

AFTER RECORDING, RETURN TO:

Sunnyside United Neighbors, Inc (SUNI)
c/o Jennifer Superka
PO Box 11764 Denver, CO 80211

DECLARATION OF RESTRICTIVE COVENANT
(Street Level Active Uses and Parking)

This Declaration of Restrictive Covenant (this "Covenant"), dated _____, _____, 201__ (the "Effective Date"), is made by _____, a _____ ("Declarant").

RECITALS

A. Declarant is the Owner of the real property and improvements legally described in **Exhibit A** attached hereto (the "Property") which Declarant desires to develop with a mix of residential and other street level active uses.

B. The Property currently is zoned I-A (Light Industrial).

C. In order to promote activity on the street and sidewalk, enhance safety, and encourage a vibrant environment, Section 7.4.4 of the Denver Zoning Code, effective June 25, 2010 and as amended through June 24, 2016 ("DZC"), defines street level active uses (the "Street Level Active Use Requirement").

D. Pursuant to a Memorandum of Understanding, dated January 13, 2017, between Declarant, Sunnyside United Neighbors, Inc, a Colorado nonprofit corporation ("SUNI"), Declarant agreed to develop ground level retail in accordance with Street Level Active Use Requirements with a more limited range of uses than those allowed under the DZC.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant covenants as follows:

- Restriction. Owner agrees to satisfy the Street Level Active Use Requirement consistent with Section 7.3.5.4 of the DZC typically required of C-MX/MS zone districts, 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*. The DZC use table for the C-RX-8 zone district is attached hereto for reference as **Exhibit B**. **The Section 7.3.5.4 of the DZC is attached hereto**

for reference as Exhibit C. If the DZC use table is amended to allow additional uses under the Commercial Sales, Services, & Repair Primary Use Classification, Owner may satisfy the Street Level Active Use Requirement with such uses. **Owner agrees 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). Owner agrees to provide a minimum of 1 (ONE) vehicle parking space per residential unit constructed.**

- Beneficiary; Runs with the Land. The restriction contained in this Covenant is for the benefit of SUNI, and shall burden and run with the land, and shall be binding upon all successive owners and occupants of the land. No other person or entity, including, without limitation, individual members of SUNI, shall be a beneficiary of any benefits granted hereunder.

- Termination. This Covenant shall automatically terminate and be of no further force and effect: (i) on the date that is ten (10) years after the Effective Date; (ii) upon, the dissolution of SUNI or de-listing of SUNI as a registered neighborhood organization (“RNO”) with the City and County of Denver (the “City”); or (iii) if the street level floor area of the Property has sat vacant for six (6) continuous months despite Declarant’s good faith efforts to lease or sell the Property to a tenant or owner willing to satisfy the Street Level Active Use Requirement in the manner required by this Covenant. At any time following termination of this Covenant, Declarant may request that SUNI execute and deliver a written termination and release of this Covenant in recordable form. SUNI shall, within fifteen (15) days of such request, execute and deliver such written termination and release to Declarant. Additionally, in the event of termination of this Covenant pursuant to provision (ii) of this paragraph 3, Declarant may record a written termination and release of this Covenant. This Covenant may otherwise be terminated by written instrument signed by Declarant and SUNI or, if SUNI is dissolved or if SUNI is de-listed as a RNO of the City, by Declarant, as applicable.

- Amendment. This Covenant may only be amended by written instrument signed by Declarant, SUNI, or, if SUNI is dissolved or de-listed as a RNO of the City, by Declarant.

- Default. For the avoidance of doubt, Declarant shall not be in default of this Covenant during periods of time when some or all of the street level floor area of the Property is vacant or during periods of construction, repair, renovation, development, redevelopment and the like, provided that Declarant maintains good faith efforts to cause the Property to be occupied by street level active uses in accordance with this Covenant.

- Governing Law. This Covenant shall be governed and construed and enforced in accordance with the laws of the State of Colorado.

Attachments:

EXHIBIT A TO COVENANT "PROPERTY"

EXHIBIT B TO COVENANT "DZC SECTION 7.4.4 USE TABLE"

EXHIBIT C TO COVENANT "DZC SECTION 7.3.5.4"