

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (this "MOU") is entered into as of this 13th day of January, 2017 (the "Effective Date"), between 4211 Inca Street, LLC, a Colorado limited liability company ("Applicant") or assigns, Sunnyside United Neighbors, Inc., a Colorado nonprofit corporation ("SUNI"), (the Applicant, and SUNI, the "Parties").

RECITALS

A. Applicant holds a contract dated 4/29/2016 to purchase the real property and improvements located in the Sunnyside neighborhood at 4211 Inca St, Denver, Colorado 80211 (the "Property") from Owner J B Concrete & Construction. Property currently is located within the boundaries of the 41st & Fox Station Area Plan as determined by City of Denver Community Planning and Development. Located within the TOD (Transit Oriented Development) area classified as GU-IN (General Urban-Innovation), which sets expectations for development to include Multi-family residential, grid and alley block pattern, main streets, corner stores, and multi-modal. DZC allows reduced vehicle parking requirements for C-RX-8 zone districts and TOD supports allowing .75 spaces per unit.

B. The Property currently is zoned I-A (Light Industrial) and is located in the UO-2 (Billboard) use overlay district. The I-A/UO-2 zone district is an industrial zone district that, with limited exceptions, does not permit new residential uses to be established in order to promote a stable employment base for the city.

C. Applicant has submitted an application to City of Denver to rezone the Property to the C-RX-8 (Residential Mixed Use 8) zone district, which applies to residentially-dominated areas served primarily by collector or arterial streets where a building scale of 2 to 8 stories is desired. The rezoning application request is in conformance with the 41st & Fox Station Area Plan recommendation. In order to promote activity on the street and sidewalk, enhance safety, and encourage a vibrant environment, the Denver Zoning Code ("DZC") General Purpose requires street level active uses in C-MX/MS zone districts according to Section 7.3.5.4 of the DZC. C-RX-8 zone districts do not carry the same Street Level Active Use Requirement, to include active, pedestrian-scaled, diverse areas that clearly define and activate the public realm with neighborhood-scaled shops and offices.

D. In accordance with the foregoing recitals, Applicant desires to provide assurance to SUNI that it will in good faith continue the City and County of Denver's process to rezone the Property to the C-RX-8 zone district. SUNI will actively support Applicant's application to rezone the Property to the C-RX-8 zone district.

In consideration of the foregoing premises and agreements of each of the Parties hereto, to be kept and performed by each of them, IT IS AGREED:

1. Applicant agrees it has submitted or caused to be submitted an application to rezone the Property to the C-RX-8 zone district and will use good faith efforts to obtain the City and County of Denver's (the "City") approval thereof.

2. If the rezoning application is finally approved by City Council, Applicant agrees to provide a minimum of 1 (ONE) vehicle parking space per residential unit constructed, which is in excess of TOD requirements.

3. If the rezoning application is finally approved by City Council, Applicant agrees to maintain general consistency with the renderings and plans presented to SUNI PCD (Planning and Community Development) Committee and SUNI East Sunnyside Plan sub-committee, to include the majority of Inca Street frontage with a minimum of 2,000 sqft of the ground floor activated as commercial, office, and/or retail space to satisfy the DZC's street level active use requirements in Section 7.3.5.4 (typically required of C-MX/MS zone uses), with one or more of the following Specific Use Types listed in the DZC use table for the C-RX-8 zone district: Specific Use Types listed under the Commercial Sales, Services, & Repair Primary Use Classification; a Community Center; a Day Care Center; a Museum; Eating & Drinking Establishments; Dental / Medical Office or Clinic or Other office; Food Sales or Market; and Specific Use Types listed under Accessory to Primary Nonresidential Uses Use Classification, except that *Marijuana Facilities shall not be allowed on the Property*. Upon final approval by the City Council of the rezoning of the Property to C-RX-8, Applicant will record or cause to be recorded against the Property a restrictive covenant in the form attached hereto as Exhibit A (the "Covenant"). Applicant shall be under no obligation to record the Covenant unless and until the rezoning of the Property to C-RX-8 is finally approved and shall be executed upon Applicant's closing on Property.

4. SUNI agrees that it will support Applicant's application to rezone the Property to the C-RX-8 zone district and, in furtherance thereof, will provide written comments in support of the same to the Denver Planning Board and City Council. In addition, SUNI agrees that a representative of its organization will attend the public hearings before the Denver Planning Board and City Council and will offer public testimony at such hearings in support of Applicant's rezoning application.

5. This MOU shall not be recorded in the real property records of the City and County of Denver.

6. This MOU shall remain in effect until the earlier of: (i) final approval or final denial of the City Council of the Applicant's application to rezone the Property to C-RX-8, (ii) termination of this MOU by written agreement of the Parties, (iii) the date that is one-hundred and fifty (150) days after the date that CPD determines the rezoning application is "complete" (as provided in the DZC), except that if Applicant determines in its sole discretion to proceed with the rezoning application process beyond said 150th day. The Applicant retains the option in its sole discretion to terminate the MOU anytime beyond said 150th day, (iv) an unfavorable recommendation or recommendation for denial from the CPD Staff member, (v) an unfavorable recommendation or



recommendation for denial from the Planning Board . This MOU shall remain in effect until the earlier of (i), (ii), (iii), (iv) or (v) of this Section. For purposes of this MOU, "final denial" and "final approval" shall mean, the later of: (y) expiration of any and all appeal and referendum periods, or (z) the conclusion, to the satisfaction of Applicant, in its sole and absolute discretion, of any and all appeals and referenda. For avoidance of doubt, Applicant is under no obligation to seek judicial review of a City Council decision denying the application to rezone the Property. Upon and at any time after the termination of this MOU, Applicant may request that SUNI execute and deliver a written termination and release of this MOU. SUNI shall, within fifteen (15) days of such written request, execute and deliver to Applicant such written termination.

7. This MOU may only be amended by written instrument signed by all of the Parties.

8. This MOU shall be construed and governed under the laws of the State of Colorado.

9. This MOU is solely for the benefit of the Parties hereto and no other person or entity is entitled to rely upon or benefit from this MOU or any term hereof.

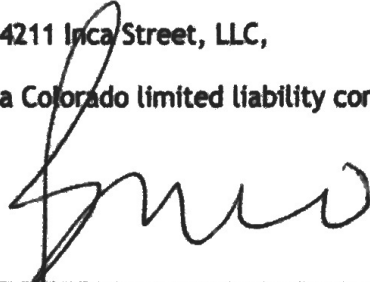
10. This MOU may be executed in one or more counterparts, which taken together shall be deemed one original.

[SIGNATURE PAGES FOLLOW]



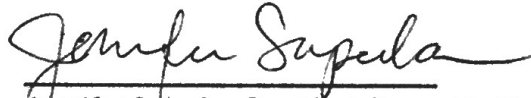
IN WITNESS WHEREOF, the Parties have executed this MOU as of the Effective Date set forth above.

4211 Inca Street, LLC,
a Colorado limited liability company



Billy Wang, Manager

Sunnyside United Neighbors,
a Colorado non-profit corporation



Jennifer Superka, President Sunnyside United Neighbors, Inc



**EXHIBIT A TO MOU
FORM OF RESTRICTIVE COVENANT**

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to consist of a few loops and a long horizontal stroke.