

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)
)
Watergate Hotel Lessee, LLC)
t/a Watergate Hotel)
)
Application for Renewal of a)
Retailer’s Class CH License)
)
at premises)
2650 Virginia Avenue, NW, Unit H-1)
Washington, D.C. 20037)
)

Case No.: 19-PRO-00032
License No.: ABRA-091162
Order No.: 2019-568

Watergate Hotel Lessee, LLC, t/a Watergate Hotel, Applicant

Stephen O’Brien, Counsel, on behalf of the Applicant

William Kennedy Smith, Chairperson, Advisory Neighborhood Commission (ANC) 2A

Barbara Rohde, on behalf of A Group of Five or More Individuals

BEFORE: Donovan Anderson, Chairperson
Mike Silverstein, Member
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member
Rafi Crockett, Member

**ORDER ON SETTLEMENT AGREEMENT AND WITHDRAWAL OF ANC 2A’S
PROTEST AND DISMISSAL OF A GROUP OF FIVE OR MORE
INDIVIDUALS’ PROTEST**

The Application filed by Watergate Hotel Lessee, LLC, t/a Watergate Hotel (Applicant), for renewal of its Retailer’s Class CH License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on May 28, 2019, and a Protest Status Hearing on July 10, 2019, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 2A entered into a Settlement Agreement (Agreement), dated July 17, 2019, that governs the operations of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson William Kennedy Smith, on behalf of ANC 2A, are signatories to the Agreement.

Furthermore, the Board dismisses the Protest of the Group of Five or More Individuals pursuant to D.C. Official Code § 25-609(b), which states that "...In the event that an affected ANC submits a settlement agreement to the Board on a protested license application, the Board, upon its approval of the settlement agreement, shall dismiss any protest of a group of no fewer than 5 residents or property owners meeting the requirements of § 25-601(2)..." Having approved the Settlement Agreement between the Applicant and ANC 2A, the Board now dismisses the Group of Five or More Individuals by operation of law.


Accordingly, it is this 24th day of July, 2019, **ORDERED** that:

1. The Application filed by Watergate Hotel Lessee, LLC, t/a Watergate Hotel, for renewal of its Retailer's Class CH License, located at 2650 Virginia Avenue, NW, Unit H-1, Washington, D.C., is **GRANTED**;
2. The above-referenced Settlement Agreement submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order;
3. The Protest of the Group of Five or More Individuals is **DISMISSED**; and
4. Copies of this Order shall be sent to the Applicant, ANC 2A, and Barbara Rohde, on behalf of the Group of Five or More Individuals.

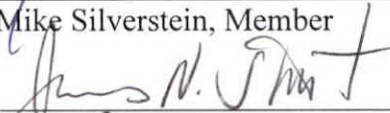
District of Columbia
Alcoholic Beverage Control Board




Donovan Anderson, Chairperson



Mike Silverstein, Member

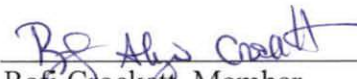


James Short, Member



Bobby Cato, Member

Rema Wahabzadah, Member



Rafi Crockett, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).

Received
7/22/19
(Signature)

SETTLEMENT AGREEMENT

This Settlement Agreement is made on this 17th day of July, 2019, by and between Watergate Hotel Lessee LLC ("the Applicant"), and Advisory Neighborhood Commission 2A ("the ANC").

WITNESSETH

WHEREAS, the Applicant is the holder of a Class CH Alcoholic Beverage Control (ABC) license for premises 2600 Virginia Avenue, NW; and,

WHEREAS, said premises is within the jurisdictional boundaries of the ANC; and,

WHEREAS, Applicant's application for renewal of said license has been protested by the ANC; and,

WHEREAS, the parties desire to enter into this Settlement Agreement in order to commemorate their agreement regarding certain aspects of the Applicant's operations, and, thereby, resolve the pending protest of renewal of said license;


NOW, THEREFORE, in consideration of the recitals set forth above and the terms and conditions provided below, the parties agree as follows:

1. Applicant shall adhere to the term of that certain Expense Allocation and Operations Agreement dated April 16, 2019, a copy of which is attached here to as Exhibit A, regarding management of noise, traffic, hours of operation and pedestrian safety relative to operation of the Watergate Complex truck tunnel.
2. Applicant shall adhere to the terms of the Watergate Shared Trash Management Plan, a copy of which is attached as Exhibit B.

3. Applicant acknowledges that the ANC is relying on the foregoing commitments in order to withdraw its protest of renewal heretofore filed with the ABC Board. The parties jointly request that this Agreement be incorporated into the ABC Board's order approving renewal of the Applicant's Class CH License.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

WATERGATE HOTEL LESSEE, LLC

DocuSigned by:
By: 
Jacques Cohen
Managing Member

ADVISORY NEIGHBORHOOD COMMISSION 2A

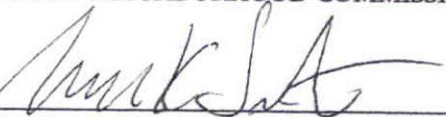
By: 
William Kennedy Smith, Chairman

EXHIBIT A

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Stroock & Stroock & Lavan LLP
1875 K Street, N.W., Suite 800
Washington, DC 20006
Attn: Jeffrey R. Keitelman, Esq.

Space above for recorder's use only

EXPENSE ALLOCATION AND OPERATIONS AGREEMENT

This Expense Allocation and Operations Agreement (the "**Agreement**"), dated as of April 16, 2019 (the "**Execution Date**"), is made by and between WATERGATE PARTNERS, LLC, a Delaware limited liability company ("**Retail Owner**"), WATERGATE OFFICE FEE OWNER, LLC, a Delaware limited liability company ("**Office Owner**"), WATERGATE HOTEL, LLC, a Delaware limited liability company ("**Hotel Owner**"), WATERGATE EAST, INC., a Delaware nonprofit housing cooperative corporation ("**Watergate East**"), and WATERGATE WEST, INC., a Delaware nonprofit corporation ("**Watergate West**"). Retail Owner, Office Owner, Hotel Owner, Watergate East, and Watergate West are sometimes referred to herein individually as a "**Party**" and collectively the "**Parties**".

RECITALS:

- A. Retail Owner is the ground tenant with respect to certain real property located at 2500 Virginia Avenue, NW, Washington, D.C. ("**Retail Property**"), which Retail Property is more particularly described on Exhibit A-1 attached hereto, pursuant to that certain Amended and Restated Lease dated July 3, 2012 between Retail Owner and Watergate East, Inc., a Delaware corporation, as evidenced by that certain Memorandum of Lease dated July 3, 2012 and recorded in the land records of the District of Columbia Recorder of Deeds as document number 2015113264 (collectively, "**Ground Lease**").
- B. Office Owner is the fee simple owner of the parcel of land and improvements located at 2600 Virginia Avenue, NW, Washington, D.C. ("**Office Property**"), which Office Property is more particularly described on Exhibit A-2 attached hereto.
- C. Hotel Owner is the fee simple owner of the parcel of land and improvements located at 2650 Virginia Avenue, NW, Washington, D.C. ("**Hotel Property**"), which Hotel Property is more particularly described on Exhibit A-3 attached hereto.
- D. Watergate East is the fee simple owner of the parcel of land and improvements located at 2500 Virginia Avenue, NW, Washington, D.C. ("**Watergate East Property**"), which Watergate East Property is more particularly described on Exhibit A-4 attached hereto.

Record & Return to:



Fidelity National Title
INDIVIDUAL COMPANY
NATIONAL COMMERCIAL SERVICES, P.C.

1620 L Street, NW, 4th Floor
Washington, DC 20036

File #: DPN DC1900622 1/1

E. Watergate West is the fee simple owner of the parcel of land and improvements located at 2700 Virginia Avenue, NW, Washington, D.C. ("Watergate West Property"), which Watergate West Property is more particularly described on Exhibit A-5 attached hereto.

F. The Retail Property, the Office Property, the Hotel Property, the Watergate East Property, and the Watergate West Property are part of, together with certain other property and parties, a complex known as "The Watergate Complex".

G. A tunnel, with an entrance on New Hampshire Avenue on the Retail Property ("New Hampshire Avenue Truck Tunnel Entrance") and an exit onto Virginia Avenue, runs through certain portions of the Level B-1 and Level B-2 sub-grade portions of The Watergate Complex, as more fully shown on Exhibit D hereto (including the drives and ramps leading thereto and therefrom, and all floors, walls, ceilings, and other components thereof, the "Truck Tunnel"), which Truck Tunnel is the subject of that certain Tunnel Easement Agreement dated December 29, 2016, between Greenpenz 2600 Virginia Avenue, LLC and Office Owner and the relevant terms and conditions of the other Easement and Expense Allocation agreements listed in Exhibit C.

H. A shared loading dock area is located on the Office Property and the Hotel Property (the "Loading Dock") as more fully shown on Exhibit D hereto.

I. Office Owner intends to enter into a contract with or procure a contract with a third party on behalf of the Retail Owner, which contract shall be on commercially reasonable terms, pursuant to which the Office Owner shall provide personnel for security and logistics management services at the New Hampshire Avenue Truck Tunnel Entrance (the "Truck Tunnel Guard") in connection with the operation of The Watergate Complex (the "Tunnel Contract"). The Truck Tunnel Guard shall be stationed at the existing guardhouse immediately adjacent to the New Hampshire Avenue Truck Tunnel Entrance (the "New Hampshire Avenue Guard Station").

J. Office Owner intends to enter into a contract with or procure a contract with a third party, which contract shall be on commercially reasonable terms, pursuant to which the Office Owner shall provide personnel for security and logistics management services of the Loading Dock (the "Dockmaster") in connection with the operation of The Watergate Complex (the "Loading Dock Contract"). The Dockmaster shall be stationed at the existing security guard office immediately adjacent to the Loading Dock (the "Loading Dock Guard Station").

K. Retail Owner, Office Owner, Hotel Owner, Watergate East, and Watergate West desire to allocate the cost of security and logistics management services under the Tunnel Contract and Loading Dock Contract (collectively known as the "Contracts"), and to allocate certain other Maintenance Costs, certain costs associated with an Automated System, and certain Capital Improvements associated with the upkeep and operation of the Truck Tunnel, subject to the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration and intending to be legally bound hereby, the Parties hereby agree as follows:

1. **Term and Termination Rights.**

(a) Subject to the terms hereof (including all termination rights set forth herein), the Agreement will commence on April 2, 2019 (the "Effective Date") and shall continue until August 31, 2043 (the "Initial Expiration Date"). This Agreement shall automatically renew for successive twenty-five (25) year periods, provided, however, that any Party shall have the right to terminate its participation under this Agreement by delivering written notice to the other Parties hereunder no less than one hundred eighty (180) days and no more than two hundred seventy (270) days prior to the Initial Expiration Date (or any subsequent expiration date to the extent the term of this Agreement has been extended in accordance with this Section 1(a) of the Agreement).

(b) This Agreement may be terminated at any time with the written consent of four (4) of the five (5) Parties hereto. If the Agreement is terminated in accordance with this Section 1(b), the agreement will cease to be in effect one hundred twenty (120) days after the receipt of written consent from at least four (4) of the five (5) parties.

(c) At any time during the term of the Agreement, any Party shall have the right to request to withdraw from this Agreement upon delivery of one hundred fifty (150) days' written notice thereof to the other Parties ("Termination Request"), and the other Parties shall have thirty (30) days following receipt of such request to either approve or deny such request (which approval, if granted, must be unanimous but, in any event, not unreasonably conditioned, withheld, or denied).

2. **Operations, Repairs, and Maintenance.**

(a) From and after the Effective Date, the Managing Party (as defined in Section 2(d) below) shall manage and operate the Truck Tunnel and the Loading Dock in compliance with all applicable laws, rules and regulations (federal, state and local) and in a first-class manner, including without limitation, the following: (i) adopting procedures reasonably acceptable to the Parties that, among other things, provides for access to the Truck Tunnel and Loading Dock efficiently on a non-discriminatory, equitable and reliable basis, and otherwise promotes the systematic and orderly use of both, (ii) recruit, engage, hire, train, supervise and/or discharge all employees and persons needed and competent to manage and operate the Truck Tunnel and the Loading Dock efficiently, properly and satisfactorily; (iii) operate the Truck Tunnel and the Loading Dock during the hours of 7 a.m. to 5 p.m., Monday through Friday, 9 a.m. to 5 p.m. on Saturdays on an as needed basis, or at such other reasonable hours as are requested by the Parties hereto (collectively, the "Operating Hours"), provided that such Operating Hours may be modified from time to time based on the consent of four (4) of the (5) parties to this Agreement. Notwithstanding the foregoing, the Parties hereby acknowledge and agree that certain noise ordinances restrict certain uses during the periods between 7 p.m. and 7 a.m. Monday through Saturday and 7 p.m. on Saturday through 7 a.m. on Monday, the Managing Party hereby agreeing to comply with such noise ordinances. Furthermore, the Parties acknowledge the unique nature of the Watergate Hotel's operational requirements, and as of the Effective Date, agree that the Watergate Hotel shall have the right to use the Truck Tunnel on an as needed basis outside of the Operating Hours in order to facilitate its day-to-day operation, provided that said use is conducted in a commercially reasonable manner and consistent with (y) the terms and conditions contained

herein regarding the use of the Truck Tunnel during Operating Hours, and (z) the Truck Tunnel Rules & Regulations Outside of Operating Hours (the “**Rules and Regulations**”) attached hereto as Exhibit E; and (iv) maintain the Truck Tunnel and the Loading Dock in a manner keeping with the first-class nature of the Watergate Complex at all times (herein referred to as the “**Maintenance Costs**”), including, but not limited to, repair and maintenance of the Truck Tunnel door and its associated component equipment, power washing, repair and maintenance of security cameras and associated monitoring fees, online systems and software for purposes of logistics management and scheduling deliveries, guard uniforms, guard equipment, guard office expenses (e.g., phones, bottled water, repair of heating, ventilating and air conditioning, access control/locks on office, etc.), removal of bulk trash and debris from areas of the Truck Tunnel adjacent to trash compactors, dumpsters, or other waste receptacles (I) not objectively and definitively associated with one particular Party or (II) disposed of by tenants, shareholders, residents, contractors, guests, or invitees of a Party under circumstances beyond the Party’s ability to reasonably and practically control, and other maintenance costs and expenses incurred in connection with the day-to-day logistics and operation of the Truck Tunnel and the Loading Dock. The Maintenance Costs shall be allocated proportionately between all Parties based on their pro rata share of expenses as specified in Exhibit B. Notwithstanding the foregoing, all property-specific expenses shall be excluded from the foregoing requirement, including, but not limited to, repairs and maintenance related to painting, lighting, pest control, structural repairs, bulk trash and debris from areas of the Truck Tunnel adjacent to trash compactors, dumpsters, or other waste receptacles (Y) objectively and definitively associated with one particular Party or (Z) disposed of by tenants, shareholders, residents, contractors, guests, or invitees of a Party under circumstances within the Party’s ability to reasonably and practically control, and other physical repairs and maintenance that are not related to the shared logistics management and operation of the Truck Tunnel and the Loading Dock. Throughout the term of this Agreement, the Managing Party shall also have the right to use the New Hampshire Avenue Guard Station and Loading Dock Guard Station for purposes of managing and operating the Truck Tunnel and the Loading Dock.

(b) If the Managing Party engages a third-party to provide services under this Agreement (the “**Third Party Operator**”), the Managing Party agrees to engage the same Third-Party Operator to provide services for the Truck Tunnel and the Loading Dock. Upon one hundred twenty (120) days’ prior written notice from three (3) of the four (4) other Parties, the Managing Party shall use commercially reasonable efforts to either (i) replace the Third Party Operator, or (ii) in the event of nonperformance by individual personnel stationed at the New Hampshire Avenue Guard Station or Loading Dock Guard Station, replace, or cause the Third Party Operator to replace, the nonperforming personnel.

(c) The Parties shall use commercially reasonable efforts to identify and implement a computerized logistics management system within one hundred and eighty (180) days of the Execution Date of this Agreement. The computerized logistics management system shall (i) allow all Parties to schedule deliveries, use of the Truck Tunnel, or use of the Loading Dock; (ii) allow all parties to view scheduled deliveries, use of the Truck Tunnel, or use of the Loading Dock on any given date (including the Party that originally scheduled said deliveries, use of the Truck Tunnel, or use of the Loading Dock); (iii) provide a record of each Party’s deliveries, use of the Truck Tunnel, and use of the Loading Dock for reference purposes (including, but not limited to, periodic operational reviews or a review in connection with Section 3(g) of this Agreement).

Following its implementation, the daily management and oversight of the computerized logistics management system shall be the responsibility of the Managing Party, and all associated expenses shall be allocated in accordance with Section 3 of this Agreement.

(d) The initial "Managing Party" under this Agreement shall be the Office Owner; provided, however, that (i) the Office Owner (or a future Managing Party) shall be entitled to resign from its role as Managing Party upon no less than sixty (60) days' prior written notice to the other Parties under this Agreement, and (ii) the other Parties to this Agreement (other than Office Owner or, following the Office Owner's resignation or removal as the Managing Party, a future Managing Party) shall have the right to remove Office Owner (or a future Managing Party) from its role as Managing Party if three (3) of the four (4) other Parties so desire. Upon Office Owner's resignation or removal, the "Managing Party" shall mean the Party designated by three (3) of the (5) Parties to this Agreement, provided that if such Parties are unable to agree on a substitute Managing Party, then the Managing Party shall mean (I) Retail Owner (with respect to the Truck Tunnel), and (II) Office Owner (with respect to the Loading Dock). Notwithstanding the foregoing to the contrary, the Parties acknowledge and agree that the operation and security of the Truck Tunnel is currently provided by Admiral Security (the "Current Provider") pursuant to an agreement between the Current Provider, the Retail Owner and the Office Owner (the "Current Tunnel Contract"), which costs are allocated between the Retail Owner, the Office Owner, and Watergate East pursuant to: (v) a Letter dated October 30, 2001, (w) a Letter Agreement dated November 7, 2001, (x) a Memorandum dated January 17, 2002, (y) a Letter Dated March 26, 2009, and (z) a Letter Dated October 26, 2018, (collectively, the "Current Truck Tunnel Allocation Agreement"). From and after the Effective Date and continuing until the commencement date of the initial term of the Tunnel Contract, (A) the "Managing Party" with respect to the Truck Tunnel shall mean Office Owner, (B) the Current Truck Tunnel Allocation Agreement shall terminate and shall no longer remain in effect, and (C) the expenses associated with the Current Tunnel Contract shall be allocated as specified in Section 3 and Exhibit B attached hereto.

3. Allocation and Payment of Expenses.

(a) As of the Effective Date, the Parties agree to allocate expenses associated with the Contracts (and the Current Tunnel Contract, as applicable) as specified in Exhibit B attached hereto, which allocations are subject to adjustment in accordance with the terms and conditions of this Section 3. Notwithstanding the foregoing, (i) each Party shall be responsible for its own costs and expenses (including legal fees) incurred in negotiating the Contracts and this Agreement, and (ii) if any Party requires additional services beyond those described in the Contracts as a result of increased security and/or logistics management needs specific to such Party's property, then the requesting Party shall be solely responsible for the full cost of the additional services. From and after the Effective Date (with respect to the Loading Dock Contract), and from and after the effective date of the Tunnel Contract, the Managing Party shall submit to the other Parties on or about the first day of each calendar year an estimated budget of the expenses that are estimated to be incurred in connection with the Loading Dock Contract and the Tunnel Contract during such calendar year. The budget shall be for informational purposes and shall not otherwise modify the reimbursement obligations of the Parties hereto under this Agreement. Managing Party shall promptly respond to any reasonable requests received from the other Parties for additional information concerning the expenses set forth in the proposed budget. Within ten

(10) days after the delivery of the proposed budget, any Party shall have the right, by written notice to the Managing Party and other Parties, to file an objection to one or more expense noted in the proposed budget (an "**Objection**"). The Managing Party and the Party filing the Objection shall work in good faith to try to resolve the Objection for a period of twenty (20) days and provide the proposed resolution (or a revised proposed budget) to the other Parties. If the Managing Party and the Party filing the Objection are unable, within such twenty (20) day period, the Managing Party or the Party filing the Objection may elect to resolve the Objection via the Dispute Resolution process set forth in Section 7 below.

(b) To the extent applicable, from and after the Effective Date and continuing through the day immediately preceding the effective date of the Tunnel Contract, Office Owner's share of expenses under this Agreement shall be deducted from the invoices billed to the other Parties for the services provided under the Current Tunnel Contract, and Office Owner shall bill the other Parties for their share of the expenses associated with the Current Tunnel Contract. Following receipt of such invoice, each Party subject to the terms and conditions of this Agreement shall have thirty (30) days to reimburse Office Owner for said expense.

(c) From and after the Effective Date, the Managing Party shall bill the other Parties for their proportionate share of expenses under this Agreement for the services provided in the Contracts. Following receipt and payment of an invoice for the services provided in the Contracts, the Managing Party shall provide the other Parties with invoice for their proportionate share of expenses, including copies of the underlying invoices for the costs incurred under the Contracts. Following receipt of such invoices, each Party, subject to the terms and conditions of this Agreement, shall have thirty (30) days to reimburse the Managing Party for said expense. Any Party shall have the right, not more than one (1) time per calendar year (except in the case of a financing) during regular business hours at the office of the Managing Party, and after giving at least ten (10) days' advance written notice to the Managing Party, to review the Managing Party's books and records related to the expenses related to the Contracts (the "**Expenses**") for the immediately preceding calendar year reviewed (and if so commenced, to expeditiously and diligently pursue such review to completion), provided that such review shall be concluded not later than thirty (30) days following the commencement of such review. If the amounts paid by such reviewing Party to the Managing Party on account of Expenses (a) exceed the amounts to which Managing Party is entitled hereunder, then Managing Party shall, upon final determination, refund such excess to the reviewing Party (and any other affected Party), or (b) are less than the amounts to which Managing Party is entitled hereunder, then the reviewing Party (and any other affected Party) shall promptly pay such deficiency. All costs and expenses of any such review shall be paid by the reviewing Party; provided, however, that if the amount of Expenses paid by such Party was overstated by Managing Partner by more than four percent (4%), Managing Party shall reimburse the reviewing Party for the commercially reasonable, out of pocket hourly or flat fee costs and expenses paid by such reviewing Party in connection with such review.

(d) If the Parties unanimously agree to modify the scope of services to be provided under the Contracts (or the Current Tunnel Contract, if applicable) for all five properties, the increase or reduction in expenses resulting from such modified scope shall be allocated proportionately between all Parties based on their pro rata share of expenses as specified in Exhibit B.

(e) If four (4) of the five (5) Parties agree to replace the Truck Tunnel Guard or the Dockmaster with an automated access control, traffic management, logistics management, or related automated system (an "Automated System"), upgrade, replace and/or install additional cameras to supplement the existing Truck Tunnel surveillance camera system in the Truck Tunnel, install a callbox or similar limited access control system to facilitate use of the Truck Tunnel outside of 7 a.m. to 5 p.m., Monday through Friday, or another capital improvement associated with the operation and maintenance of the Truck Tunnel (collectively "Capital Improvements"), the costs in connection with such Automated System and/or Capital Improvements shall be allocated proportionately between all Parties based on their pro rata share of expenses as specified in Exhibit B.

(f) In the event that a Party terminates their participation in this Agreement in accordance with Sections 1(a) or 1(c) of this Agreement, or another entity within the Watergate Complex becomes a party to this Agreement and contributes to the cost of security and logistics management services associated with the operation of the Truck Tunnel or the Loading Dock in the future, the resulting change in expense allocation shall be distributed proportionately among the Parties based on their current pro rata share of expenses in accordance with this Agreement.

(g) As of the Execution Date, the Parties agree the allocations associated with the Contracts as specified in Exhibit B (collectively, the "Allocation Percentages") are fair and equitable and have been determined in good faith. As Watergate West wishes to ensure its Allocation Percentage remains fair and equitable, the Parties agree that Watergate West shall have the one-time right to review its allocation upon the conclusion of the fifth (5th) full year of this Agreement. The review shall ensure Watergate West's proportionate share (i) remains commercially reasonable and (ii) is not disproportionately beneficial or burdensome. Each Party agrees to cooperate in good faith with such review. If Watergate West's Allocation Percentage is determined to be disproportionately beneficial or burdensome, the Parties agree to adjust Watergate West's Allocation Percentage fairly and equitably based on Watergate West's proportionate share of the total use of the Truck Tunnel by all Parties (herein defined as the average of the total number and mean duration of deliveries and other transient, vehicular use of the Truck Tunnel) during the three (3) preceding years, as well as a reasonable estimate of the organizational costs and resources provided by the Managing Party for the benefit of all Parties, based on the agreement of Watergate West, the Retail Owner, and the Office Owner or, in the absence of such agreement, in accordance with the dispute resolution mechanism set forth in Section 7 of this Agreement. In the event Watergate West's Allocation Percentage is adjusted in accordance with this Section 3(g), the Retail Owner's and Office Owner's Allocation Percentages shall each be adjusted by an amount equal to 50% of the total increase or decrease in Watergate West's Allocation Percentage, and the Hotel Owner's and Watergate East's Allocation Percentages shall remain unchanged.

- (h) The Parties hereby acknowledge the following for purposes of clarification:
- a. The Office Owner's Allocation Percentage shall not exceed 25% unless (i) a Party terminates its participation under this Agreement by delivering written notice to the other Parties hereunder no less than one hundred eighty (180) days and no more than two hundred

seventy (270) days prior to the Initial Expiration Date, or any subsequent expiration date to the extent the term of this Agreement has been extended in accordance with Section 1(a) of the Agreement (in which event it is hereby acknowledged that the Office Owner also has the right to terminate its participation in this Agreement in accordance with Section 1(a) of this Agreement); (ii) all Parties (including the Office Owner) consent to a Party's request to withdraw from this Agreement in accordance with Section 1(c) of this Agreement; or (iii) Watergate West's proportionate share of expenses is decreased in accordance with Section 3(g) of this Agreement following a review of its allocation percentage upon the conclusion of the fifth (5th) full year of this Agreement.

- b. The Retail Owner's Allocation Percentage shall not exceed 25% unless (i) a Party terminates its participation under this Agreement by delivering written notice to the other Parties hereunder no less than one hundred eighty (180) days and no more than two hundred seventy (270) days prior to the Initial Expiration Date, or any subsequent expiration date to the extent the term of this Agreement has been extended in accordance with Section 1(a) of the Agreement (in which event it is hereby acknowledged that the Retail Owner also has the right to terminate its participation in this Agreement in accordance with Section 1(a) of this Agreement); (ii) all Parties (including the Retail Owner) consent to a Party's request to withdraw from this Agreement in accordance with Section 1(c) of this Agreement; or (iii) Watergate West's proportionate share of expenses is decreased in accordance with Section 3(g) of this Agreement following a review of its allocation percentage upon the conclusion of the fifth (5th) full year of this Agreement.
- c. The Hotel Owner's Allocation Percentage shall not exceed 25% unless (i) a Party terminates its participation under this Agreement by delivering written notice to the other Parties hereunder no less than one hundred eighty (180) days and no more than two hundred seventy (270) days prior to the Initial Expiration Date, or any subsequent expiration date to the extent the term of this Agreement has been extended in accordance with Section 1(a) of the Agreement (in which event it is hereby acknowledged that the Hotel Owner also has the right to terminate its participation in this Agreement in accordance with Section 1(a) of this Agreement); or (ii) all Parties (including the Hotel Owner) consent to a Party's request to withdraw from this Agreement in accordance with Section 1(c) of this Agreement.
- d. Watergate East's Allocation Percentage shall not exceed 12.5% unless (i) a Party terminates its participation under this Agreement

by delivering written notice to the other Parties hereunder no less than one hundred eighty (180) days and no more than two hundred seventy (270) days prior to the Initial Expiration Date (or any subsequent expiration date to the extent the term of this Agreement has been extended in accordance with Section 1(a) of the Agreement (in which event it is hereby acknowledged that Watergate East also has the right to terminate their participation in this Agreement in accordance with Section 1(a) of this Agreement); or (ii) all Parties (including Watergate East) consent to a Party's request to withdraw from this Agreement in accordance with Section 1(c) of this Agreement.

- e. Watergate West's Allocation Percentage shall not exceed 12.5% unless (i) a Party terminates its participation under this Agreement by delivering written notice to the other Parties hereunder no less than one hundred eighty (180) days and no more than two hundred seventy (270) days prior to the Initial Expiration Date (or any subsequent expiration date to the extent the term of this Agreement has been extended in accordance with Section 1(a) of the Agreement (in which event it is hereby acknowledged that Watergate West also has the right to terminate its participation in this Agreement in accordance with Section 1(a) of this Agreement); (ii) all Parties (including Watergate West) consent to a Party's request to withdraw from this Agreement in accordance with Section 1(c) of this Agreement; or (iii) Watergate West's proportionate share of expenses is increased in accordance with Section 3(g) this Agreement following a review of its allocation percentage upon the conclusion of the fifth (5th) full year of this Agreement.

4. **Indemnification.**

(a) Retail Owner shall indemnify and save harmless Office Owner, Hotel Owner, Watergate East, Watergate West and their officers, members, directors, partners, agents and employees from any and all liability, damage, out of pocket expense, cause of action, suits, claims, judgments and cost of defense (including without limitation, reasonable attorneys' fees, disbursements and actual costs) to the extent arising, from and after the Effective Date, from (i) any negligent act or omission of Retail Owner or its officers, members, directors, partners, agents and employees (collectively, "**Retail Party**") in connection with this Agreement or Retail Owner's obligations under the Contracts, and (ii) any material breach of this Agreement by any Retail Party.

(b) Office Owner shall indemnify and save harmless Retail Owner, Hotel Owner, Watergate East, Watergate West, and their officers, members, directors, partners, agents and employees from any and all liability, damage, out of pocket expense, cause of action, suits, claims, judgments and cost of defense (including without limitation, reasonable attorneys' fees, disbursements and actual costs) to the extent arising, from and after the Effective Date, from (i) any negligent act or omission of Office Owner or its officers, members, directors, partners, agents

and employees (collectively, "Office Party") in connection with this Agreement or Office Owner's obligations under the Contracts, and (ii) any material breach of this Agreement by any Office Party.

(c) Hotel Owner shall indemnify and save harmless Retail Owner, Office Owner, Watergate East, Watergate West, and their officers, members, directors, partners, agents and employees from any and all liability, damage, out of pocket expense, cause of action, suits, claims, judgments and cost of defense (including without limitation, reasonable attorneys' fees, disbursements and actual costs) to the extent arising, from and after the Effective Date, from (i) any negligent act or omission of Hotel Owner or its officers, members, directors, partners, agents and employees (collectively, "Hotel Party") in connection with this Agreement or Hotel Owner's obligations under the Contracts, and (ii) any material breach of this Agreement by any Hotel Party.

(d) Watergate East shall indemnify and save harmless Retail Owner, Hotel Owner, Office Owner, Watergate West, and their officers, members, directors, partners, agents and employees from any and all liability, damage, out of pocket expense, cause of action, suits, claims, judgments and cost of defense (including without limitation, reasonable attorneys' fees, disbursements and actual costs) to the extent arising, from and after the Effective Date, from (i) any negligent act or omission of Watergate East or its officers, members, directors, partners, agents and employees (collectively, "Watergate East Party") in connection with this Agreement or Watergate East's obligations under the Contracts, and (ii) any material breach of this Agreement by any Watergate East Party.

(e) Watergate West shall indemnify and save harmless Retail Owner, Office Owner, Hotel Owner, Watergate East and their officers, members, directors, partners, agents and employees from any and all liability, damage, out of pocket expense, cause of action, suits, claims, judgments and cost of defense (including without limitation, reasonable attorneys' fees, disbursements and actual costs) to the extent arising, from and after the Effective Date, from (i) any negligent act or omission of Watergate West or its officers, members, directors, partners, agents and employees (collectively, "Watergate West Party") in connection with this Agreement or Watergate West's obligations under the Contracts, and (ii) any material breach of this Agreement by any Watergate West Party.

(f) This indemnity shall survive the termination of this Agreement for a period of five (5) years.

5. **Transfers.**

(a) Retail Owner shall not assign or otherwise transfer this Agreement except in connection with the sale of the Retail Property or a transfer of the Retail Property to Retail Owner's mortgagee as a result of foreclosure or a deed in lieu of foreclosure.

(b) Office Owner shall not assign or otherwise transfer this Agreement except in connection with the sale of the Office Property or a transfer of the Office Property to Office Owner's mortgagee as a result of foreclosure or a deed in lieu of foreclosure.

(c) Hotel Owner shall not assign or otherwise transfer this Agreement except in connection with the sale of the Hotel Property or a transfer of the Hotel Property to Hotel Owner's mortgagee as a result of foreclosure or a deed in lieu of foreclosure.

(d) Watergate East shall not assign or otherwise transfer this Agreement except in connection with the sale of the Watergate East Property or a transfer of the Watergate East Property to Watergate East's mortgagee as a result of foreclosure or a deed in lieu of foreclosure.

(e) Watergate West shall not assign or otherwise transfer this Agreement except in connection with the sale of the Watergate West Property or a transfer of the Watergate West Property to Watergate West's mortgagee as a result of foreclosure or a deed in lieu of foreclosure.

6. **Notices.** All notices, approval requests, or other communications required under this Agreement shall be in writing and shall be deemed duly given and received (a) on the next business day after deposit with a recognized overnight delivery service, (b) on the second day after being sent by certified or registered mail, return receipt requested, postage prepaid, or (c) upon delivery by email transmission, provided that any email transmission must, in order to be effective, also be sent in the manner specified in clauses (a) or (b) of this Section 6, to the following addresses: (i) if to Retail Owner, at 6858 Old Dominion Drive, Suite 102, McLean, VA 22101, Attention: Ambrish Gupta (novatrials@gmail.com), (ii) if to Office Owner, at c/o Rockwood Capital, LLC, 140 E. 45th St., 34th Floor, New York, New York 10017, Attention: David I. Becker, Esq. (dbecker@rockwoodcap.com), (iii) if to Hotel Owner, 2650 Virginia Avenue NW, Washington, DC 20037, Attention: Jacques Cohen (jcohen@eurocapprop.com), (iv) if to Watergate East, at 2500 Virginia Avenue NW, Washington, DC 20037, Attention: President, and (v) if to Watergate West, at 2700 Virginia Avenue NW, Washington, DC 20037, Attention: President. Any Party may change its address for the giving of notices by notice given in accordance with this Section (which notice must be given at least ten (10) days prior to the effective date of such new notice address).

7. **Dispute Resolution.** Any disagreement regarding the interpretation, construction, application, or breach of the Agreement shall be addressed informally and expeditiously. If a dispute arises from or relates to this Agreement or the breach thereof, and if the dispute cannot be settled through informal or direct discussions, the Parties agree to endeavor first to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration. The Parties further agree that any unresolved controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. A single arbitrator shall hear claims. The place of arbitration shall be Washington, DC, and the arbitration shall be governed by the laws of the District of Columbia. Each Party will, upon written request of the other Party, promptly provide the other with copies of all relevant documents. There shall be no other discovery allowed. In making determinations regarding the scope of exchange of electronic information, the arbitrator and the parties agree to be guided by The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production. Hearings will take place pursuant to the standard procedures of the Commercial Arbitration Rules that

contemplate in person hearings. Time is of the essence for any arbitration under this agreement and arbitration hearings shall take place within ninety (90) days of filing and awards rendered within one hundred twenty (120) days. Arbitrator shall agree to these limits prior to accepting appointment. The arbitrator shall not award consequential damages in any arbitration initiated under this section. Arbitrators will have the authority to allocate the costs of the arbitration process among the Parties but will only have the authority to allocate attorneys' fees if a particular law permits them to do so. Except as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties. Pending resolution of a claim or dispute, the Parties shall proceed diligently with the performance of the Agreement.

8. Miscellaneous.

(a) Retail Owner, Office Owner, Hotel Owner, Watergate East, and Watergate West hereby waive trial by jury in any action, proceeding or counterclaim brought by any of the Parties hereto against the other on or in respect of any matter whatsoever arising out of or in any way connected with this Agreement or the relationship of Retail Owner, Office Owner, Hotel Owner, Watergate East, and Watergate West hereunder.

(b) It is expressly agreed by the parties hereto that if (a) Retail Owner, (b) Office Owner, (c) Hotel Owner, (d) Watergate East, or (e) Watergate West is awarded any money judgment against any other Party hereto (in such case the "Other Party"), then recourse for satisfaction of such judgment shall be limited to execution against such Other Party's estate and interest in such Other Party's real property as described herein (i.e., the Retail Property, Office Property, Hotel Property, Watergate East Property, or the Watergate West Property, as applicable). No other asset of such Other Party, any partner, director, member, officer or trustee of such Other Party or any other person or entity shall be available to satisfy or be subject to such judgment, nor shall any such person or entity be held to have personal liability for satisfaction of any claim or judgment against such Other Party.

(c) It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between Retail Owner, Office Owner, Hotel Owner, Watergate East and Watergate West.

(d) This Agreement, including any Exhibits attached hereto and made a part hereof, contains and embodies the entire agreement of the parties hereto with respect to the matters described herein, and no representations, inducements, or agreements, oral or otherwise, between the parties not contained and embodied in this Agreement with respect to the matters described herein shall be of any force and effect, and the same may not be modified, changed or terminated in whole or in part in any manner other than by an agreement in writing duly signed by all parties hereto. This Agreement shall be governed by the laws of the District of Columbia.

(e) Each Party shall retain all rights and benefits pursuant to any separate agreements (including those listed in Exhibit C) with another Party or Parties in effect at the time of the expiration of this Agreement, its termination in accordance with Section 1(b), or withdrawal by a Party in accordance with Sections 1(a) and 1(c).

(f) This Agreement shall be binding upon, and inure to the benefit of, Retail Owner, Office Owner, Hotel Owner, Watergate East and Watergate West, and their respective successors and permitted assigns.

(g) All Parties have entered into this Agreement in good faith and in the interest of neighborly relations. This Agreement and the terms and conditions contained herein shall not be used as a precedent to establish (i) any Party's responsibility to perform the obligations contained herein, or (ii) to establish any Party's proportionate share of expenses in any agreement other than this Agreement.

(h) Captions in this Agreement are for convenience of reference only and shall not be considered in the interpretation of this Agreement. This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement. Counterparts exchanged electronically (by facsimile or by email in .pdf format) shall be deemed originals for all purposes hereunder. In the event that one or more of the provisions of this Agreement shall be held to be illegal, invalid or unenforceable, each such provision shall be deemed severable and the remaining provisions of this Agreement shall continue in full force and effect.

(i) The legal descriptions of the Retail Property, the Office Property, the Hotel Property, the Watergate East Property and the Watergate West Property attached hereto as Exhibit A-1 through Exhibit A-5, respectively, are the current of-record legal descriptions of the parcels of land subject to this Agreement and are included herein and attached hereto solely for the purpose of permitting the recordation and indexing of this Agreement in the land records of the District of Columbia. Each of the Parties hereto acknowledge and agree that, except for the matters expressly addressed in this Agreement, the inclusion of such legal descriptions shall in no way constitute a waiver, release or modification of any Party's other rights, obligations, claims or liabilities under any other agreement or at law or in equity.

[Signatures contained on the following page]

IN WITNESS WHEREOF, Retail Owner, Office Owner, Hotel Owner, Watergate East, and Watergate West have caused this Agreement to be executed and delivered, intending to be legally bound by its terms and provisions.

RETAIL OWNER:

WATERGATE PARTNERS, LLC, a Delaware limited liability company

By: [Signature]
Name: A. Carter
Title: VP

STATE OF Washington DC
COUNTY OF _____ : to wit

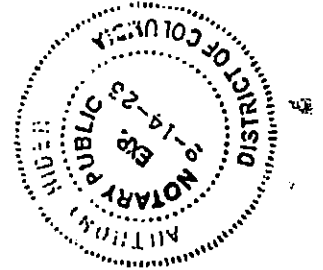
The foregoing instrument was acknowledged before me this 12th day of April, 2019, by Anthony Carter, as VP, of Watergate Partners, LLC, a Delaware limited liability company.

[Signature] (SEAL)
Notary Public

My commission expires:

9-14-2023

ANTHONY HIDER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires September 14, 2023



[Signatures continued on the following page]

OFFICE OWNER:

WATERGATE OFFICE FEE OWNER, LLC, a Delaware limited liability company

By: Walter P. Schmidt

Name: Walter P. Schmidt

Title: Authorized Signatory

STATE OF New York

: to wit

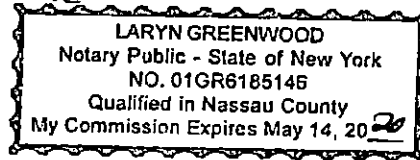
COUNTY OF New York

The foregoing instrument was acknowledged before me this 15th day of APRIL, 2019, by Walter P. Schmidt as Authorized Signatory of Watergate Office Fee Owner, LLC, a Delaware limited liability company.

Laryn Greenwood (SEAL)
Notary Public

My commission expires:


May 14, 2020



[Signatures continued on the following page]

HOTEL OWNER:

WATERGATE HOTEL, LLC, a Delaware limited liability company

By: 
Name: JACQUES COHEN
Title: President

STATE OF New York

: to wit

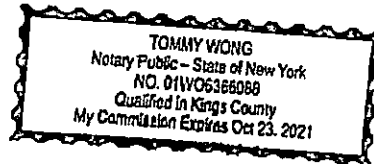
COUNTY OF New York

The foregoing instrument was acknowledged before me this 16th day of May, 2019, by Jacques Cohen, as president, of Watergate Hotel, LLC, a Delaware limited liability company.

 (SEAL)
Notary Public

My commission expires:

12/23/21



[Signatures continued on the following page]

WATERGATE EAST:

WATERGATE EAST, INC., a Delaware nonprofit housing cooperative corporation

By: *Paul L. Knight*

Name: PAUL L. KNIGHT

Title: PRESIDENT

STATE OF DISTRICT OF COLUMBIA

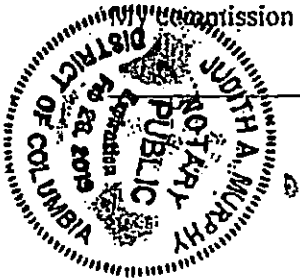
: to wit

COUNTY OF _____

The foregoing instrument was acknowledged before me this 14th day of NOVEMBER, 2018, by PAUL L. KNIGHT as PRESIDENT, of Watergate East, Inc., a Delaware nonprofit housing cooperative corporation.

Judith A. Murphy
Notary Public
JUDITH A. MURPHY
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 28, 2019

My commission expires: _____



[Signatures continued on the following page]

WATERGATE WEST:

WATERGATE WEST, INC., a Delaware nonprofit corporation

By: *Haluk Arıturk*

Name: HALUK ARITURK

Title: PRESIDENT

STATE OF Washington, DC

: to wit

COUNTY OF _____

The foregoing instrument was acknowledged before me this 10 day of April, 2019, by Haluk Arıturk, as President, of Watergate West, Inc., a Delaware nonprofit corporation.

Anthony Hider (SEAL)
Notary Public

My commission expires:

September 14, 2023

ANTHONY HIDER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires September 14, 2023

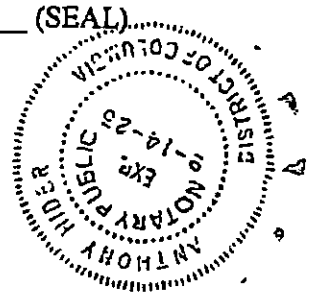


Exhibit B

**Allocation of Expenses
Pro Rata Share by Building**

Office Owner Share	Retail Owner Share	Hotel Owner Share	Watergate East Share	Watergate West Share
25%	25%	25%	12.50%	12.50%

Exhibit B

Exhibit C

Existing Easement and Expense Allocation Agreements

1. Allocation Agreement dated March 1, 1966, recorded March 29, 1966 as Instrument No. 10610 (Lot 806),
2. Allocation Agreement dated March 1, 1971, recorded March 31, 1971 as Instrument No. 5944 (Lots 811 and 812) as confirmed by Confirmation Agreement dated April 1, 1975, recorded April 27, 1975 as Instrument No. 7901 and as amended by First Amendment to Real Estate Tax, Easement and Expense Allocation Agreement dated September 2, 1975, recorded November 20, 1975 as Instrument No. 27201,
3. Allocation Agreement dated April 1, 1969, recorded May 1, 1969 as Instrument No. 8249 (Lot 809),
4. Lease and Easement Agreement dated November 25, 1974, between Watergate Improvement Associates and Watergate East, Inc.
5. Allocation Agreement dated April 19, 1990, recorded June 21, 1990 as Instrument No. 35123 and as confirmed by Agreement recorded June 21, 1990 as Instrument No. 35125 (Lots 806, 807 and 808).
6. Tunnel Easement Agreement dated December 29, 2016, between Greenpenz 2600 Virginia Avenue, LLC, and Watergate Office Fee Owner, LLC.

Exhibit D

Truck Tunnel

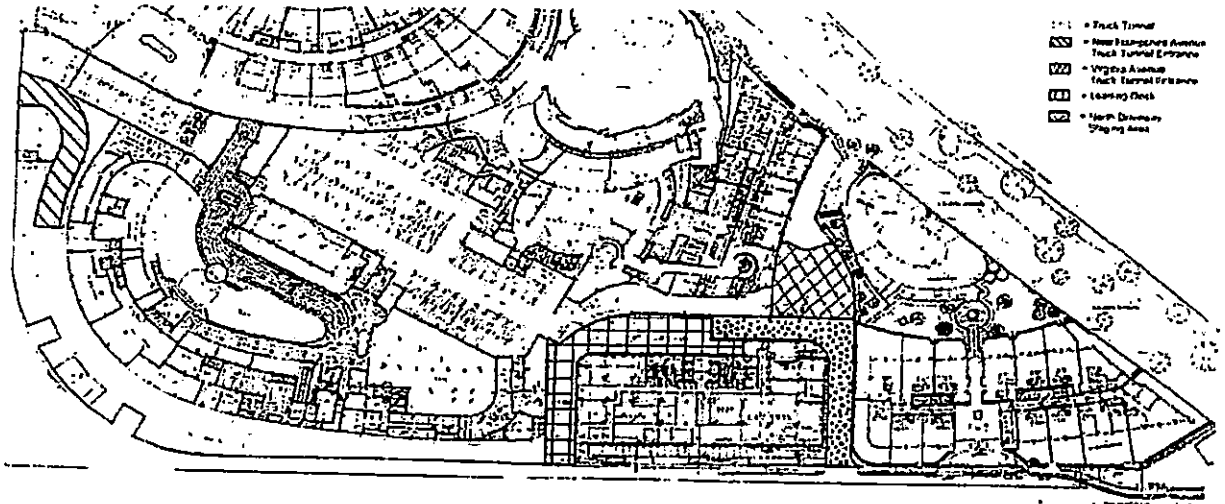


Exhibit E

Truck Tunnel Rules & Regulations Outside of Operating Hours

Pursuant to Section 2(a) of the Agreement, the Parties have agreed to grant Hotel Owner the right to use the Truck Tunnel outside of the Operating Hours subject to the following Rules and Regulations:

1. After Hours Use. Hotel Owner shall use best efforts to limit deliveries to and pick-ups from the Hotel Property to the hours of 7:00 a.m. to 9:00 p.m. On rare occasions, deliveries to and pick-ups from the Hotel Property will occur after 9:00 p.m. For the duration of any such deliveries or pick-ups, the Hotel Owner shall make every effort to keep noise levels to a minimum and not allow vehicles to back up to the Virginia Avenue Truck Tunnel Entrance to make such deliveries and pick-ups between the hours of 9:00 p.m. to 7:00 a.m. The Virginia Avenue Truck Tunnel Entrance is further described in Exhibit D of this Agreement.
2. New Hampshire Avenue Truck Tunnel Entrance. Hotel Owner's authorized staff shall have the right to open and close the door to the New Hampshire Avenue Truck Tunnel entrance (the "**Tunnel Door**") solely for purpose of receiving deliveries to and pick-ups from the Hotel Property between the hours of 5:00 p.m. to 9:00 p.m., Monday through Friday, and 8:00 a.m. to 9:00 p.m., Saturdays and Sundays (each, an "**After-Hours Delivery**" and, collectively, the "**After-Hours Deliveries**").
3. Arrival at Tunnel Door. Prior to the installation of the Automated System (as defined in Section 3(e) of the Agreement), After-Hours Deliveries shall, upon arrival at the Tunnel Door, (a) call the Hotel Owner's authorized staff to open the Tunnel Door; and (b) turn off the engine of the vehicle making the After-Hours Delivery until the Tunnel Door is opened by Hotel Owner's authorized staff. Such instructions shall be posted on signage at the Tunnel Door and include a phone number for Hotel Owner's authorized staff. Hotel Owner's staff shall close the Tunnel Door once an After-Hours Delivery has entered the Truck Tunnel. Following the installation of the Automated System, After Hours Deliveries shall use a callbox to contact Hotel Owner's authorized staff and obtain access into the Truck Tunnel.
4. Virginia Avenue Access Control System. As of May 9, 2019, the Parties intend to install a system for the purpose of controlling unauthorized after-hours use of the Virginia Avenue Truck Tunnel Entrance by commercial vehicles (the "**Virginia Avenue Access Control System**"). The Virginia Avenue Access Control System shall include (a) a physical barrier which is intended to stop commercial vehicles arriving at the Virginia Avenue Truck Tunnel Entrance; and (b) a callbox or similar device for purposes of communication with Hotel Owner's authorized personnel (and any other authorized personnel designated by the other Parties) upon arrival at the physical barrier. Upon contacting the Hotel Owner's authorized personnel, authorized commercial vehicles shall be provided with access to the Virginia Avenue Truck Tunnel Entrance and unauthorized vehicles shall be turned away from the Virginia Avenue Truck Tunnel Entrance. The Virginia Avenue Access Control System shall be used between the hours of 9:00 p.m. to 7:00 a.m., Monday to Friday, and 9:00 p.m. to 9:00 a.m., Saturday and Sunday, and use of the Virginia Avenue Truck Tunnel Entrance shall not be restricted outside of these hours. For purposes of cost allocation, installation costs associated with the Virginia Avenue Access Control System shall be considered

a Capital Improvement as defined in Section 3(e) of this Agreement and its operational costs shall be considered a Maintenance Cost as defined in Section 2(a) of this Agreement. The Parties acknowledge the exact scope of the Virginia Avenue Access Control System is subject to change and dependent on the ability to secure all necessary permits, government, and/or regulatory approvals.

5. Buses. Due to the physical dimensions of the Truck Tunnel, use of the Truck Tunnel is limited to vehicles with a maximum height of 12'6" and maximum length of 26'0". Accordingly, buses shall be permitted to back up to the Virginia Avenue Truck Tunnel Entrance to pick up and drop off Hotel Owner's guests between the hours 7:00 a.m. to 9:00 p.m., Monday through Friday, and 9:00 a.m. to 9:00 p.m., Saturday and Sunday. Buses arriving outside of these hours shall use Virginia Avenue to pick up and drop off Hotel Owner's guests. Buses shall also be prohibited from blocking the Virginia Avenue Truck Tunnel Entrance at any time.

6. Deliveries and Pick-Ups of Oversized Equipment. Due to the physical dimensions of the Hotel Property's elevators and B2 level hallways and corridors, the delivery and pick-up of equipment associated with certain events at the Hotel Property ("Oversized Equipment") cannot occur within the Truck Tunnel. For purposes of the delivery or pick-up of Oversized Equipment to or from the Hotel Property, commercial vehicles shall use the staging area which is located on the Hotel Property and immediately adjacent to the Virginia Avenue Truck Tunnel Entrance (the "North Driveway Staging Area"). Delivery and pick-up of Oversized Equipment in the North Driveway Staging Area shall occur between the hours of 7:00 a.m. to 9:00 p.m., Monday through Friday, and 9:00 a.m. to 9:00 p.m., Saturday and Sunday. The North Driveway Staging Area is further described in Exhibit D of this Agreement.

7. Deliveries and Pick-Ups, General. Except as set forth in Sections 6 and 8 of this Exhibit E, all deliveries to and pick-ups from the Hotel Property which do not involve Oversized Equipment shall occur through the Hotel Property's B2 Level loading dock in the Truck Tunnel.

8. Deliveries and Pickups, Four Wheeled Vehicles. With the exception of the delivery and pick-up of Oversized Equipment, four (4) wheeled vehicles which are not equipped with a backup alarm may use the Virginia Avenue Truck Tunnel Entrance to make deliveries to and pick-ups from the Hotel Property at any time. All deliveries and pick-ups of Oversized Equipment made by such vehicles shall be subject to the provisions contained in Sections 5 and 7 of this Exhibit E.

9. Schedule of Events. The Hotel Owner shall use commercially reasonable efforts to provide the other Parties with a list of events which are scheduled at the Hotel Property and, in Hotel Owner's reasonable judgement, may alter the normal flow of traffic in and around the Virginia Avenue Truck Tunnel Entrance (the "Event Schedule"). The Hotel Owner shall use commercially reasonable efforts to provide the Event Schedule to the other Parties on a once per week basis and include such events which are scheduled to occur within the subsequent seven (7) day period. Notwithstanding the foregoing, the Hotel Owner, at its sole discretion, shall have the right to omit certain events (or details of certain events) from the Event Schedule for reasons of security or privacy of its guests.

10. Federal and Local Laws. The Rules and Regulations contained in this Exhibit E shall be subject and subordinate to all applicable laws, rules and regulations (federal, state and local).

11. Modification of Rules and Regulations. The Rules and Regulations contained in this Exhibit E may be modified with the consent of all Parties.

With ANC 2A edits – July 10, 2019

Watergate Shared Trash Management Plan

Shared Trash participants

- a) Penzance – Office Building
- b) Watergate Partners LLC – Retail Space
- c) Watergate Hotel

Equipment under shared agreement

- a) One 30 yd. compactor
- b) One cardboard baler

Compactor and Baler service contract

- a) Service contracts are held by hotel with a shared cost allocation agreement
- b) Compactor is located on retail space property in the truck tunnel, rental fees are adjusted in balance
- c) Compactor is serviced twice a week on Monday's and Thursday's
- d) Signal stream service – All recyclable can be loaded into this compactor – cardboard baler use is optional
- e) Baler will be located near security guard booth on Penzance property
- f) Bales will be picked up weekly RTS or as needed. No more than three bales will be stored at a time

If the compactor or cardboard baler stops working or needs the bales removed the hotel should be notified.

- a) William Lester Director of Engineering (202) 716-9320 - First contact
- b) Security Department – (202) 838-4410
- c) Hotel Operator – (202) 827-1600

Training & Management

- a) The hotel will conduct a training session within the next 30 days (but no later than September 1, 2019) open to all that participate in the shared agreement and mandatory for all hotel associates. i.e. hotel housekeeping, stewarding, and overnight cleanings. All will be properly trained on how to bring the trash to the compactor and baler in a way that doesn't leave a mess for someone else to clean.
- b) Prior to this training the compactor and baler will be moved to a different location closer to the guard booth. In addition, the hotel will be installing surveillance warning signage of illegal dumping and emergency contact information for equipment that isn't working properly.
- c) The Hotel will commit to annual trash mitigation trainings to occur no later than March 1 of each year that would be open to all that participate in the shared agreement and mandatory for all hotel associates. i.e. hotel housekeeping, stewarding, and overnight cleanings.
- d) The compactor and cardboard baler area are under CCTV surveillance by the hotel security department. Any misuse or improper dumping that results in cleanups or furniture removal will be charged to the responsible party.

With ANC 2A edits – July 10, 2019

- e) Hotel is responsible for ensuring operational equipment or calling in an emergency trash removal company if necessary.

- f) Penzance is responsible for general maintenance or cleaning of the truck tunnel area where the compactor is located. This is covered under an amendment to the lease easement agreement.