

When recorded, return to:

Evergreen Devco, Inc.
2390 East Camelback Road
Suite 410
Phoenix, Arizona 85016
Attn: Ms. Laura Ortiz

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is entered into this _____ day of _____, 2012, by Evergreen-Colfax & Garfield Investors, L.L.C., an Arizona limited liability company (“**Developer**”), RFE Investment, LLC, a Colorado limited liability company (“**Owner**”), and South City Park Neighborhood Association, a Registered Neighborhood Organization within the meaning of Chapter 12, Article III of the Denver Revised Municipal Code (“**Association**”).

RECITALS

A. Developer or its affiliate is under contract to purchase from Owner certain real property located in the City and County of Denver, Colorado, legally described in **Exhibit A** (the “**Property**”).

B. Members of the Association live in areas east, west and north of the Property (the “**Neighborhood**”), and will be affected by the redevelopment of the Property.

C. Developer intends to cause the Property to initially be developed as a Sunflower grocery store. A preliminary development plan (the “**PDP**”) for the project is attached hereto as **Exhibit B**. In furtherance of the project, Developer has applied to the City and County of Denver for rezoning of certain portions of the Property from U-TU-B to U-MS-2X in Case Number 2011I-00020 (the “**Rezoning**”).

D. Association has agreed to support Developer and Owner in the Rezoning on the condition that the parties agree to the understandings and commitments set forth in this Memorandum, to assure that the development plan, building design and build-out of the Property will be acceptable to the members of the Association and beneficial to the Neighborhood.

AGREEMENTS

1. Initial Development Agreements. In consideration of Association's agreement to support the Rezoning, any initial development of the Property undertaken by Developer or Owner pursuant to the Rezoning will comply with the following:

(a) Development of the Property will be in substantial conformance with the PDP and this Memorandum.

(b) Only one curb cut from the Property to Monroe Street and only one curb cut from the Property to Garfield Street will be permitted, located as shown on the PDP. A directional sign prohibiting right turns (except for local residents) will be installed at the Monroe Street exit, and a directional sign prohibiting left turns (except for local residents) will be installed at the Garfield Street exit, to encourage traffic to return to Colfax rather than exit north from the Property into the Neighborhood.

(c) Developer and Owner will not object to measures taken by Public Works to minimize traffic in the Neighborhood such as reduced-speed and no-truck-access signs, and pinch-point strategies such as additional landscaping and cross-walk striping.

(d) Subject to City of Denver approval, masonry screen walls of varying heights and appropriate landscaping intended to provide a sensible and aesthetically pleasing transition and buffer between the commercial activities of the Property and the residential purposes of the Neighborhood will be installed along the boundaries separating the Property from the Neighborhood. Brick or other masonry materials will be used for construction of such walls, in order to create structures that are functional and complementary to existing Neighborhood aesthetics, harmonious with the main building to be constructed on the Property and in compliance with City requirements. The height of the walls, stepped to correspond with existing topography and also to break up the scale mass of the walls, will vary from a minimum height of 42" along Monroe and Garfield up to between 6 and 10 feet high along portions of the Property's northern boundary. Landscaping to be incorporated into the Property's perimeter will include both coniferous and deciduous vegetation intended to further break up the transition zone and enhance the aesthetic experience for both the neighbors and shoppers. Plant selection will be based on initial and long-term screening functionality, balance of seasonal interest, height, texture and mass. Specific landscape areas at key locations will be created for color and visual interest. Pedestrian-scaled lighting will highlight the perimeter screen and landscape zone with light levels intended to reinforce site design consistent with safety requirements.

(e) Lighting on the Property will comply with City of Denver lighting code. Light fixtures will be specified to include extended housing and sharp light cut-off features to minimize ambient light infiltration into the Neighborhood. Light levels will be set to maintain a safe environment. A foot-candle analysis showing all light levels on the Property, engineered to limit off-property light spillage, will be furnished to the Association prior to installation. Specifications for all lighting products will be furnished to the Association prior to ordering. Subject to City approval, illumination of building signage on the north elevation of the building only will be limited to either (i) halo-lit lighting, or (ii) illumination by an indirect source of light.

(f) Reflective mirrors will be installed in the L-shaped section of the alley rerouted into Garfield Street to enhance the safety of drivers navigating the alley.

(g) Construction activities (including demolition) producing noise (that is, involving use of heavy equipment) will be limited to the hours of 7 am to 7 pm Monday through Friday, and 8 am to 3 pm Saturday (“**Working Hours**”). The use or operation of generators outside Working Hours is limited to enclosed building interiors only. Construction activities not producing noise (for example, painting, electrical work or interior building construction) have no time limitations.

(h) All contracts for construction (including demolition) with the general contractor and subcontractors will be required to contain (i) a limitation requiring all workmen and materials suppliers to enter and exit the construction site on the Property exclusively from Colfax and not through the Neighborhood to the north of the Property, and (ii) a prohibition against street parking in the Neighborhood. Owner agrees to provide additional off-street parking in the vicinity for construction workers on other of Owner’s properties south of Colfax or east of Jackson.

(i) Landscaping features will comply with all City requirements, including garden walls separating parking areas on the Property from the Neighborhood, landscaping at key vistas extending above garden wall height, landscape buffers between the parking area and any screen wall, and installation of lawn, street trees and irrigation between the curb and detached sidewalk in public right-of-way adjacent to the Property along Colfax, Monroe and Garfield.

(j) Developer agrees upon request to provide the Association with copies of plan submittals (including demolition and construction) made to the City.

(k) During construction, Developer will work closely with its contractors and the City to develop a traffic mitigation plan to minimize street closures and interfere as little as reasonably possible with normal traffic access to and from the Neighborhood.

(l) Any construction requiring Developer's access to the property of a neighboring homeowner will be subject to a separate license agreement with the homeowner in which Developer will agree to indemnify the homeowner against damage caused by Developer's contractors or subcontractors.

(m) Subject to City approval, trash facilities will be located in immediate proximity to loading docks and fully screened to meet City requirements.

The initial development obligations of Developer and Owner set forth in this Article 1 will be deemed satisfied or waived 90 days after the Property is opened for business to the public unless Association commences legal proceedings within said 90-day period alleging a breach of this Article 1 by Developer or Owner. No such proceedings may be brought after the expiration of said 90-day period.

2. Operational Agreements. Following completion of the development contemplated by Article 1 above and opening of the Property for business to the public:

(a) The Property, its improvements, lighting and landscaping will be diligently maintained and repaired in good order, condition and appearance.

(b) Commercial deliveries to the Property will be limited to between the hours of 6 am and 8 pm; provided, however, large vehicle (tractor and semi-trailer) deliveries will not be received by store employees prior to 8 am, and must circulate through the Property from west (Monroe) to east (Garfield). Trash pickup will be limited to the same hours as commercial deliveries, to the extent that hourly scheduling of trash pickup services is within the control of Developer or the tenant or occupant of the Property.

3. Agreements of Association. In consideration of the limitations to be imposed on the Property set forth above, Association will support the Rezoning. Such support will include both a written letter of support and a statement to be read at the hearings based on that letter.

4. General Terms.

A. Exhibits. Exhibits attached to this Memorandum are made a part hereof.

B. Entire Agreement. This Memorandum constitutes the entire agreement between the parties pertaining to its subject matter.

C. Attorneys' Fees. If Association prevails in any legal proceeding to enforce this Memorandum it shall be entitled to recover its reasonable attorneys' fees and costs. If any other party prevails it shall be entitled to recover its attorney fees only as provided in §13-17-102, Colorado Revised Statutes.

D. Designated Agents and Representatives. Association designates its then-current President as set forth either in the registry of Registered Neighborhood Organizations of the City and County of Denver or on the Association's web site, www.scpna.org as its agent and representative for purposes of this Memorandum, with authority to receive and respond on behalf of Association to all communications, plans, documents and other matters related to the implementation of this Memorandum.

Developer and Owner designate Russell Perkins as their agent and representative for purposes of this Memorandum, with authority to receive and respond on their behalf to all communications, plans, documents and other matters related to the implementation of this Memorandum.

Either party may change its designated representative upon 10 days' written notice to the other.

E. Ongoing Communication. Developer and Association agree to continue to meet or otherwise communicate on a monthly or as-needed basis through the completion of construction on the Property.

F. Successors and Assigns. Developer agrees to notify Association if Developer sells the Property to an unrelated third party. If the interests of Developer or Owner in the Property are assigned or conveyed to a third party, Association will look solely to the assignee or grantee for the ongoing compliance with this Memorandum. This Memorandum binds and benefits the successors and assigns of the parties.

G. Authority. Each person executing this Memorandum on behalf of Developer, Owner or Association represents and warrants that he or she has the necessary authority to do so.

H. Notices. All notices or other communications required or permitted by this Memorandum must be in writing and served by (1) personal delivery, (2) recognized overnight courier

service, (3) electronically confirmed fax transmission with a copy by first-class U.S. mail, or (4) certified mail, return receipt requested, postage prepaid, addressed and directed to the party to receive the same as follows:

If to Association:

SCPNA
PO Box 18375
Denver, CO 80218
Fax No.: _____

If to Developer or Owner:

Evergreen-Colfax & Garfield Investors, L.L.C.
2390 E. Camelback Road, Suite 410
Phoenix, Arizona 85016
Attn: Russell Perkins
Fax No.: 602-808-9100

Notices are effective and deemed given upon receipt or refusal to accept delivery. Any party may change its address from time to time by giving written notice thereof by authorized means.

I. Governing Law. This Memorandum is governed by Colorado law.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the date first written above.

DEVELOPER:

ASSOCIATION:

EVERGREEN-COLFAX & GARFIELD INVESTORS, L.L.C., an Arizona limited liability company

SOUTH CITY PARK NEIGHBORHOOD ASSOCIATION, a Registered Neighborhood Organization

By: Evergreen Development Company-2011, L.L.C., an Arizona limited liability company

By: _____

Its: Manager
By: Evergreen Devco, Inc., a California corporation

Its: _____

Its: Manager

By: _____

Its: _____

OWNER:

RFE INVESTMENT, LLC,
a Colorado limited liability company

By: _____

Its: _____

STATE OF _____)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, the _____ of RFE INVESTMENT, LLC, a Colorado limited liability company, on behalf of the company.

WITNESS my hand and official seal.

Notary Public

My Commission Expires:

STATE OF _____)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, the _____ of Evergreen Devco, Inc., a California corporation, Manager of Evergreen Development Company-2011, L.L.C., an Arizona limited liability company, Manager of EVERGREEN-COLFAX & GARFIELD INVESTORS, L.L.C., an Arizona limited liability company, on behalf of said entities.

WITNESS my hand and official seal.

Notary Public

My Commission Expires:

STATE OF _____)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, the _____ of SOUTH CITY PARK NEIGHBORHOOD ASSOCIATION, a Registered Neighborhood Organization within the meaning of Chapter 12, Article III of the Denver Revised Municipal Code, on behalf of the Organization.

WITNESS my hand and official seal.

Notary Public

My Commission Expires:

CONSENT AND ACKNOWLEDGMENTS

The undersigned Sunflower Farmers Markets, Inc., a Delaware corporation (“Sunflower”), as the tenant of the Property referred to in the Memorandum, acknowledges and consents to the terms and conditions of the Memorandum. In addition, during such time as Sunflower is the tenant of the Property, Sunflower will: (a) be bound by and comply with the obligations set forth in Article 2(a) of the Memorandum, but only to the extent such obligations are an obligation of Sunflower under its lease of the Property; (b) be bound by and comply with the obligations set forth in Article 2(b) of the Memorandum; (c) be bound by and comply with the obligations set forth in Article 1(g) and (h) of the Memorandum in connection with Sunflower’s construction activities on the Property; and (d) indemnify, defend and hold harmless the Developer and Owner, and their successors and assigns, for, from and against any action or claim brought by the Association asserting a violation of any obligations in Article 2(a) of the Memorandum that are an obligation of Sunflower under Sunflower’s lease of the Property, any action or claim brought by the Association asserting a violation of any obligations in Article 2(b) of the Memorandum, and any action or claim brought by the Association asserting a violation of any obligations in Article 1(g) or (h) of the Memorandum arising from Sunflower’s construction activities on the Property. The Developer and Owner, by execution of the Memorandum, agree to and will: (i) comply with the obligations set forth in Article 2(a) of the Memorandum, but only to the extent such obligations are an obligation of the Developer and/or Owner pursuant to Sunflower’s lease of the Property; (ii) complete the work required by Article 1 of the Memorandum as part of the Landlord’s Work defined in Sunflower’s lease of the Property; and (iii) indemnify, defend and hold harmless Sunflower and its successors and assigns, for, from and against any action or claim brought by the Association asserting a violation of any obligations in Article 2(a) of the Memorandum that are an obligation of the Developer and/or Owner under Sunflower’s lease of the Property, and any action or claim brought by the Association asserting a violation of any obligations in Article 1 of the Memorandum so long as such violation does not arise from the act or omission of Sunflower.

SUNFLOWER FARMERS MARKETS,
INC.,
a Delaware corporation

By: _____
Fran C. Windsor
Vice President and General Counsel

STATE OF _____)
)ss.
County of _____)

On this the _____ day of _____, 2012, before me, the undersigned Notary Public in and for said County and State, personally appeared Fran C. Windsor, the Vice President and General Counsel of SUNFLOWER FARMERS MARKETS, INC., a Delaware corporation, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he or she executed the instrument in such person's authorized capacity, and that by his or her signature on the instrument the entity on behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My Commission Expires:

EXHIBIT LIST

Exhibit A Legal Description of the Property

Exhibit B Preliminary Development Plan