

# Memorandum of Understanding

Jemal's CDC LLC

501 H Street, N.E.

## UNDERSTANDING OF THE PARTIES

Provided that the ANC supports the proposed redevelopment of 501 H Street, N.E. (the Subject Property) and the applications for the PUD and map amendment to effectuate the project ("support" shall be indicated by a majority vote of the ANC on a resolution or motion supporting the proposed redevelopment), Douglas agrees to the following:

1. **Restricted Uses:** The following uses, even though permitted within the proposed HS-H/C-2-B District as a matter of right or with special exception approval by the Zoning Commission, will not be permitted on the Subject Property: the sale of any pornographic material; a check-cashing establishment; a pawnbroker; a night club; a drycleaners; a mattress store; a convenience store such as 7-Eleven; any store that sells products that weigh 40 or more pounds each, unless the store makes such products available only by shipping or delivering to the consumer. Notwithstanding the foregoing, the Parties agree that the ANC may approve a prospective tenant otherwise prohibited in this paragraph ("Otherwise Prohibited") that the ANC believes would provide substantial value for the community. Such approval shall be granted by the ANC only by a formal resolution.
2. **Development Plans:** The Subject Property will be developed substantially in accordance with the architectural plans and elevations attached hereto as Exhibit A.
3. **Public Space Improvements:** The PUD shall improve the public space area along the street frontages of the building, as shown on Pages 9-10 and 32-34 of Exhibit A, which will include the following:
  - a. Five additional bike racks along 5<sup>th</sup> and H Street
  - b. Streetscape furniture including two benches along H Street
  - c. Restoring the brick alley way from the entrance on 5<sup>th</sup> Street to Subject Property line.
4. **TDM Measures:** Douglas will implement the following transportation demand management measures at the PUD:
  - a. **Resident Transportation Coordinator (RTC):** Douglas' site management will designate one employee as the Resident Transportation Coordinator. Among this person's duties would be to provide information to residents (particularly those

incoming) regarding transit opportunities and schedules, as well as the location of Bike Share stations within the area, and bicycle parking provisions within the building. The RTC will generally encourage non-private auto usage and will have related information prominently displayed in the residential lobby.

- b. Digital Multimodal Display: Douglas will install a digital multimodal display known as "TransitScreen" in the lobby of the residential building that provides schedule information of Metro bus and Metrorail, and locations of Bike Share and car share stations, among other transportation related information.
- c. Bicycle Usage Program: Douglas will provide up to 24 bicycle parking spaces in a secure, convenient location that would be accessible to residents and office tenants at all times. Additionally, Douglas will offer a one-time Capital Bikeshare annual membership fee for each initial tenant of the building, including initial employees of the first office tenant(s) that occupy the second floor of the building and employees who are hired within the first year of their employer's lease term. This requirement is intended to apply to employees of the first tenant(s) who lease the office space, and not employees of tenants who lease the office space after the initial office tenancies.-
- d. Car Sharing: Douglas will offer a one-time car sharing membership and application fees (totaling no more than \$85.00) to each initial residential tenant of the building. Douglas shall also secure one car sharing parking space on the Subject Property. Douglas shall dedicate all of the on-site parking spaces to residential tenants of the building, and shall not offer any of the spaces to either a carshare company or commercial tenants.
- e. Transit Subsidies: Douglas shall offer a one-time \$100.00 SmarTrip card to each initial tenant in the building, including initial employees of the first office tenant(s) that occupy the second floor of the building and employees who are hired within the first year of their employer's lease term, to encourage non-auto mode usage. This requirement is intended to apply to employees of the first tenant(s) who lease the office space, and not employees of tenants who lease the office space after the initial office tenancies.
- f. Residential Parking Permit Program Exclusion: The Parties intend that residents of the Subject Property (Residents) shall not be or become eligible for Residential Parking Permits ("RPP"), annual Visitor Parking Permits ("VPP"), or 15-day Visitor Parking Permits ("Temporary VPP") (collectively "Parking Permits"). Accordingly, Douglas shall take such steps as are necessary to ensure that Residents do not receive RPPsParking Permits, including without limitation (1) placing a clause in emphasized type in all leases for Residents that prohibits Residents and/or Residents' guests and visitors from applying for or obtaining RPPsParking

Permits, or, upon pain of mandatory lease termination, to the full extent permitted by Law; ~~(2) confirming whether the Subject Property is in the RPP database; (3) ensuring that the District Department of Transportation (DDOT) removes the Subject Property from the list of properties eligible for RPPs, or if presently not on the list, classifying it as ineligible for RPPs;~~ (4) should Douglas sell any units at the Subject Property, adding a covenant that runs with the land to the deed for the units prohibiting Residents from applying for or obtaining RPPs; ~~(5) executing amending the existing~~ a covenant that runs with the land for the Property to generally ~~that embodies~~ the modified promises contained in this Paragraph 4(f). Douglas has previously confirmed that the Subject Property is not in the RPP and VPP database and is not on the list of properties eligible for RPPs and VPPs, such that residents of the Subject Property are ineligible from and cannot apply for or obtain RPPs or VPPs. In the event DDOT does not remove the Subject Property from the RPP list or classify it as ineligible for RPPs, a Any resident of ANC 6C may take legal action ("Suit") as a third-party beneficiary of this Agreement to compel Douglas to terminate the lease of any Resident who violates the RPP-Parking Permits prohibition, if Douglas has failed promptly to take such action on its own initiative. A resident of ANC 6C that substantially prevails in a Suit shall be entitled to an award of its reasonable attorney's fees. Furthermore, if Douglas loses three or more Suits, it shall be required to donate \$10,000 to a non-profit organization identified by the ANC for each subsequent Suit it loses.

- g. Unlawful Parking/Stopping: Douglas will place a provision in the leases for all commercial tenants requiring them actively to discourage visitors to their establishment from unlawfully stopping or parking automobiles in front of the establishment or elsewhere in the neighborhood in connection with visits to the establishment. The provision shall note, without limitation, (1) that a pattern of unlawful stopping or parking in connection with visits to the establishment may, in Douglas' discretion, be cause for lease termination, and (2) that should the ANC receive complaints about unlawful stopping or parking in connection with visits to the establishment, it may send a written notification to the establishment concerning same, and the establishment shall ensure that a senior representative thereof will attend the next ANC meeting to address such complaints.

5. Construction Hours: Douglas, its tenants, and contractors will not engage in any construction activities. other than emergency repairs. before 7:00 a.m. and after 7p.m. Monday-Friday, or before 7:00 a.m. and after 7:00 p.m. on Saturday. Douglas and its contractors will not engage in any construction work, other than repairs, on Sunday. If construction activities are necessary outside of the times

listed above Douglas will notify the ANC in advance.

6. Trash Removal: Douglas, or its tenants, will promptly remove all trash and debris from the public space located between the property line and the adjacent curb. Douglas shall ensure that each individual commercial tenant has direct access to interior on-site trash facilities within the building.
7. Ludlow-Taylor Elementary School; Douglas shall commit \$30,000 to the purchase of new playground equipment for students age's two to five. Douglas shall also donate an additional \$75,000 to Ludlow-Taylor Elementary School to be used as determined by the School's principal.
8. LEED Qualification: Douglas commits that the resulting building will qualify for a LEED Gold-equivalent rating.
9. Residential Loading Restrictions: Douglas shall restrict use of the existing on-site loading berth to residential tenants only and shall prohibit use of the loading berth by commercial tenants. Douglas shall ensure that trucks greater than 24-feet in length are prohibited from using the loading berth and/or backing into the public alley at the rear of the Subject Property. Douglas shall enforce these requirements by putting similar language into all future residential leases for new tenants and for tenant renewals, and by installing signage in the loading berth limiting its use to residential tenants and to trucks that are 24-feet in length or shorter.
- 9-10. Commercial Loading Restrictions: Douglas shall require that all commercial tenants, including office tenants, use the existing loading zones on 5<sup>th</sup> Street, NE for loading. Douglas shall ensure that commercial tenants do not use the on-site loading berth accessed from the public alley at the rear of the Subject Property. Douglas shall enforce this requirement by putting similar language into all future commercial leases for new tenants and for commercial tenant renewals.
11. ANC Support of Project: The terms and provisions of this MOU are contingent upon the formal support of the ANC at all public hearings and other related proceedings on the Application before the Zoning Commission which the ANC elects to attend. For avoidance of doubt, the ANC may offer suggestions regarding and criticism of elements of the Application without affecting the validity of this Agreement, as long as same occurs within the context of formal support of the Application as a whole. The terms and provisions of this MOU and Douglas' obligations hereunder are further conditioned upon final approval of the Application by the Zoning Commission as evidenced by the issuance of a final written order by the Zoning Commission published in the D.C. Register that

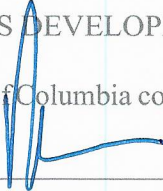
is acceptable to Douglas and for which the appeal period set forth in D.C. Court of Appeals Rule 15 has expired with no appeals being filed. This Section 11 and the modifications shown as track changes herein apply to the Modification of Consequence application submitted to the Zoning Commission (Z.C. Case No. 14-14A) to permit office use on the second floor of the building and to install four new exterior windows.

10.12. Amendments: The Parties hereto reserve the right to amend this document at any time with the written agreement of both Parties. The track changes shown herein reflect a mutual agreement by both Parties to such amendments, as evidenced by the 2019 signatures at the end of this document.

11.13. Incorporation of MOU Provisions in PUD Order: The Parties will ask the Zoning Commission (ZC) to incorporate each provision herein in an order concerning the subject property. Any The provisions of this modified MOU not so incorporated by the ZC into an order concerning the subject property shall be fully enforceable between the Parties (Privately-Enforceable Provisions). The Parties agree that this Agreement is intended to benefit residents of the area within the jurisdiction of ANC 6C ("ANC Residents"); accordingly, the Parties agree that any such ANC Resident is to be considered a third-party beneficiary of this Agreement, and that any such ANC Resident may file suit in a Superior Court of the District of Columbia, or, if jurisdiction is otherwise proper there, in the United States District Court for the District of Columbia. Any ANC Resident who initiates suit and who substantially prevails shall be entitled to an award of reasonable attorney fees. For avoidance of doubt, this Paragraph 11-13 shall not authorize lawsuits by residents of ANC 6C for any purpose other than enforcing an order in favor of ANC 6C, except that without limiting anything else in this Agreement, this Paragraph 11 shall permit lawsuits by ANC Residents pursuant to Paragraph 4(f) of the Agreement.

DOUGLAS DEVELOPMENT CORP.,

A District of Columbia corporation

By:  \_\_\_\_\_

Christopher Regan - Representative

Advisory Neighborhood Commission 6C

By:  718/19  
Commissioner Joel Kelty