

**Memorandum of Agreement**  
**Zoning Commission Case No. 02-381**  
**Waterfront Tower Condominium and**  
**Waterfront 375 M Street, LLC and Waterfront 425 M Street, LLC**

*Final - July 1, 2018*

Waterfront Tower Condominium (“WFT”) hereby agrees to support the above-referenced PUD and Waterfront 375 M Street, LLC and Waterfront 425 M Street, LLC (together, the “Applicant”) hereby agree to the following:

1. The Applicant agrees to implement the design change illustrated in the PUD dated March 16, 2018, to move indoors all loading and delivery activities, and move indoors the space necessary for vehicle maneuvers to accommodate these activities, and make these activities not visible from the private drive separating 375M from WFT. The single access point to this indoor area will meet the following conditions:
  - a. The access point will be located south of the motor court between WFT and 301M to refrain from encroaching on the motor court during delivery vehicle maneuvers and to minimize impact to congestion at this existing chokepoint;
  - b. The access point’s door to the outdoors will open only to allow entry and exit of vehicles, and will not remain open during deliveries and between deliveries;
  - c. The Applicant, through its on-site property management at 375M, will instruct and enforce mail and parcel couriers (examples include, but are not limited to, USPS, UPS, and FedEx) to make deliveries to 375M only within 375M’s indoor loading dock, in order to minimize impact on WFT residents in vehicles or walking along the private drive. WFT has no loading dock, but the Applicant will coordinate with the property management of other buildings along the private drive to instruct deliveries to be made within the loading docks of those buildings.;
  - d. The Applicant will restrict residential move-ins and move-outs at 375M to occur between the hours of 9:00am and 6:00pm, on the days of Sunday through Saturday, and within the area of 375M’s indoor loading dock only, through stabilization of 95% occupancy or a maximum of 12 months following the issuance of the first certificate of occupancy of 375M, whichever comes first. After this initial period, residential move-ins and move-outs at 375M will occur between the hours of 9:00am and 6:00pm, on the days of Monday through Saturday, and within the area of 375M’s indoor loading dock only;
  - e. The Applicant will restrict retail and residential deliveries to occur between the hours of 8:00am and 6:00pm, on the days of Monday through Saturday, and within the area of 375M’s indoor loading dock only;
  - f. The Applicant will restrict restaurant deliveries to occur between the hours of 7:00am and 6:00pm, the days of Sunday through Saturday, and within the area of 375M’s indoor loading dock only;



design and development process, not after decisions are already made. The Applicant will also send email updates to WFT between these quarterly meetings to provide updates on the topics below. The Applicant can suggest canceling a quarterly meeting, but may only do so if mutually agreed to by WFT.

- a. Lighting;
- b. Landscaping;
- c. Wayfinding and traffic signage;
- d. Security; and
- e. Traffic management plan.

After occupancy, the Applicant will also inform WFT of any proposed changes to the topics listed in (a) through (e) above and will consider any input from WFT on the proposed changes. For all other issues, WFT representatives can engage through participation in regularly scheduled ANC 6D meetings.

7. During construction of the East M Street building, the Applicant will establish a Community Advisory Committee (“Committee”) to oversee and coordinate community concerns and issues. The Committee will consist of, at a minimum, representatives of ANC 6D, WFT, the Applicant, and the Applicant’s general contractor. The Committee will meet quarterly, as needed, and the Applicant will send monthly email updates between the quarterly meetings, as needed, to provide updates on issues related to construction of the M Street buildings.
  - a. The Applicant will provide WFT with quarterly construction activity schedules.
  - b. The Applicant will provide WFT with the name, title, and contact information of a point of contact through whom WFT will communicate with the Applicant’s construction manager in case of immediate concerns with daily or weekly construction activities to include, but not be limited to, resident safety concerns.
  - c. The Applicant agrees to abide by construction permit hours and will not perform outdoor construction before 7:00am on Saturday or at all on Sunday, in accordance with the D.C Construction Code Supplement, without prior written agreement from WFT and ANC 6D Committee representatives.
  - d. The Applicant will enforce unimpeded access to WFT at all times during construction. The Applicant may provide alternative access options with prior written agreement from WFT and ANC 6D Committee representatives (examples include, but are not limited to, a flag man directing traffic two ways down the one-way private drive).
  - e. The Applicant will pay all fees incurred by WFT when construction-related activities do impede any service from accessing WFT including, but not limited to, trash and recycling pick-up. The Applicant will pay these fees in a timely manner.
8. The Applicant agrees to eliminate the previously-proposed trees to preserve the sightline between WFT (I.M. Pei’s original Town Center East) and The View (I.M. Pei’s original

Town Center West) and replace them with lower-scale plantings selected by the Applicant's landscape architect. The Applicant will present no less than two lower-scale planting options to WFT and make reasonable accommodations (including, but not limited to, consideration of additional plant material options) in response to WFT representatives' concerns prior to making the final selection.

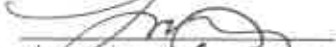
9. The Applicant recognizes the four I.M. Pei-designed buildings, originally called Town Center East and West, as important ties between the modernist Southwest redevelopment of the 1960s and the "vibrant town center" of today described in the Southwest Area Plan. To emphasize this connection, and subject to approval by the other Waterfront Station property owners, the Applicant agrees to submit an application to the D.C. Code Official for approval of street names for the private drives, pursuant to Section 118.11 of the D.C. Construction Code Supplement. The preferred names are I.M. Pei Way East on the north and east sides east of 4th Street and I.M. Pei Way West on the north and west sides west of 4th Street. The Applicant will coordinate with WFT to designate the names set forth in the application to the Code Official. As set forth in Section 118.11.6 of the D.C. Construction Code Supplement, the Code Official will be the final arbiter of the street name.
10. The Applicant will support WFT's efforts in working with DDOT to designate a 30' curb area on 3rd Street (west side, north of M Street) by the new gated entrance to 301M, to be used as a drop-off and pick-up point by WFT residents and visitors. The Applicant has previously raised this issue with DDOT and agrees to provide a letter to DDOT in support of WFT's loading zone application. No curb changes will be required.
11. The Applicant agrees to perform a pre-construction survey to document the condition of the exterior and specified common areas in the interior of the WFT building ("WFT Building") prior to construction of the 375 M Street Building and will monitor the WFT Building for potential damage to the building from vibrations associated with the construction of the 375 M Street Building.
  - a. Pre-Construction Survey: The Applicant will select an independent testing and inspection firm to conduct a thorough pre-construction survey of the exterior and specified common areas in the interior of the WFT Building in order to document the pre-construction condition. The extent of the internal common areas will be defined and determined by the independent firm. The Applicant shall pay all fees and costs of the firm.
  - b. Monitoring: Prior to commencement of construction, the Applicant will hire a third-party consultant to monitor vibrations and any movements to the exterior and specified common areas in the interior of the WFT Building resulting from the construction of the 375 M Street Building. The Applicant shall pay all fees and costs of the firm. Monitoring shall terminate upon completion of the structural frame of the 375 M Street Building and its garage. The Applicant will provide monthly monitoring reports to WFT until such time as the monitoring obligation terminates. In the event that there is movement detected related to construction activities that may cause damage to the WFT Building, these movement(s) will be immediately

addressed and WFT will be notified. The Applicant will be obligated to restore the WFT Building to the condition that existed prior to commencement of construction of the 375 M Street Building as documented in the Pre-Construction Survey.

- c. **Post-Construction:** No later than three months after achieving substantial completion (as evidenced by the issuance of the first certificate of occupancy for the 375 M Street Building), WFT, at its election may, require the Applicant to pay for a post-construction survey to be completed within four weeks of the request. The Applicant will seek to use the same firm as employed for the Pre-Construction Survey. If that firm is unable to complete the Post-Construction Survey, the Applicant will select a different independent testing and inspection firm. The Applicant shall pay all fees and costs of the firm.
- d. **Damage to WFT Building:** In the event that it is determined that the WFT Building sustained damage due to activities attributable to the Applicant's development, excavation or construction of the 375 M Street Building, the Applicant will coordinate repairs with WFT and shall pay for all such repairs.

12. Because the Applicant and WFT were unable to reach an agreement as to every concern raised by WFT, the Applicant agrees to pay \$40,000 to WFT to mitigate the remaining impacts that cannot be addressed by modifications to the building design or reprogramming. This contribution is intended to fund (i) alternative parking solutions in the neighborhood for WFT's moving vans, deliveries, contractors, and visitors; (ii) energy efficiency improvements at WFT (e.g. solar panel installation, LED conversion, modernizations to the existing heating and cooling systems); and/or (iii) beautification improvements along the private drive and entrance to the WFT building.


Waterfront Tower Condominium

By:   
Name: Leigh Gooding  
Title: WFT President

  
HARA ANN BENJAMIN  
WFT VICE PRESIDENT

WATERFRONT 375 M STREET, LLC

By: FC Waterfront Member, LLC,  
its managing member

By:   
Name: DAVID R. SMITH  
Title: VICE PRESIDENT