MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU" or "Agreement") is made this 11 day of October, 2018 by and between DANCING CRAB PROPERTIES, LLC, a District of Columbia limited liability company (the "**Developer**"), and ADVISORY NEIGHBORHOOD COMMISSION 3E (the "**ANC**"). Developer and the ANC are collectively referred to herein as the **"Parties."**

RECITALS

A. Developer is the owner in fee simple of property located at premises 4611-4615 41st Street, NW in the District of Columbia, which is designated as Lots 1 and 2 in Square 1769 (the "Site"). The Site is located in the MU-4 Zone District.

B. Developer desires to develop the Site with a seven-story apartment house with approximately 41 residential units, approximately 4,971 square feet of ground floor retail, and a rooftop bar/restaurant/lounge in the penthouse (the "Project"). The Project will have a maximum building height of approximately 80 feet and 5.04 floor area ratio ("FAR") and will include nine total parking spaces (five interior and four exterior) and one 10' x 20' service/delivery loading space.

C. In order to proceed with the Project, the Developer filed an application for a planned unit development ("PUD") and related Zoning Map amendment from the MU-4 District to the MU-5-B District with the District of Columbia Zoning Commission ("**Zoning Commission**") known as Z.C. Case No. 18-03.

D. The PUD application will ensure that the Project provides appropriate and adequate public benefits and project amenities for area residents and the community.

UNDERSTANDING OF THE PARTIES

A. Provided that the ANC supports the proposed redevelopment of the PUD Site and the application for the PUD and Zoning 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), Developer agrees to the following:

1. Development Plans: The Developer shall develop the PUD Site substantially in accordance with the Architectural Plans and Elevations attached hereto as Exhibit A (the "Architectural Plans and Elevations").

2. Inclusionary Zoning ("IZ"): The Developer shall dedicate a minimum of 3,882 square feet of gross floor area to IZ units in the building (approximately 12.7% of

the building's residential gross floor area and penthouse habitable space floor area combined), which results in three total IZ units. Two of the IZ units (2,890 square feet of gross floor area total) will be dedicated to households earning up to 60% of the Median Family Income ("MFI") and one of the IZ units (992 square feet of gross floor area) will be dedicated to households earning up to 50% of the MFI. In contrast, the Zoning Regulations require that the Developer dedicate a minimum of 2,301 square feet of gross floor area to households earning up to 60% of the MFI (8% of the base building's residential gross floor area) plus 140 square feet of gross floor area to households earning up to 50% of the MFI (8% of the penthouse habitable space), which results in a total IZ requirement of 2,441 square feet. Thus, the Developer is dedicating 1,441 square feet of gross floor area to IZ units over the amount required by the Zoning Regulations, which is a 59% increase over the amount required. In addition, two of the IZ units will have approximately 1,445 square feet of gross floor area each (approximately 1,000 net square feet) in order to provide affordable family-sized housing for District residents.

3. Public Space Improvements: Subject to approval by the District Department of Transportation ("DDOT"), which the Developer shall make all reasonable efforts to obtain, the Developer shall make the following public space improvements adjacent to the PUD Site, as shown Sheets A1.0, L1.0 - L1.2 and L1.4 - L1.7 of Exhibit A, to install the following:

    a. An enhanced streetscape design along 41st Street directly adjacent to the building's entrance, including the following: (i) a bioretention planting area; (ii) granite pavers between the building face and the sidewalk; (iii) bar-height seating facing the sidewalk and movable tables and chairs for café seating; (iv) planters with stone curbs; (v) building exterior light fixtures and in-ground light fixtures; and (vi) bench seating at the residential entry;

    b. Widening from six feet to eight feet the existing public sidewalk adjacent to the Site and installing new concrete pavers;

    c. Installing a speed table in the location and with materials as shown on Sheets L1.0 and 1.1 to slow traffic;

    d. A new curb extension ("bulb-out") on the east side of 41st Street to shorten the pedestrian travel distance across 41st Street and slow vehicular traffic. As shown on Sheets L1.0 and L1.1, the bulb-out will include (i) new stone pavers; (ii) short-term bicycle parking for eight bicycles; (iii) a public art feature; (iv) streetscape plantings, and (v) signage for the new crosswalk;

e. On the west side of 41st Street, a "traffic-calming curb extension" in the location and with landscaping materials as shown on Sheets L1.0 and L1.1. The Developer will maintain the landscaping for the life of the Project.

4. Landscaping for Reservation 503: If or when the owner of property located at 4600 Wisconsin Avenue, NW (Square 1732, Lot 53) stops maintaining the landscaped area approved to be developed in Z.C. Order No. 10-23, Decision No. 10 (view "A" in Exhibit 36A(2) of that case, attached hereto as Exhibit B) ("Reservation 503 South"), the Developer shall continue to maintain Reservation 503 South for the life of the Project. In addition, the Developer will spend up to $5,000 to install landscaping in Reservation 503 North, which is located to the immediate north of Reservation 503. The Developer shall maintain the landscaping that it installs in Reservation 503 North for the life of the Project.

5. Mural: The Developer shall dedicate up to $25,000.00 for the design and installation of a mural on the south façade of the proposed building, with the approximate location and dimensions as shown on Sheet A2.2 of Exhibit A. The Developer shall work with ANC 3E to select the subject matter and artist of the mural, and shall ensure that payment for the mural's installation is made prior to the issuance of the first Certificate of Occupancy for the Project.

6. LEED Gold Certification: The Developer shall construct the Project to be certified under LEED Gold v4.

7. Solar: The Developer shall install a minimum of 640 square feet of solar panels on top of the building's penthouse, as shown on Sheet A1.8 of Exhibit A.

8. Electric Vehicle ("EV") and Car-share Parking: The Developer shall provide two EV charging stations within the building's parking garage and shall offer two of the four exterior parking spaces to a car-share company. If no agreement has been reached with a car share company for either of the two car-share parking spaces prior to the issuance of the first Certificate of Occupancy of the Project, then the Developer shall host a transportation event for residents and employees of the Project within the first year following the issuance of the first Certificate of Occupancy.

9. Contribution to Friendship Place: The Developer shall contribute $35,000.00 to Friendship Place to make improvements needed as a result of leaking and flooding in their basement, including but not limited to, installing new pipes, waterproofing

the basement's foundation, installing additional landscaping that would keep water away from the building and its foundation, and replacing the building's front and side doors.

10. Restaurant Use: The Developer shall reserve a minimum of 4,971 square feet in the building solely for use as full-service restaurant ("Restaurant Space"). A "full-service restaurant" shall mean a "Restaurant" as defined in the Zoning Regulations, where food is (i) delivered to the tables by a server; (ii) paid for after consumption; and (iii) served on non-disposable plates with non-disposable cutlery. Notwithstanding the definition of "Restaurant" in Subtitle B § 100.2 of the Zoning Regulations, nothing in this Agreement shall prevent the tenant, in conjunction with use of the Restaurant Space as a full-service restaurant, from serving alcoholic beverages, providing entertainment including televisions and live and/or amplified music, and allow dancing, but such uses shall be subject to any otherwise-applicable licensing restrictions, and the ANC shall be free to render any such advice it deems appropriate on any future applications for new licenses or renewals.

11. Restaurant Venting. The Developer shall run any kitchen exhaust venting for eating and drinking establishments within the Project to the roof of the Project, so as to minimize the impact of odors on the neighbors to the Site.

12. Restricted Uses: The following uses, even though permitted as a matter of right, with special exception approval by the Board of Zoning Adjustment, or otherwise, will not be permitted on the Site: sexually-oriented business establishment; a check-cashing establishment; a pawnbroker; a bank; a nightclub as defined by the D.C. Alcoholic Beverage Regulation Administration ("ABRA"); a mattress store; a convenience store such as 7-Eleven; a professional office; a drug store such as CVS; and any "chain" retail, service, or food service establishment (a "chain" being defined as a business with either at least 10 stores within the District of Columbia or at least 50 stores nationwide). Notwithstanding the foregoing, the Parties agree that the ANC may approve a use otherwise prohibited in this paragraph that the ANC believes would provide substantial value for the community. Such approval shall be granted by the ANC only by a formal resolution.

13. Residential Parking Permit ("RPP") Restriction: The Developer shall take such steps as are necessary to ensure that residents do not receive a RPP, including without limitation: (i) place a clause in emphasized type in all leases for residents that prohibits residents from applying for or obtaining RPPs, or using an RPP guest pass within one mile of the Site, upon penalty of mandatory lease termination, to the full extent permitted by law; (ii) oppose any effort by residents or others to add

the Site to the list of properties eligible for RPPs; (iii) should the Developer sell any units at the Site, the Developer will add a covenant that runs with the land to the deed for the units prohibiting residents from applying for or obtaining RPPs; and (iv) the Developer shall obtain written authorization from each tenant through a required lease provision that allows the Department of Motor Vehicles ("DMV") to release to the Developer every 12 months any and all records of that tenant requesting or receiving an RPP for the Site, and Developer shall take all reasonable steps to obtain and review such records for noncompliance with the lease provisions mentioned herein.

14. Loading Management Plan. The Developer will cause its traffic consultant, Wells + Associates, to prepare a Loading Management Plan for the Project, which the Developer will implement.

B. The Developer shall propose each of the above terms as specific, enforceable conditions of approval of the PUD. If the Zoning Commission does not for any reason include a term as a specific, enforceable condition of approval of the PUD, the Developer nonetheless commits to comply with the term.

C. 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 Z.C. Case No. 18-03 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, so long as the same occurs within the context of formal support of the application as a whole. The terms and provisions of this MOU 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 and issuance of a Certificate of Occupancy for the Project.

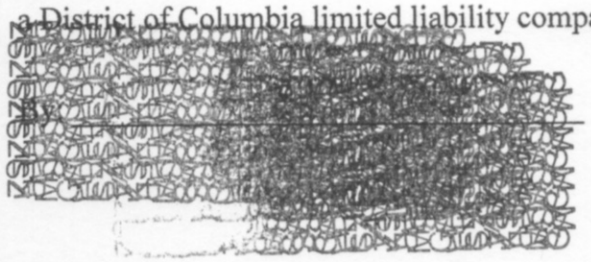
D. The Parties reserve the right to amend this MOU at any time with the written agreement of both Parties.

E. This Agreement shall be binding upon and shall inure to the benefit of the Developer and ANC 3E, and their respective heirs, successors, and assigns.

[SIGNATURES ON FOLLOWING PAGE]

DANCING CRAB PROPERTIES, LLC,

a District of Columbia limited liability company



Advisory Neighborhood Commission 3E

By: