoning to U-RX-3, the redevelopment of this property would promote safe, active, and pedestrian-scaled, diverse areas using building forms that clearly define and activate the public street edge. The redevelopment would provide much-needed housing on a block filled with commercial and multi-family uses, access to green infrastructure, and existing public transit. The U-RX-3 zone district will allow for some multi-unit districts, but not to such an extent as to detract from the overall image and character of the existing residential neighborhood to the east of Federal Blvd.

### Growth Strategy

The Growth Area Strategy for this area is designated as “All Other Areas of The City”, with 10% of new jobs and 20% of new households anticipated by 2040. It is important to note that this growth strategy does not mean “no growth”, but rather more limited growth than other high-density growth area categories. Therefore, the proposed U-RX-3 district appeals to the “All Other Areas of The City” growth strategy for this area by allowing for, and providing, flexibility for multiple building types (Townhouse, General, Shopfront), uses (Mixed-Use), and allowing for new jobs and a new household to be created.

### Street Types

The subject property is adjacent to N Federal Blvd. Blueprint Denver categorizes N Federal Blvd. as a *Residential Arterial*.

According to Blueprint, arterial streets are designed for the highest amount of through movement and the lowest degree of property access (154). Residential Street Types are, “[p]rimarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings on residential streets usually have a modest setback. The depth of the setback varies by neighborhood context” (160). W. 41st, the nearest cross street to the south, has a Blueprint classification of local, but the functional classification is collector.

This select site is an existing commercial structure that is adjacent to Residential Arterial Street Type (Blueprint)/functional arterial to the west, wide driveways/surface parking to both the north and south, an alleyway to the east, and existing access to transit. Therefore, it should be an appropriate location to introduce additional residential intensity.



### **Blueprint Equity Concepts, Applying Equity Concepts for Small Rezonings:**

In Blueprint Denver Section 3.1; Plan In Action: Applying Blueprint Denver to Rezoning, Blueprint states:

“Equity Concepts: Because the data available to measure the equity concepts is not available at the parcel-level scale, and they are intended to show patterns across large areas, they cannot be effectively applied to small-scale rezonings. Given the above, they are not intended to be part of the evaluation for smaller rezonings. However, they should be used to evaluate large area rezonings”.

While Blueprint Denver acknowledges that Equity Concepts are difficult to apply to small single parcel rezonings such as this one, we believe these are important criteria to address in our city. This rezoning may help this small property contribute to a more equitable Denver in the following ways:

**Equity Concept 1: Expanding Housing and Jobs Diversity** - *providing a better and more inclusive range of housing and employment options in all neighborhoods.*

The current zone district is not inclusive of housing and employment options. Nor does it reflect the pre-existing character or the subject site or the block that it is sited on. In fact, the current zone district is the most restrictive zone district in terms of uses, building forms, and imposes moral geography that is not compatible with equity concepts.

#### **The Importance of Housing and Jobs Diversity**

*It is the desire of many residents and stakeholders for all neighborhoods to accommodate some level of growth and to incorporate a greater variety of housing and employment options. If done right, this can enable more inclusive and diverse communities.” (40)*

The U-RX-3 zone district will allow for, and provide, flexibility for two building types (town home and shop front) and preferred residential uses. This zone district would allow for an equitable distribution of residential uses that will ensure new development contributes positively to established residential neighborhoods, and character, and improves the transition between commercial development and adjacent residential neighborhoods. As such, there is little doubt that rezoning would overcome the constraints and poor fit for the restrictive and protectionist U-SU-C1 zoning, as it will allow the introduction of housing and employment opportunities that do not exist today.

**Equity Concept 2: Improving Access to Opportunity** - creating more equitable access to quality-of-life amenities, health, and quality education.

*The proximity of an amenity (including quality jobs, schools, parks, health care services and healthy food), the affordability of that amenity, and the safety and ease of access to that amenity are important elements of access to opportunity. Equitable access to opportunity strengthens our collective prosperity and improves outcomes for all. In areas with high access to opportunity, it is important to increase the range of affordable housing options so that residents of all income levels can live in these neighborhoods.” (32-35)*

The proposed map amendment will promote public access to open spaces integrated with nature, encourage better connection to transit and adjacent transportation networks, and provide more housing supply with both market-rate housing and an affordable housing component. Note that the applicant is exploring options to provide affordable housing, from a buyout under the Enhanced Housing requirements, to deed-restricting one (1) unit for-sale.

### **Sunnyside Neighborhood Plan (1992)**

The Sunnyside Neighborhood Plan was adopted by the Denver City Council in August of 1992. The goal of this neighborhood plan is to provide action strategies and policy recommendations directed at both the City and its citizens.

The Generalized Land Use Map (15) shows the subject property as “Mixed Use” while the Existing Zoning Map - 1992 (Former Chapter 59) indicates that the property is R-2, which was the predominant zone district at that time and permitted multiple dwelling units, commercial uses, and some limited commercial uses. By rezoning to U-RX-3, the new zone district will implement the recommendations and strategies of the Sunnyside Neighborhood Plan. Specifically:

#### Land Use And Zoning

- **GOAL** Maintain and stabilize the residential character of Sunnyside while encouraging small-scale shops and offices, particularly in the commercial zones along 44th avenue and Tejon street, that will enhance and serve the neighborhood.
  - While permitting a U-RX-3 zone district introduces a residential mixed-use land use, which could potentially encourage small-scale shops and offices, the applicant has a GNA which stipulates that the site will be developed into residential use, thereby stabilizing the residential character and meeting the context of the other multifamily homes on that property.



- LUZ-6 Consider the possibility of rezoning R-2 zones to R-1 where the land use is predominantly single family. This can be a very time-consuming and controversial procedure. An R-1 zone eliminates the possibility of multi-family dwellings
  - The property in question was zoned R-2 under Former Chapter 59 until it was rezoned under the Denver Zoning Code on or after 2010. The R-2 zone district permitted multi-family uses (as evidenced by the existing multi-family units north of the subject site). Had the city or previous owners of the property believed that the R-2 zoning was “predominantly single-family” they could have rezoned it to such a district. However, it never was rezoned to R-1 because the existing context and platting of that block is not “predominately single-family”, nor was it ever the intent under Former Chapter 59 or the Sunnyside Neighborhood Plan to make that block (or the subject site) a single-family block.

#### McDonough Park - Recommendations:

- Provide more facilities so that McDonough Park can become a neighborhood amenity and be used by more residents. Enhance the use of the park which will in time bring more pedestrian activity to the Boulevard Parks (27).
  - By permitting the U-RX-3 zone district, the City and its citizens will be allowing for an equitable distribution of neighborhood scaled development and allow park access to new residents. Which, in turn, will bring more pedestrian activity to the park and Boulevard.

#### Secondary or Ongoing Recommendations

- **ED-4** Work towards a goal of concentrated commercial nodes, rather than scattered site development. The commercial areas on 44th Avenue, Tejon Street, Federal Boulevard, and 38th Avenue should be priorities for city assistance (PCDO, MOED).
  - Here, the subject site contains a preexisting commercial structure along Federal Blvd., which in turn is adjacent to another preexisting commercial structure at the intersection of Federal Blvd. and W. 41st Ave. By rezoning to U-RX-3, the city would be working toward its goal of concentrating greater density along Federal Blvd.

In summary, the Sunnyside plan designated the land use for the subject site as “mixed-use.” The zoning was R-2, a Former Chapter 59 Zone District, which permitted multiple dwelling units, commercial uses, and some limited commercial uses. The plan indicates that the commercial areas are concentrated along main arterials. And, that the zoning

allows pockets of small neighborhoods serving businesses which are important to residents (12).

Staff also pointed out that the plan suggests that “[t]he current business and industrial zones are adequate for Sunnyside and should not be expanded at this time or in the near future” (18). First, while the subject site is a preexisting commercial site, it was zoned R-2, which is not a “industrial zone” (operative language) under former chapter 59. Further, permitting a U-RX-3 would only permit redevelopment of the subject site (which was categorized as Mixed Use with R-2 zoning) and contain development there. It would not “expand” into the existing residential zone district as the existing block already has pre-existing commercial and multi-family uses.

### **Federal Boulevard Corridor Plan (1995)**

Properties between Speer and West 38th Avenue, between West 38th and 44th Avenues, and between West 44th Avenue and 1-70 have a strong residential character with some prominent churches and schools. Small commercial uses occur at many intersections.

In this case, the subject site adjoins Federal Blvd. and is located between West 38th and 44th Avenues. The subject site and the site due south are examples of “small commercial uses occurring at many intersections” which seeks to add to the residential character.

### **Near Northwest Area Plan (projected 2023)**

With an acknowledgement that this plan has yet to be adopted, recognition of outstanding development of its draft content must be made. This progress has largely been made since submitting this application. The current planning guidance being considered includes potential accommodation for mixed uses and additional housing along arterials in the planning area, which includes the subject property. The referenced guidance is being astutely obtained via community surveys, the results of which were not available as of this writing.

### **Uniformity of District Regulations and Restrictions (DZC 12.4.10.7.B.)**

Code language states that: *“The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.”*

The Urban Residential Mixed Use zone districts are “intended to promote safe, active, and pedestrian scaled, diverse areas through the use of building forms that clearly

define and activate the public realm” (5.2-4). Therefore, future development of the Property will result in uniformity of U-RX district regulations and restrictions.

**Public Health, Safety and General Welfare (DZC 12.4.10.7.C.)**

This code language states: *“The proposed official map amendment furthers the public health, safety, and general welfare of the City.”*

The proposed map amendment will further the public health, safety, and general welfare of the City by facilitating the improvement and redevelopment of the subject property as desired above by the implementation of the City’s adopted plans. The proposed map amendment will promote public access to open spaces integrated with nature, encourage better connection to transit and adjacent transportation networks, provide more housing supply with both market-rate housing and an affordable housing component, and promote community connection through the implementation of a mixed-use zone district that links multiple aspects of the surrounding Sunnyside neighborhood and enhances security and safety by providing high quality, active, and engaging public realm and promoting “eyes on the street” through the presence of residents for more hours of the day and night. By permitting the U-RX-3 zone district, the rezoning will enhance equity by increasing housing supply at an infill development site, removing a zone district that is protectionist (single-family zoning), that is not compatible with the preexisting uses, previous zoning designation, or the current neighborhood plan.



## Exhibit C

### Additional Criteria/Description of Justifying Circumstances and Neighborhood Context (DZC 12.4.10.8.)

*DZC 12.4.10.8.A.4.: Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest.*

- The subject site and surrounding properties are subject to unique platting bounded by Federal, 41st, Clay, and 44th Ave, which create 9 “double alley” blocks.
- The City rezoned the property from R-2 (Forer Chapter 59) to U-SU-C1 (Denver Zoning Code), a single unit zone district. This is despite the existing commercial office use, adjacent land uses, adjacent zoning, and platting configuration. Since that time, traffic volumes have increased significantly and the subject site. And, the existing commercial and multifamily sites have not been redeveloped to allowable uses under U-SU-C1. Figure 1 shown below demonstrates the unique platting pattern in the area:

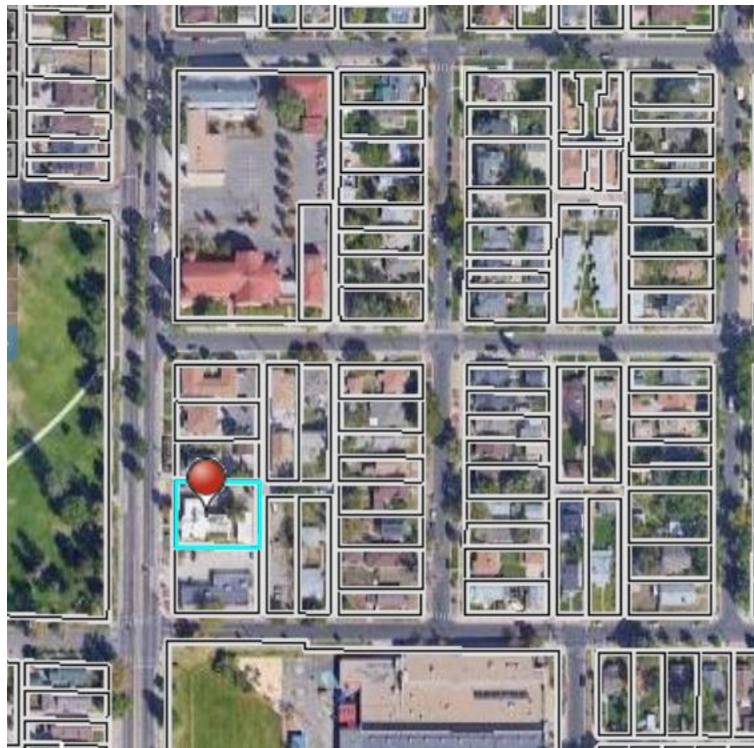


Figure 1: Unique Platting Pattern, Commercial and Multi-Residential uses, and the Subject Property (Outlined in Blue)

In addition, it is appropriate to consider current planning work on the Near Northwest Area Plan. This is a Neighborhood Planning Initiative (NPI) in progress. The Near Northwest Planning Area is made up of the following neighborhoods - Chaffee Park, Sunnyside, Highland, and Jefferson Park. As mentioned previously, the subject site is in the Sunnyside Neighborhood. Presently, city staff is working on planning concepts, draft recommendations, and alternatives which are being reviewed with the community.

For the subject site and Federal Boulevard, staff and the community are discussing how to best direct growth within mixed-use/commercial areas and have included a “missing middle” housing conversation, generally contemplating housing near Federal Boulevard and West 38<sup>th</sup> Avenue. Essentially, the city is asking how these uses and densities should be integrated and other priorities that need to be considered when allowing them. While there is no formal draft plan language yet, city staff is hoping to have more details to share in the form of a draft plan early spring of next year (i.e., 2023). The hope for the subject site is that the community and city will allow for the preexisting commercial use to redevelop into a mix of uses (including “missing middle” attached residential) that can improve the streetscape and identities on a busy auto-centric arterial roadway.

*DZC 12.4.10.8.B: The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.*

- The subject properties are the Urban Neighborhood Context. This context actively promotes small multi-unit residential and low-intensity mixed-use buildings that are typically embedded in single-unit and two-unit residential areas. The current exclusionary and incompatible zone district of U-SU-C1 is no longer supported by the current Urban neighborhood context. As tastes and expectations have changed, the Sunnyside Neighborhood is now supported by residents who look to convenience with their employment, amenities, and services. For these reasons, the current zone districts can also be considered antiquated. As such, the introduction of the U-RX-3 zone district, its uses, and building forms are more desired by the property owners and neighbors. The desire and need for more residential and employment options in the area is growing and a U-RX-3 zone district will facilitate these community wants and needs while ensuring new development contributes positively to established residential neighborhoods and character.

- The Urban Neighborhood Context and Residential Mixed-Use Districts are primarily characterized in the Denver Zoning Code’s general-purpose, which states that, *“Compared to the Mixed Use districts, the Residential Mixed Use districts are primarily intended to accommodate residential uses. Commercial uses are secondary to the primary residential use of the district, and provide neighborhood-scaled shops and offices for residents to conveniently access goods and services within walking distance. Buildings in a Residential Mixed Use district can have commercial uses, but upper stories are reserved exclusively for housing or lodging accommodation uses. A building can be solely residential or solely commercial; however, buildings containing only commercial uses are limited in total gross floor area to 10,000 square feet consistent with the district purpose.”* (DZC 5.2.4.1.D).
- Today, the neighborhood land use surrounding the subject property is a mix of commercial, single unit, multi-unit, parking, park, and institutional. The current use of the subject property is commercial. The proposed U-RX-3 zone district fits with the existing context and character and will help transform the subject property. It will appeal to the characteristics of an Urban Neighborhood Context which promotes small multi-unit residential and low-intensity mixed-use buildings that are typically embedded in single-unit and two-unit residential areas. By replacing the current zone district with U-RX-3, the city will promote safe, active, and pedestrian-scaled, diverse areas using building forms that clearly define and activate the public street edge, while improving access to jobs, housing, and services.

In sum, the proposed official map amendment U-RX-3 is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.

## **Exhibit D**

### **Community Support and Outreach**

Originally, this request was discussed in a pre-application meeting with Edson Ibanez of Community Planning and Development on March 22, 2021, and August 30, 2021. Since the meeting, we have discussed this pending application with Council District 1’s representative and reached out to At-Large councilpersons without formal responses as of this writing. We have also communicated with:

- BRUN RNO



- Harkness Heights RNO
- Sunnyside United Neighbors Inc (SUNI) RNO

Harkness Heights did not respond to our outreach, despite several emails. BRUN has formally declined their interest due to being outside of their subject boundaries and deferred to SUNI.

We have also reached out to the adjacent property owner to the north, initially discussing screening of any development from their parcel, and gravitating to some interest in a transaction where the 4120 Federal rezoning applicants would purchase the land from the owner of 4138 Federal. This discussion included a tour of the home with the owner and applicant on February 18, 2022, followed by a formal purchase offer and counteroffer. This written communication revealed a large difference in value perception and included reference to possible support for this rezoning action. While this effort ultimately failed, the applicant has maintained its original goal of working with the property owner to the north on adding additional screening measures. The history and intent of the provision of screening and buffering was committed to within the Good Neighbor Agreement described below. This applicant commitment consists of installation of a 6-inch wide wall built to the maximum height allowed by zoning, along the 2 properties' shared boundary. The applicant will also be reaching out to the property owner to the south for a letter of support.

Concurrently, significant discussions with SUNI were held, resulting in the execution, and recording of a Good Neighbor Agreement (GNA). A copy is provided herein. Discussions with SUNI on the GNA were preceded by certified mail notifications of a meeting on December 15, 2021. Notification of the meeting was sent certified mail to all property owners within 400 feet of the property, as documented in the GNA. Numerous subsequent meetings, calls, and emails enabled the completion and finalization of the GNA. The key aspects of the GNA include:

1. Acknowledgement of the commercial history of the property, and recognition that the existing single-family zoning of the site fails to recognize the mixed-use character of Federal Boulevard.
2. SUNI recognition that greater density and 3-story height could work on the property, subject to review of the development and stipulated design features. A plan for 9 townhome units was developed and accepted, with specific requirements for materials, architectural style, orientation, and adjacent neighbor screening.
3. Understanding that SUNI would support the rezoning, that any changes to any development plan would be brought back to the SUNI for review, and provision for enforcement.



In sum, the applicant has worked with the neighbors to the maximum possible extent, including an effort to buy additional land. While every aspect of the outreach has not been successful, the applicant and SUNI are proud of their efforts to reach written agreement via the GNA attached hereto. Because the GNA contemplates zoning to U-MX-3, additional coordination with SUNI will address rezoning to U-RX-3.



**Exhibit E**  
Letter of Authorization for Steve Ferris and the Real Estate  
Garage, LLC to act as Representative



4120 FEDERAL LLC  
4120 FEDERAL BLVD  
DENVER, CO 80211-1638

January 12, 2021

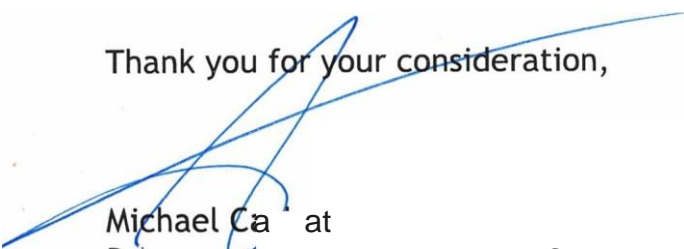
As Submitted Within Rezoning Application

**RE: Authorization to Represent Rezoning Application Covering 4120 Federal Blvd, Denver, CO**

Interested Parties with the City of Denver:

We hereby authorize Steve Ferris and his firm, the Real Estate Garage, to represent 4120 Federal, LLC within the rezoning application for our property addressed 4120 Federal Boulevard.

Thank you for your consideration,



Michael Ca at  
Representing 4120 Federal LLC



## Exhibit F

### Proof of Ownership and Agency

**WARRANTY DEED**

**State Doc Fee: \$107.50**

**THIS DEED**, made this 27th day of August, 2021,  
between **4120 Federal Boulevard Trust, u/t/d, dated March 14, 2012**

of the County of Denver and State of Colorado,  
grantor(s), and **4120 Federal, LLC, a Colorado Limited Liability Company**

whose legal address is 4120 Federal Boulevard, Denver, CO 80211

of the County of Denver and State of Colorado, grantees:

**WITNESS**, that the grantor(s), for and in consideration of the sum of **One Million Seventy Five Thousand Dollars and No Cents (\$1,075,000.00)**, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the grantees, his heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Denver and State of Colorado, described as follows:

**LOTS 8, 9, 10 AND 11, BLOCK 18, BOULEVARD HEIGHTS SUBDIVISION SECOND FILING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.**

also known by street and number as: **4120 Federal Boulevard, Denver, CO 80211**

**TOGETHER** with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

**TO HAVE AND TO HOLD** the said premises above bargained and described, with the appurtenances, unto the grantees, their heirs and assigns forever. The grantor(s), for himself, his heirs, and personal representatives, does covenant, grant, bargain and agree to and with the grantees, his heirs and assigns, that of the time of the ensembling and delivery of these presents, he is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except **general taxes for the current year and subsequent years, and except easements, covenants, conditions, restrictions, reservations, and rights of way of record, if any, subject to statutory exceptions as defined in CRS 38-30-113, revised.**

The grantor(s) shall and will **WARRANT AND FOREVER DEFEND** the above-bargained premises in the quiet and peaceable possession of the grantee(s), his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.

The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**IN WITNESS WHEREOF**, the granter has executed this deed on the date set forth above.

**4120 Federal Boulevard Trust, u/t/d, dated March 14, 2012**

Krishna Kumar Sinha  
**Krishna Kumar Sinha as Trustee**

STATE OF COLOfDO }

coUNTY OF ILLIZ. QAO, V1111

The foregoing instrument was acknowledged before me this 27th day of August, 2021, by **Krishna Kumar Sinha as Trustee of 4120 Federal Boulevard Trust, u/t/d, dated March 14, 2012.**

My Commission expires:

Witness my hand and official seal.

*(Signature)*

Notary Public

BERNADETTE MAY SCHOLANDER  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 19924017587  
MY COMMISSION EXPIRES: 11/11/2025

**OPERATING AGREEMENT  
OF  
4120 Federal, LLC  
A COLORADO LIMITED LIABILITY COMPANY  
8/4/2021  
Revised 8/23/21**



## **OPERATING AGREEMENT**

This Operating Agreement is effective as of this 4th day of August, 2021, by the Members of 4120 Federal, LLC, a Colorado limited liability company whose signatures appear on the signature page hereto, and supersedes all other understandings with respect thereto.

### **ARTICLE 1** **DEFINITIONS**

The following terms used in this Operating Agreement shall have the following meanings (unless otherwise expressly provided herein);

1.1 “Assignee” shall mean the owner of an Economic Interest in the Company who is not a Member.

1.2 “Capital Contribution” shall mean any contribution to the capital of the Company in cash or property by a Member or other holder of an Economic Interest whenever made. “Initial Capital Contribution” shall mean the initial contribution of any Member to the capital of the Company pursuant to this Operating Agreement.

1.3 “Colorado Act” shall mean the Colorado Limited Liability Company Act at §§ 7-80-101, *et seq.*, as amended.

1.4 “Distributable Cash” means all cash, revenues and funds received by the Company, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums to be paid to lenders; (ii) all cash expenditures incurred incident to the normal operation of the business.

1.5 “Economic Interest” shall mean a Member’s or Assignee’s share of the Company’s Net Profits and Net Losses, capital and distributions of the Company’s assets pursuant to this Operating Agreement and the Colorado Act.

1.6 “Member” shall mean each of the parties who executes this Operating Agreement as a Member either at the effective date of this Operating Agreement or thereafter.

1.7 “Majority Member” shall mean the Member with the largest Membership Interest.

1.8 “Membership Interest” shall mean a Member’s entire interest in the Company including the Units such Member owns, the Economic Interest associated with such Units, the right to Vote associated with such Units, and such other rights and privileges that the Member may enjoy by being a Member.

1.9 “Net Profits and Net Losses” shall mean for each taxable year of the Company an amount equal to the Company’s net taxable income or loss for such year as determined for federal income tax purposes (including separately stated items) in accordance with the accounting method and rules used by the Company in accordance with applicable Federal tax laws.

1.10 “Property” shall mean any real property owned by the Company, commonly known as 4120 Federal. Denver CO, 80212

1.11 “Vote” includes not only casting a vote at a meeting but also the receipt of sufficient written consents (by facsimile, email, courier, or otherwise) to adopt a measure were it presented at meeting.

## **ARTICLE 2** **FORMATION OF COMPANY**

2.1 Formation. Michael Cachat organized this Colorado limited liability company on August 3rd, 2021 by delivering Articles of Organization to the Colorado Secretary of State in accordance with and pursuant to the Colorado Act.

2.2 Name. The name of the Company is 4120 Federal, LLC (the “Company”).

2.3 Principal Place of Business. The principal place of Business of the Company within the State of Colorado is 7000 W. 14<sup>th</sup> Ave, Lakewood, CO 80214. The Company may locate its places of Business and registered office at any other place or places as the Members may from time-to-time deem advisable.

2.4 Term. The term of the Company shall be perpetual, unless the Company is earlier dissolved in accordance with either the provisions of this Operating Agreement or the Colorado Act.

## **ARTICLE 3** **BUSINESS OF COMPANY**

3.1 Purpose of the Business of the Company. The purpose of the Company is to engage in any lawful activity for which a limited liability company may be organized under the Colorado Act. Notwithstanding the foregoing, without the written and unanimous consent of all Members, the Company shall not engage in any business other than the following:

- a. The Company shall engage in the business of acquiring, owning, operating, leasing, improving and selling Property. The Company shall have the authority to do all things necessary or convenient to accomplish its purpose and operate its business as described in this Article 3.

## **ARTICLE 4** **ACCOUNTING AND RECORDS**

4.1 Records to be Maintained. The Company shall maintain the following records at its Principal Place of Business:

- a. A current list of the full name and last known mailing address of each current and former Manager and Member;

- b. A copy of the Articles of Organization and all amendments and restatements thereto, together with the executed copies of any powers of attorney pursuant to which any Articles, amendments or restatements have been executed;
- c. Copies of the Company's federal, foreign, state and local income tax returns and reports, if any, for the three most recent years;
- d. Copies of the current and prior Operating Agreement, if any, including all amendments thereto;
- e. Any financial statements of the Company for the three most recent years;
- f. A current statement of the capital contributions made by each Member specifying the amount of cash and the agreed value of other property received by the Company and the agreed value of services as a capital contribution that each Member has rendered to the Company;
- g. A statement of the cash, property and services that each Member has agreed to contribute or render to the Company in the future, and of the principal balance outstanding under any promissory note payable in respect of a capital contribution, and of the amount of the capital contribution with which each such Member shall be credited upon receipt of such cash, property or services, or any part thereof, by the Company;
- h. A statement of the times at which, or the events on the happening of which, any additional contributions to or withdrawals from capital to which the Members have agreed are to occur; and
- i. Documents or any other writings required to be made available to Members by the Articles or Operating Agreement.

**ARTICLE 5**  
**NAMES AND CAPITAL CONTRIBUTION OF THE MEMBERS**

5.1 Members. The names and addresses of the Members are as set forth in **Exhibit A** which may be amended from time-to-time.

5.2 Initial Capital Contributions. Each Member has made an Initial Capital Contribution and owns a Membership Interest in the Company as reflected on Exhibit A.

5.3 Additional Capital Contributions. No Member shall be obligated to make any additional Capital Contributions to the Company's capital.

5.4 Time for Making Contributions. The Capital Contributions of the Members shall be made on or before the effective date of this Operating Agreement.

5.5 New Members. The Company may amend this Operating Agreement to including new Members upon the written and unanimous Vote of all Members.

**ARTICLE 6**  
**MANAGEMENT**

6.1 Management. As provided in this Operating Agreement, management of the business and affairs of the Company is vested in the Members.

6.2 Action by the Company. The Company shall act only by or under the authority of its Members. The Majority Member, if any, shall have the authority and discretion to manage and control the day-to-day business, affairs and properties of the Company, to make decisions regarding those matters and to perform any and all acts or activities customary or incident to the management of the Company's business.

6.3 Limitations on Authority. Notwithstanding any other provision of this Operating Agreement or Section 7-80-405 of the Colorado Act, no Member shall cause or commit the Company to do any of the following (whether or not for the purposes of the business of the Company) without the written and unanimous Vote of all Members:

- a. Sell or otherwise transfer all, or substantially all, of its assets as part of a single transaction or plan; or
- b. Mortgage, pledge, or grant a security interest in any property of the Company not in the ordinary course of business; or
- c. Enter into any transaction with a third-party where the amount to be paid to or to be received from the third-party is greater than \$20,000.00 per year; or
- d. Commence a voluntary case under bankruptcy, insolvency or other similar laws or consent to the entry of any order for relief in an involuntary case under bankruptcy, insolvency or other similar laws; or
- e. Make any material modifications, changes or amendments to this Operating Agreement.

6.4 Signing. Any member shall have the power to execute a contract or sign on the behalf of, and bind 4120 Federal, LLC.

**ARTICLE 7**  
**ALLOCATIONS, INCOME TAX, DISTRIBUTIONS, AND REPORTS**

7.1 Allocations of Net Profits and Net Losses. The Net Profits and Net Losses of the Company and each other allocable item included in the Company's tax return for each fiscal year will be allocated

between each Member or Assignee in accordance with the percentage Economic Interest of such holder.

7.2 Distributions.

- a. All distributions of Distributable Cash shall be made to the Members and Assignees in accordance with such person's percentage Economic Interest.
- b. The Company shall make such distributions of Distributable Cash at such time or times as the Members determine in their sole discretion. To the extent the Members can do so without materially adversely affecting the Company, the Members will cause the Company to make distributions to Members and Assignees to compensate them for taxes they may have to pay as a result of any allocations made to the Members and Assignees.

7.3 Accounting Principles. The Net Profits and Net Losses of the Company and other allocable items shall be determined in accordance with accounting principles applied on a consistent basis using the accrual method of accounting.

7.4 Accounting Period. The Company's fiscal year will be complete on the last day of December of each year.

7.5 Inspection of Books and Records. Upon reasonable notice to the Company, the Members shall have the right to inspect the Company's books and records.

**ARTICLE 8**  
**DISSOLUTION AND TERMINATION**

8.1 Dissolution.

- a. The Company shall be dissolved upon the written and unanimous Vote of all Members; or
- b. upon there being no Members unless, within 91 days after the termination of the membership of the last Member, the Assignees of the last Member holding at least a majority interest in the Company at the time of his or her withdrawal, resignation, or death, have admitted at least one person as a Member; and
- c. as otherwise required by law.

8.2 Winding Up, Liquidating and Distribution of Assets. Upon dissolution, the Company shall prepare an accounting of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Members may continue to conduct the business in a manner to maximize the liquidation proceeds of the business to the Company, and shall immediately proceed to wind up the Company's affairs. Upon dissolution the assets of the Company shall be liquidated as promptly as practicable and, after satisfying the Company's liabilities, shall distribute the remaining assets to the Members in accordance with their percentage Economic Interests.



**ARTICLE 9**  
**BUY-SELL PROVISIONS**

9.1 Transfers.

- a. Except as stated otherwise stated in this Operating Agreement, should any Member or Assignee attempt to sell, transfer, assign, or in any way alienate all or any portion of his Membership Interest or Economic Interest by charging order against the Member or Assignee, or otherwise to a person not then a Member without the prior written and unanimous consent of the Members (whether such transfer is voluntary or involuntary, by operation of law, by court order or otherwise) during the period ending five (5) years after the effective date this Operating Agreement, such attempted sale, transfer assignment, or other form of alienation shall be deemed to be void *ab initio*.
  
- b. Notwithstanding Section 9.1(a), if a Member or Assignee, or the estate of a Member or Assignee (the "Selling Owner") wishes to dispose of his or her Membership Interest or Economic Interest or any portion thereof through a voluntary sale or other disposition, including transfer by will, laws of descent and distribution or *inter vivos*,  
:
  - i. The Selling Owner shall first notify all Members of the Company of the Selling Owner's intent to sell or transfer and of the identities of any potential transferees, the proposed price and other terms of sale; and
  
  - ii. The other Members shall have a right of first refusal (but not the obligation) to purchase the Selling Owners interest or any portion thereof at the buy-out price which shall be calculated as unanimously agreed among the Members and the Selling Owner or, if the parties are unable to agree, by an independent third-party appraiser or, if the Members are unable to agree on an independent third-party appraiser, by taking the average of the price calculated by independent third-party appraisers hired by each of the Members; and
  
  - iii. If the other Members do not purchase the Selling Owner's interest and the Selling Owner transfers his or her interest by will, laws of descent and distribution or *inter vivos* to the Selling Owner's descendants at law (the "Descendants") then the Descendants will receive the Selling Owner's interest and will be considered to be an "Assignee" unless and until each Descendant executes and returns to the Company this Operating Agreement (as it may be amended in the future) at which point such person will be deemed admitted as a Member pursuant to this Operating Agreement. This right only applies to the transferee receiving its interest directly from a Member and does not apply to subsequent transfers.

- iv. If the other Members do not purchase the Selling Owner's interest and the interest does not pass to Descendants pursuant to Section 8.1(b)(iii) then, upon written and unanimous Vote of the remaining Members, the Company may choose to allow a non-Member to buy the shares thereby replacing the Selling Owner.

## **ARTICLE 10** **DISPUTE RESOLUTION**

10.1 Disputes. In the event a dispute of any kind arises out of, in connection with, or relating to this Operating Agreement or the operations of the Company hereunder (including any dispute concerning its construction, performance, or breach), the parties to the dispute agree to attend one session of mediation before filing suit.

10.2 Jurisdiction. If the parties are unable to resolve their dispute via mediation, the parties agree that (a) the forum for any action shall be the Denver County, Colorado District Court; and (b) the parties irrevocably submit to the jurisdiction of the Denver County, Colorado District Court and waive any objection they may have to either the jurisdiction or venue.

10.3 Governing Law. This Operating Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado. Any conflict or apparent conflict between this Operating Agreement and the Colorado Act will be resolved in favor of this Operating Agreement except as otherwise required by the Colorado Act.

10.4 Attorney Fees. In any action or proceeding brought to enforce any provision of this Operating Agreement or the Colorado Act, or where any provision of this Operating Agreement or the Colorado Act is validly asserted as a defense, the successful party is entitled to recover reasonable attorneys' fees in addition to any other available remedy.

## **ARTICLE 11** **GENERAL PROVISIONS**

11.1 Entire Agreement. This Operating Agreement contains the entire agreement and understanding of the parties and persons who may in the future become Members or Assignees with respect to its subject matter, and it supersedes all prior written and oral agreements.

11.2 Counterparts. This Operating Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. At least one original copy of this agreement will be placed in the Company records. A photocopy of this Operating Agreement, as signed, will be delivered to each Member and each such photocopy will be deemed to be an original document.

11.3 Legal Representation. Each person executing this Operating Agreement acknowledges and agrees that he or she has been advised to retain independent legal, tax, and accounting advice of their own choosing and has been given reasonable time and opportunity to obtain such counsel.

**CERTIFICATE**

The undersigned hereby agree, acknowledge and certify that the foregoing Operating Agreement constitutes the Operating Agreement of the Company adopted by the Members of the Company.

4120 Federal, LLC MEMBERS:

DocuSigned by:  
*Mike Cachat*

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Michael Cachat (Mike)  
3715 Lowell Blvd  
Denver, CO 80211

DocuSigned by:  
*Patrick Flanagan*

AFB9942E199745B...

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Patrick Flanagan (Pat)  
6494 S. Newport Ct  
Centennial, CO 80111

DocuSigned by:  
*Kristan Miller*

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Kristan Miller (Kris)  
3710 Quitman  
Denver, CO 80212

DocuSigned by:  
*Theodore Aerni*

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Theodore Aerni (Ted)  
20 Beech Rd  
Islip, NY 11751



EXHIBIT A

Ownerships Interest and Capital Contributions:

August 4, 2021

- Ted will make a capital contribution of \$200,000 for a 10% ownership share in 4120 Federal, LLC.
- Pat will make a capital contribution \$16,700 for a 16.70% ownership share in 4120 Federal, LLC.
- Mike will make a capital contribution \$16,700 for a 16.70% ownership share in 4120 Federal, LLC.
- Kris will make a capital contribution \$56,600 for a 56.60% ownership share in 4120 Federal, LLC.
- Mike, Kris and Pat will make additional contirbutions as needed to cover all holding costs at 4120 Federal.
- Mike, Kris and Pat will manage all design, permitting and construction of the property.
- Mike, Kris and Pat will secure and guarentee any loans needed for the purchase, design, permitting and construction of the property.
- Upon the completion of the redeveopemnt and sale of the property all capital contributions will be paid back to the members based on the amount of their contributions. All remaining money will be will be distributed to the members based on their ownership share in the company.
- All members agree that the minimum timeline for the redevelopment and sale of the property is 3 years.
- Pat Flanagan, Kris Miller and Mike Cachat are signatories for 4120 Federal, LLC.

4120 Federal, LLC MEMBERS:

DocuSigned by:

*Mike Cachat*

17AE7A20196D4C8...

Michael Cachat (Mike)

DocuSigned by:

*Patrick Flanagan*

AFD9342E133745B...

Patrick Flanagan (Pat)

DocuSigned by:

*Kristan Miller*

DFDCAD96C99D43A...

Kristan Miller (Kris)

DocuSigned by:

*Theodore Aerni*

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Theodore Aerni (Ted)



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