

SETTLEMENT AGREEMENT BY AND BETWEEN
ADVISORY NEIGHBORHOOD COMMISSION 6B

and

Harvest Tide Capitol Hill DC, LLC
d/b/a Harvest Tide Steak House

Pursuant to this Settlement Agreement, (“Agreement”), by and between Harvest Tide Capitol Hill DC, LLC (d/b/a) Harvest Tide Steak House (“Applicant”) and Advisory Neighborhood Commission 6B (“ANC6B”), effective as of the date of its adoption by ANC6B, the parties hereto hereby agree to be legally bound by the terms and conditions of this Settlement Agreement (SA) as it relates to conduct of business located at 212 7th Street, SE Washington, DC 20003 (“Premises”).

WHEREAS, Applicant has applied before the District of Columbia Alcoholic Beverage Regulatory Administration (“ABRA”) to effect, and is seeking its approval of, a new Retailers’ Class “C” Restaurant License (ABRA-118108) (“License”); and,

WHEREAS, Applicant and ANC6B are desirous of voluntarily entering into and mutually memorialize in this SA the terms and conditions upon which ANC6B has agreed to support Applicant's License, pursuant to the provisions of D.C. Code § 25-446, for the operation and maintenance of Applicant’s business at the Premises in such a manner as to further promote the peace, order and quiet of the neighborhood as well as maintain security and sanitation of the alley immediately behind the Premises; and,

WHEREAS, this is intended to replace in its entirety any and all previously-existing Settlement Agreements between the Parties, and all such previous agreements are hereby declared superseded, null and void and of no further effect.

NOW, THEREFORE, Applicant and ANC 6B agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.
2. Nature of the Business. Applicant will manage and operate a full-service seated Restaurant (“Establishment”). Applicant currently seeks a total seating for up to 186 patrons, inclusive of 150 indoors, 36 on the sidewalk café. In no event shall Applicant operate or seek to operate the Establishment in excess of the maximum number of patrons agreed to in this SA or that may lawfully occupy the Premises pursuant to its Certificate of Occupancy, whichever is more restrictive.
3. Hours of Operation, Sales, Service, and Consumption. Applicant’s hours of operation, and alcoholic beverage sales, service, and consumption may be changed from time to time in Applicant's discretion, as may be otherwise permitted by its License, but in no event shall exceed or extend beyond the following:

Hours of Operation, Sales, Service, and Consumption on the interior of the Establishment:

Sunday through Thursday: 10:00 a.m. – 2:00 a.m.

Friday and Saturday: 10:00 a.m. – 3:00 a.m.

Hours of Operation, Sales, Service, and Consumption on the Sidewalk Cafe:

Sunday through Saturday: 10:00 a.m. – 1:00 a.m.

Provided, however, that (1) on days designated by the DC ABC Board as “extended Hours for ABC Establishments,” Applicant may serve alcoholic beverages for one additional hour; (2) in the event the Council of the District of Columbia or the ABC Board grant licensees in general extended operating hours for particular event(s), Applicant may avail itself of such extended hours; and, (3) on January 1 of each year Applicant may serve alcoholic beverages until 3 a.m. In addition, the Licensee may apply for a one-day substantial change, without objection from the ANC, to be allowed to offer entertainment inside the establishment on January 1. Applicant must submit, as required by regulation, any forms or documents to ABRA and gain approval for such extended hours of service and entertainment. These extended hours apply only to the hours of operation of the interior of the Premises.

4. Requirements for Operation of Sidewalk Café. Applicant shall operate its Sidewalk Café consistent with the terms and conditions of its Public Space Management Branch Certification for such space, and shall cause its employees to maintain the Sidewalk Café in a clean and orderly manner, and not to cause or permit storage of any refuse, foodstuffs, perishable or odiferous materials in or adjacent to the Premises. Applicant shall cause the area extending from the front door(s) to the curb on the front and rear of the Establishment to be regularly swept, power-washed, and shall remove litter and debris on not less than a daily basis, weather permitting. Applicant shall provide exterior receptacles for extinguishing and disposing of smoking materials, and such supplemental refuse disposal receptacles as may be reasonably required to contain and minimize public disposal of waste and litter originating from the Premises.

5. Refuse Storage and Disposal. Applicant shall comply with DCMR 21-704.3-704.5 by utilizing and regularly maintaining one or more food waste (garbage) grinder(s) adequate in capacity to dispose of all readily grindable food wastes produced.

Applicant voluntarily agrees to construct and utilize an interior Trash Room within the building envelope with sufficient capacity to store all non-grindable garbage, non-recyclable waste and recyclable trash, and dirty linens, without the need to use any exterior space for this purpose. Applicant shall ensure that the interior space complies with all D.C. laws and regulations and requirements for interior Trash Rooms. Further, Applicant shall install and maintain in functional working order rodent proof sweeps, rodent proof gasket, or other similar material to ensure that there are no gaps between the exterior door or hatch and the door frame used to access the enclosed trash storage room. Applicant shall replace the sweeps, gasket or other material in use as they become worn.

In consideration of the residential neighborhood, and the desire to minimize the impact of the Establishment on local residents, Applicant agrees to adhere to the following conditions with respect to trash management, disposal, and the sanitary maintenance of the interior trash storage room.

- a. Garbage shall be collected (7) days per week and recycling a minimum of (7) days per week (or such more frequent schedules as may be necessary to prevent the receptacles from exceeding their capacity);
- b. Applicant will ensure timely trash collection and disposal that is the least disruptive to the neighbors. Garbage, recyclable, and grease collections shall not occur before 8:00 a.m. or after 10:00 p.m. No glass shall be placed in any exterior receptacle nor otherwise disposed after 10:00 p.m. or before 8:00 a.m. Any glass material needing to be recycled or otherwise disposed during this time period shall be stored inside the Establishment until at least 8:00 a.m. the following day.
- c. Applicant may provide the garbage and recycling vendors with keys and/or access to the interior trash room, as may be required, to effect regular and timely collection as set forth herein;
- d. The access door to that room from the exterior shall remain closed unless in use and will be equipped with an automatic closing mechanism and an egress bar unless another path of egress is available for emergencies;
- e. Applicant shall install and maintain in functional working order rodent proof sweeps, rodent proof gasket or other similar material to ensure that there are no gaps between the exterior door and the door frame to the trash room. Applicant shall replace the sweeps, gasket or other material in use as soon as they become worn.
- f. Applicant shall not store or place any foodstuffs, kegs, firewood, or other consumable supplies or goods of any type in the rear of the Premises or on the public alley at any time. Receptacle for restaurant supplies such as linens shall NOT be placed in a manner such that it encroaches on abutting properties.
- g. Garbage, grease and/or recycling spills shall be cleaned up as soon as practicable after they occur, but in no event more than two (2) hours after such spill. Any leak or spillage of grease shall be promptly cleaned utilizing standard industry practices such as solvents and power washing for such uncontained grease;
- h. All receptacles used for garbage, recyclables, and grease shall be maintained in good repair, safe and sanitary condition and any damaged or leaking containers shall be promptly repaired or replaced;
- i. Applicant will daily check the alley and full area behind the Premises and pick up or hose down any debris or liquid waste left behind after garbage, grease or recycling receptacles have been emptied;
- j. Applicant shall power wash the trash storage room, all receptacles, any adjacent waste enclosure, and the adjacent alleyway no less often than once every two weeks. No power-washing shall take place between the hours of 7:00 p.m. and 9:00 a.m. on weekdays or 7:00 p.m. and 12:00 noon on weekends;
- k. Applicant shall cooperate and permit inspection of the Premises, including but not limited to the indoor trash room, as may be reasonable pursuant to ABRA regulations or as may be reasonably requested by any authorized District of Columbia governmental entity;

- l. If employees use the rear door of the Premises to take breaks, the Applicant will ensure that they do not generate unreasonable noise or disturbances. Applicant shall also provide receptacles for employees if smoking takes place in rear of building.
- m. Applicant shall not utilize any outside space at the rear of the property for food or beverage service or as a waiting area for customers.
- n. Applicant shall not encourage or permit commercial third party vendors to park a delivery truck in the public alley at the rear of the Premises at any time.
- o. Applicant agrees to join in any coordinated effort with the adjacent tenants/neighbors to address any rodent issues regardless of the source of such issues.

6. Noise Mitigation. No objectionable noises, sounds, odors, or other conditions that are publicly observable or emitted beyond the immediate proximity of the Premises will be created by Applicant. Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall make architectural improvements to the property and take all necessary actions to ensure that music, noise and vibration from the Establishment are not audible outside the establishment at any time. Applicant agrees to keep its doors and windows closed when music is being played at the establishment. However, it is understood by the parties that Applicant may open its window panels, and that music may be played at such times at a level not audible beyond the street curbside. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors.

Applicant will take all reasonable steps necessary to mitigate noise emanating from mechanical equipment associated with Applicant's operations (e.g. HVAC, grease fan) -- including installing sound absorbing and dampening material around the equipment, if necessary -- to comply with applicable DCMR provisions, prevent an increase in existing sound level from such equipment, and minimize or abate noises objectionable to residential neighbors.

Applicant specifically agrees that it shall adhere to and be accountable under the provisions of D.C. Code §25-725 as it pertains to residential dwellings in the contiguous physical block on which the Premises are located (except for those residential dwellings located within the CHC/C2A overlay), notwithstanding the fact that such neighboring residential units may not fall within the zoning classification otherwise entitled to enforcement of that provision under D.C. Code §25-725(b)(3). Noise mitigating actions may include installation of sound absorbing and sound dampening materials on the roof between the HVAC and kitchen equipment and the residential properties along the rear of the Premises. Sound absorbing and dampening material will be sufficient to reduce noise to levels that meet DCMR noise regulations at the rear property line.

7. Odor and Emission Control. In order to control and mitigate any odor emanating from the premises, the Applicant shall maintain a high efficiency grease extracting kitchen exhaust ventilation and filtering system. This system shall be of sufficient design and capacity as to reduce the external emission of any odors arising from food preparation at the Establishment. Applicant further agrees to contract with a licensed third-party vendor to regularly clean and/or exchange the filters as often as necessary to ensure optimal grease and particulate removal and

odor mitigation for the type and quantity of cooking undertaken. Applicant will ensure that any mechanical issues that develop with the equipment are promptly addressed.

8. Sanitation and Pest Control. Applicant shall maintain in force a contract for regular and recurring application of a plan for pest control that includes baiting or similar rodent abatement procedures abutting the rear entrance to the Premises (including the waste storage room). Applicant shall not store or place any kegs, bottles, foodstuffs, palettes of materials, or other consumable goods of any type outside the Premises. Applicant shall provide rat and vermin control for its property. Applicant shall provide proof of its rat and vermin control contract and of regular inspection and treatment pursuant to such contract, upon request from the Board. Applicant shall maintain property and take landscaping steps, such as removing thick ground cover, trimming bushes, closing rat holes, and using pond stones where needed, to reduce habitat for rats and vermin.

9. Restrictions on Use of Points for Access/Egress. Applicant shall not cause or permit deliveries of food or supplies to be made through the rear entrance to the Premises and shall exclusively utilize the front door(s) for this purpose. Applicant shall not permit its employees to take breaks within the rear yard or trash storage room, nor use the doorway to the trash storage room for any access or egress except in case of emergency or for purposes of facilitating third-party trash, recycling or grease disposal or power washing the trash storage room or sidewalk outside of the trash storage area.

In no event will Applicant encourage or permit commercial third party vendors to park a delivery truck in the public alley at the rear of the Premises between the hours of 10:00 p.m. and 7:00 a.m. Applicant will notify commercial delivery vendors about the above prohibition and will not accept deliveries of food or other restaurant supplies from such vendors if, after repeated warnings, the vendor continues to park delivery trucks in the public alley.

10. Security Cooperation in Stemming Loitering and Illegal Drugs. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises. Applicant agrees to monitor for and prohibit the sale of illegal drugs within or about the Premises and maintain contact and cooperate with MPD and other enforcement officials when known or suspected drug activities occur.

11. Compliance with ABRA Regulations. Applicant will ensure that it abides by ABRA, Department of Consumer and Regulatory Affairs (DCRA), Department of Health (DOH), Department of Public Works (DPW) and other applicable DC Agency regulations regarding (a) conduct of its business and (b) the ownership of the license and all other provisions applicable to liquor licenses.

12. Notice and Opportunity to Cure. In the event that any of the parties is in breach of this Agreement, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall be provided for a cure within 30 days of the date of such notice. If Applicant fails to cure within the 30th day period (or, with respect to a breach which reasonably requires more than 30 days to cure), fails to

commence the cure or diligently to pursue such cure, failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to D.C. Official Code § 25-201(c)(6).


Unless otherwise noted above, any notices required to be made under this Agreement shall be in writing and delivered via electronic mail, certified mail, return receipt requested, postage prepaid, or hand-delivered to the other party to this Agreement and the ANC Commissioner within whose Single Member District the Establishment is located. Notice shall be deemed given as of the time of receipt or refusal of receipt:

IN WITNESS WHEREOF, the parties have affixed hereunto their signatures.

Applicant:

Harvest Tide Capitol Hill DC, LLC
ABRA# 118108
212 7th Street, SE
Washington, DC 20003

Name of Person Authorized to Sign ENRIQUE SOMOZA
Title OWNER

Signature:  Date: 06-08-2021

ANC:

Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, SE
Washington, DC 20003
Brian Ready, Chairperson
Phone: (312) 371-4745

Signature: Brian Ready Date: 06/08/2021