

## McMillan, Acquanette (Netta)

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**From:** Conrad Garner  
**Sent:** Monday, November 14, 2022 3:37 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Hyatt Place Pasadena - Parking License Agreement  
**Attachments:** Hyatt Place Parking - Letter to CC 11-03-2022.pdf; City of Pasadena Parking License Agreement - Signed by Hotel - with email delivery.pdf; Original Letter Agreement for Hotel Parking 2021-08.pdf

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Hello,

The attached letter is being submitted to the Finance Committee and City Council in reference to the Hyatt Place Hotel Parking License Agreement agenda topic. Please confirm receipt.

Thank you,

Conrad



Conrad Garner  
*Senior Vice President - Development*

Ensemble Real Estate Investments  
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01/23/2023  
12/05/2022

Closed Session

Item ~~B~~ C

November 3, 2022

Mayor Gordo, and Honorable Members of the Finance Committee and  
City Council  
Pasadena City Hall  
100 N. Garfield Avenue  
Pasadena, CA 91109

**Re: Hyatt Place Parking, Paseo Colorado**

Dear Mayor Gordo and Honorable Members of the Finance Committee and  
City Council:

Ensemble Real Estate, through our development of the Hyatt Place hotel at the Paseo Colorado, has been a proud member of the downtown Pasadena community for almost a decade. Receiving our Conditional Use Permit on November 24, 2014 was a proud day; this marked the culmination of an extensive design exercise between our team, the Design Commission, and the DPNA; and launched our construction of the new Hyatt Place in the Central District. Four years later, in December of 2018 we opened our beautiful 189 room hotel. Hyatt awarded the hotel 'Project of the Year' for the exceptional design and execution. Ensemble owns and manages the property today.

The hotel's parking rights are secured through our long-term Ground Lease. A Parking Fee is included as part of the hotel's lease payments and provides the hotel the right to use the garage for the hotel's parking needs. Upon the hotel opening, a dispute arose between Ensemble and the landlord about the responsibility of paying additional parking charges from the garage operator. Ensemble was making a monthly Parking Fee payment to its ground lessor under the ground lease, yet daily parking charges were being directly assessed to the hotel by the garage operator. This was in direct conflict with the lease language. Ensemble demanded that its ground lessor pay the City, but they refused. Recognizing the importance of its relationship with the City, Ensemble made the conscious decision to keep the City paid current while we argued with the ground lessor over responsibility. Our business and legal teams have exchanged letters and arguments for the past three years.

The notion that the hotel would pay twice for the same parking rights in the garage is non-sensical. The ground lessor clearly asserts in the Ground Lease that they have the legal authority to grant the hotel the use of the parking spaces for a Parking Fee. We negotiated and agreed upon a Parking Fee that worked within the financial model of the hotel business plan. If there was any indication that a second charge would be assessed to the hotel for parking we would not have completed the deal in its current form. The hotel operating model can only afford the Parking Fee we are paying the ground lessor, it cannot support a Parking Fee to the ground lessor and then an hourly/daily fee to the City on top of it. If the ground lessor had introduced the concept of two

layers of payment at the time of negotiating the Ground Lease then Ensemble would have invited the City into the discussion at that time and we would have worked out a deal with the City for parking. That did not happen because we had our rights and payments set by the Ground Lease.

Ownership of Paseo Colorado has changed multiple times in our history with the property. The change in management has caused this dispute to linger. In 2021, Ensemble made progress with the ground lessor, achieving alignment around an understanding that if the City was going to require payment for use of the parking garage then Ensemble was going to need to start to work directly with them and turn the issue into a tri-party effort and that ultimately our Parking Fee per the Ground Lease would be replaced with a payment to the City. In August of 2021, I reached out to William MacDonald, Management Analyst with the Department of Transportation, to begin discussing the topic. On August 26, 2021 Ensemble sent the first draft of a Letter Agreement to transfer the parking payment from the ground lessor to the City (see attached agreement and email). From August of 2021 through June of 2022 Ensemble worked with David Klug, Jon Hamblen, and William MacDonald to negotiate the terms of a new Parking License Agreement. This effort involved studying historical usage trends, forecasted parking demand, garage circulation, and location of the parking stalls. Ensemble explained that it was critical that the economics of shifting the payee from the ground lessor to the City for parking charges remain neutral for the hotel. After much work between David, Jon and myself we arrived at terms of the Parking License Agreement that made sense to both the hotel and the City. At the same time, Ensemble worked with the landlord to negotiate a 5<sup>th</sup> Amendment to the Ground Lease, stripping out the Parking Fee in its entirety and shifting all responsibility for use and payment of parking charges for the hotel's use of the garage to the hotel. On June 30, 2022, in full communication with both parties, Ensemble signed both the Parking License Agreement and the 5<sup>th</sup> Amendment to the Ground Lease (see attached signed Parking License Agreement) and sent them to the respective parties.

On July 12<sup>th</sup> Ensemble emailed Jon Hamblen for an update on the countersigned agreement and did not receive an answer. On July 27<sup>th</sup> Ensemble emailed Jon Hamblen for another update and received the response that he could not sign and was working to route the agreement to City Council. Inquiring about timing we received an email on August 2<sup>nd</sup> that Jon was working on the agenda report with the intention to take the agreement to Council by end of August. At the end of August, Ensemble learned that Paseo Colorado had fallen into receivership. With this change in ownership, our attorney, Scott Kalt of the firm Elkins Kalt Weintraub Reuben Gartside LLP, was looped into the discussion with Jon and David to add the stipulation that the City's parking agreement would need to be conditional on receiving the 5<sup>th</sup> Amendment back from the landlord, ensuring that the tri-party arrangement we had all worked so hard to create would remain intact as we encountered yet another complication with the receivership. At the end of August, we learned the Parking License Agreement was on the agenda for the September 12<sup>th</sup> Council meeting and Ensemble completed the TPA Disclosure Form on September 7<sup>th</sup>.

Nowhere in this chain of events since Ensemble signed the agreement on June 30<sup>th</sup> did the City raise any doubt about the agreed-upon terms of the parking agreement. Ensemble negotiated in good faith with representatives of the City that were conveyed to have the authority to approve the terms of the Parking License Agreement on behalf of the City. On the evening of September 12<sup>th</sup>, we received notice from Jon that the agreement was not brought to the full City Council for a vote because the Finance Committee was not comfortable with the terms and wanted to study the matter further under closed session. This news came as a shock to Ensemble.

We hope that this letter brings additional clarity to the Finance Committee around the efforts to date, the intentions of Ensemble to settle this manner, and the timeline of events leading up to now. Ensemble is not a litigious organization and we have worked tirelessly to avoid a lawsuit against the ground lessor around this topic. To that end, we have encountered extensive out of pocket costs to cover parking charges imposed by the City when we have no obligation to do so per the Ground Lease. If we are unable to finance the agreed-upon new arrangements per the Parking License Agreement and 5<sup>th</sup> Amendment, this dispute will undoubtedly unravel into a lawsuit that pulls all three parties into a drawn-out legal battle. Ensemble's intention here is simple: we intent to pay one party for the right to have the hotel guests park in the garage, as we negotiated in the original Ground Lease. The amount of the payment is to match the terms of the original Parking Fee in the Ground Lease as those are the figures that support the hotel's operating model to make the development financially viable. The hotel is not an ordinary tenant of Paseo Colorado and it cannot be held to the same daily rate as the other users; our position on this with the City would have been the same in 2017 as it is now in 2022. As of June 30<sup>th</sup> we thought this issue was finally on a path to being settled. We remain fully committed to the effort to drive to the finish line with both the City and the receivership group so that the hotel can continue on its way as a productive member of the Pasadena community.

We ask the Finance Committee and City Council to please take all of this into consideration as you evaluate the Parking License Agreement. We stand by the terms as they were negotiated between Ensemble and City staff in the agreement as being fair and appropriate, and we hope you will recommend the matter for approval.

Sincerely,



Conrad Garner  
Ensemble  
SVP Development

Attachments:

Original Letter Agreement generated by Ensemble 8/26/2021  
Signed Parking Agreement with email from 6/30/2022

**Conrad Garner**

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**From:** Conrad Garner  
**Sent:** Thursday, June 30, 2022 10:09 AM  
**To:** 'Hamblen, Jon'  
**Cc:** MacDonald, Will; Klug, David  
**Subject:** RE: Hyatt Parking  
**Attachments:** City of Pasadena Parking License Agreement - Signed.pdf

Jon, Dave,

Attached is our signature on the Parking License Agreement. Please send back fully executed version when you have it on your side. The Exhibit A is the same as referenced in the original lease and matches the spaces in place today.

Thanks, Conrad

## **PARKING LICENSE AGREEMENT HYATT PLACE**

THIS PARKING LICENSE AGREEMENT (the "**Agreement**" or "**License**") is effective as of this 30th Day of June, 2022, between the City of Pasadena, a municipal corporation ("Licensor" or "**CITY**") and Paseo Pasadena Hotel Investment, LLC, a Delaware limited liability company ("**Licensee**").

### **RECITALS**

A. Licensor owns or controls, among others, parking spaces and related access rights ("**Parking Spaces**") located at the Paseo Subterranean parking garage. The garage is located at 360 East Colorado Blvd. in Pasadena, California (the "**Garage**"). The Parking Spaces and the Garage are sometimes referred to collectively as the "**Property**".

B. Licensee is the ground lessee under that certain Ground Lease Agreement dated January 9, 2014, as thereafter amended between Licensee and CAPREF Paseo LLC (as successor in interest to Paseo Colorado Holdings, LLC) (the "**Ground Lease**"). The property subject to the Ground Lease is being operated by Licensee as a hotel.

C. Licensee desires to license the use of parking spaces for hotel guests utilizing the Property.

NOW, THEREFORE, in consideration of the mutual covenants herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensee and Licensor agree as follows:

#### **1. Grant of License.**

(a) Subject to the terms and conditions set forth herein, Licensor hereby grants to Licensee a license of up to a daily average of 140 parking spaces in the Property (the "**Licensed Spaces**") for the use described in section 4 beginning on February 1, 2022 (the "**Commencement Date**"), and terminating concurrently with the termination of the Ground Lease (the "**Term**"). The Licensed Spaces shall consist of 99 exclusive parking spaces in the location identified on Exhibit A attached hereto (which exclusive spaces shall be designated as "Hotel only" parking) and additional shared spaces in the Garage available on a non-exclusive, first-come, first-serve basis.

(b) Licensee accepts the Licensed Spaces on an "as is" basis and in its condition as of the date of its execution hereof, and Licensor is hereby expressly relieved and released from any duty or obligation to make any improvements or alterations to the Licensed Spaces prior to or after the Commencement Date. Licensee acknowledges that Licensor has made no representation as to the condition of or the suitability of the Licensed Spaces for Licensee's intended use, and that Licensee has had inspection opportunity and access to the Garage.

(c) The License is revocable by Licensor for Cause (as hereinafter defined).

## **2. Waiver of Liability and Indemnification.**

Licensee warrants that it will use reasonable care to prevent damage to property and injury to persons while using the Licensed Spaces and the Garage under this License. Licensee waives any claim it may have against Licensor arising out of the use of this License, and releases and exculpates Licensor from any liability in connection with Licensee's use of the License, unless such liability arises from the negligence or willful misconduct of Licensor or any breach by Licensor of its obligations under this Agreement. Licensee agrees to indemnify, defend, and hold harmless Licensor from any claim of damage to property or injury to person arising from Licensee's breach or default by Licensee in the performance of any of its obligations or agreements hereunder, and waives any right of subrogation against Licensor. Licensor indemnifies, defends and holds harmless Licensee from any claim of damage to property or injury to person arising from Licensor's breach or default in the performances of any of its obligations or agreements hereunder and waives any right of subrogation against Licensee hereunder. The provisions of this Section 2 shall survive the expiration or earlier termination of this Agreement.

## **3. Insurance of Licensee.**

Licensee shall procure and maintain for the duration of this Agreement the following insurance:

### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 0001 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. The policy shall include broad form contractual liability coverage.
2. Automobile Liability: ISO Form Number CA 0001 covering any auto (Code 1), or if Contractor has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage. [N/A]
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. Licensee should check with Licensee's insurance advisors to verify compliance and determine if additional coverage or limits may be needed to adequately insure Licensee's obligations under this agreement. These are the minimum required and do not in any way represent or imply that such coverage is sufficient to adequately cover Licensee's liability under this agreement. These insurance requirements shall not in any way relieve Licensee of liability in excess of such coverage, nor shall it preclude City from taking such other actions as are available to it under any other provisions of this agreement or law. These insurance requirements shall not in any way act to reduce coverage that is broader or includes higher limits than those required. If Licensee maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Licensee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage required, which are applicable to any given loss, shall be available to City.

The insurance to be provided by Licensee under this agreement shall not include any endorsement language that (i) negates coverage to City for City's own negligence; (ii) limits the duty to defend City under the policy; (iii) provides coverage to City only if Licensee is negligent, or (iv) permits the recovery of defense costs from any additional insured. The insurance provided under this agreement shall not contain any restrictions or limitations which are inconsistent with City's rights under this Agreement.

#### Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

##### Additional Insured Status

The City of Pasadena, its City Council, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Licensee including materials, parts, or equipment furnished in connection with such work or operations. General liability additional insured coverage shall be provided in the form of an endorsement to Licensee's insurance at least as broad as ISO Form CG 20 10 (ongoing operations) and CG 20 37 (completed operations).

##### Severability of Interests (Cross-Liability)

A severability of interest provision must apply for all the additional insureds, ensuring that each party's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the insurer's limits of liability.

##### Primary Coverage

For any claims related to this contract, each party's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13.

##### Notice of Cancellation/Change in Coverage

Each insurance policy required above shall state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, non-renewed, or materially changed except after thirty (30) days' prior written notice has been given to the other party, except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

##### **Waiver of Subrogation**

Each party hereby grants to the other party a waiver of any right to subrogation which any insurer of the first party may acquire against the other party, its officers, officials, employees, agents, and volunteers by virtue of the payment of any loss under such insurance. Each party agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the other party has received a waiver of subrogation endorsement from the insurer.

##### **Self-Insured Retentions**

Self-insured retentions must be declared to and approved by City. City may require Licensee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

##### **Acceptability of Insurers**

Insurance is to be placed with insurers authorized to conduct business in the state of California with a current A.M. Best's rating of no less than A:VII. The current A.M. Best rating for each insurer shall be noted on the Certificate(s) of Insurance.



**Certificate Holder**

Certificate Holder on each insurance certificate shall be addressed pursuant to the Notices/Ship To provisions of this agreement.

**Verification of Coverage**

Each party shall furnish to the other party original certificates and all required amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements required herein. Each insurance certificate shall specifically identify this agreement. All certificates and endorsements are to be received and approved by the other party.

**Failure to Maintain Insurance Coverage**

If any party, for any reason, fails to maintain insurance coverage which is required pursuant to this contract, the same shall be deemed a material breach of contract. Subject to Paragraph 7 below, the other party, at its sole option, may terminate this contract at any time and obtain damages from the breaching party resulting from said breach. Alternatively, the other party may purchase such coverage (but has no special obligation to do so), and without further notice may deduct from sums due to the breaching party any premium costs advanced by the other party for such insurance.

**4. Use; Licensor's Responsibilities**

(a) Licensee's use of the Property is strictly limited to the parking of passenger vehicles, which are guests and/or invitees of the hotel. No maintenance or repair work or sales activities or any other use is permitted. Licensee shall not make any alterations, additions, or improvements to the Property of any kind whatsoever, except as expressly stated herein, without the prior written consent of Licensor. The Property shall be used in compliance with all laws, orders, judgments, ordinances, regulations, codes, directives, permits, licenses, covenants and restrictions now or hereafter applicable to the Property. Licensor hereby reserves the right to enter the Property at all reasonable times for any purpose Licensor deems to be necessary or appropriate in connection with its use of the Property or its review of activities under this License. Upon the expiration of the Term or earlier termination of this License, Licensee shall surrender the Licensed Spaces to Licensor in the same condition as received, ordinary wear and tear and casualty loss through no fault of Licensee and condemnation excepted. Subject to the terms of the above Waiver of Subrogation paragraph, Licensee shall be responsible for reimbursing Licensor for costs expended by Licensor in repairing damage to the Property caused by Licensee or any of its employees, agents, contractors, guests or invitees ("**Related Party**").

(b) Licensor agrees to operate and maintain the Garage in accordance with the terms and conditions of and otherwise comply with all of the obligations of the "Manager" of the Garage and the Parking Facilities Tract Owner under that certain Parking Operation and Maintenance Agreement dated as of May 1, 2000 by and between H-CHH Associates, Pasadena Community Development Commission and Federated Western Properties, Inc., as thereafter amended (the "**POMA**").

## 5. Hazardous Materials.

Licensee shall not permit any Hazardous Materials of any kind to be brought onto the Property except for gasoline, diesel and other fluids customarily present in passenger automobiles in routine amounts and provided such substances remain in such automobiles. The term "**Hazardous Materials**" shall mean any flammable material, explosives, radioactive materials, petroleum products, gasoline, diesel fuel, hazardous or toxic substances, or any waste or related materials, including without limitation anything included in the definition of "hazardous substances", "hazardous materials", "hazardous wastes", or "toxic substances" under any applicable federal, state or local law or regulation. If Licensee or any Related Party in any way causes or permits contamination of the Property with Hazardous Material, Licensee shall notify Licensor, and Licensor may terminate the License for Cause. *De minimus* leakage of Hazardous Materials from vehicles shall not be cause for the termination of this License; provided that Licensee promptly remediates the same to the satisfaction of Licensor and complies with all applicable laws, orders, judgments, ordinances, regulations and codes applicable to the Property and Hazardous Materials. Licensee indemnifies Licensor, and agrees to defend and hold Licensor harmless, from and against all claims and liabilities of any type arising from or in connection with contamination of the Property by Hazardous Materials caused by Licensee or any Related Party or by Licensee's use of this License. The provisions of this Section 5 shall survive the expiration or earlier termination of this Agreement.

## 6. Fees, Expenses and Services.

During the Term, Licensee agrees to pay the City rent (sometimes referred to as the "Parking Fee") in accordance with the following schedule:

<u><b>Years Following Commencement Date</b></u>	<u><b>Annual Parking Fee</b></u>	<u><b>Monthly Parking Fee</b></u>
1-5	\$150,000.00	\$12,500.00
6-10	\$165,000.00	\$13,750.00
11-15	\$180,000.00	\$15,000.00
16-55	See Below	

The then applicable annual Parking Fee shall increase effective as of the first (1st) day of the sixteenth (16th) year of the Term (the "First Adjustment Date"), and on the first day of each 5-year period thereafter (each such date, an "Adjustment Date"), in an amount equal to the lesser of (i) ten percent (10%) or (ii) the CPI Adjustment, and the monthly Parking Fee shall be adjusted accordingly to reflect twelve (12) monthly payments of such annual Parking Fee.

For purposes hereof, "**CPI Adjustment**" means the percentage yearly increase in the Consumer Price Index for the Los Angeles metropolitan area (as published by the Bureau of Labor Statistics of the U.S. Department of Labor). If the publication of the Consumer Price Index of the U.S. Bureau of Labor Statistics is discontinued, comparable statistics on the purchasing power of the consumer dollar published by a responsible financial periodical selected by Licensee and Licensor shall be used for computing the CPI Adjustment.

## **7. Termination.**

(a) "Cause" for termination of this Agreement shall exist if (i) the payment of any amount due under this Agreement to Licensor is not made when due; provided, however, that Licensor will give Licensee written notice, and an opportunity to cure any failure to pay such amount within 10 days of any such notice, except that no such notice need be given more than twice in any 12 month period; or (ii) Licensee fails to comply with any of the terms or provisions of this Agreement (other than the provisions requiring the payment of fees or other sums), and fails to cure such default within 30 days after the date of receipt of written notice of default from Licensor.

Licensee shall have the right to terminate this License at any time upon 60 days prior written notice to Licensor.

## **8. Security Requirements.**

Unless Licensor breaches any of its obligations hereunder, (i) Licensor shall not be responsible for the personal safety of Licensee's officers, employees, agents, contractors, guests and invitees while any such person is in, on or about the Property, and (ii) Licensee agrees that Licensor shall not be liable to Licensee for, and Licensee waives any claim against Licensor with respect to, any loss by theft or any other damage suffered or incurred by Licensee in connection with any unauthorized entry into the Property or any other breach of security with respect to the Property.

## **9. Assignment.**

Licensee may not assign, sublet or otherwise transfer all or any part of its interest in this Agreement or in the Property without the prior written consent of Licensor, which consent shall be granted or withheld in Licensor's sole discretion. Notwithstanding the foregoing, Licensee may assign or transfer its rights and obligations under this Agreement to any buyer or lender of the hotel without obtaining Licensor's approval. Licensor may assign or transfer all or any part of its interest in this Agreement in its sole and absolute discretion.

## **10. Notice.**

Any notice required to be given under this Agreement may be personally delivered to a party, or may be sent by overnight courier service (e.g., Federal Express), to either party addressed as follows:

To Licensor:                   c/o Laura Cornejo  
Director of Transportation City of Pasadena  
221 East Walnut Street, Suite 210  
Pasadena, California 91101

Cc:                               Jon Hamblen  
Parking Manager  
100 N. Garfield Street, Rm N106  
Pasadena, CA 91109

To Licensee: c/o Ensemble Investments, LLC  
444 W. Ocean Blvd., Suite 650  
Long Beach, CA 90802  
Attn: Kambiz Babaoft

**11. Miscellaneous.**

Any modification of this Agreement must be in writing signed by both Licensor and Licensee. If any action is brought by either party against the other, the prevailing party shall be entitled to recover reasonable attorney's fees. This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the respective parties.

[signatures on next page]

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement as of the date first written above.

**LICENSOR:**

City of Pasadena

\_\_\_\_\_  
Cynthia Kurtz, City Manager

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Mark Jomsky, City Clerk

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
Lesley Cheung, Assistant City Attorney

\_\_\_\_\_  
Date

Reviewed By:

\_\_\_\_\_  
Erika Estrada, Purchasing Administrator

\_\_\_\_\_  
Date

**LICENSEE:**

Paseo Pasadena Hotel Investment, LLC,  
a Delaware limited liability company

By: 

Name: Kambiz Babaoff

Its: Manager

Date: June 30, 2022

**EXHIBIT A**

**HOTEL PARKING PLAN**

[SEE ATTACHMENT]







## ENSEMBLE LETTERHEAD

August 24, 2021

City of Pasadena

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Re: Hyatt Place Pasadena located at 399 E. Green St., Pasadena, California (the "Hotel"); Amended and Restated Operation and Reciprocal Easement Agreement, dated May 1, 2000 by and among H-CHH Associates, Pasadena Community Development Commission and Federated Western Properties, Inc. (the "REA"); and Parking Operations and Maintenance Agreement, dated May 1, 2000, by and between H-CHH Associates, Pasadena Community Development Commission and Federated Western Properties, Inc. (the "POMA")

Gentlemen:

Pursuant to the REA and POMA, certain easements and other rights to use the Parking Facilities located on the Parking Facilities Tract (herein the "Parking Rights") were granted to CAPREF Paseo LLC, a Delaware limited liability company, as successor in interest to the "Retail Tract Owner" and "Retail Developer Tract Owner", respectively, under the REA and POMA (herein, "Hotel Ground Lessor").

Pursuant to a Ground Lease Agreement dated January 9, 2014, as amended (the "Hotel Ground Lease"), by and between Hotel Ground Lessor (as successor to Paseo Colorado Holdings LLC) and Paseo Pasadena Hotel Investment, LLC ("Hotel Ground Lessee"), the following portions of the Parking Rights were leased to Ground Lessee during the term of the Hotel Ground Lease (herein collectively, the "Hotel Parking Rights"):

- (i) Ninety-Nine (99) exclusive parking spaces in the location identified on Exhibit A attached hereto (the "Hotel Parking Spaces"), and
- (ii) Ninety-Four (94) parking spaces to be shared with Hotel Ground Lessor and its Permittees on a non-exclusive, first-come, first-serve basis for patrons and customers of the Hotel and the Shopping Center (the "Shared Parking Spaces").

Hotel Ground Lessee and Hotel Ground Lessor have agreed that, effective as of July 1, 2021, in lieu of Hotel Ground Lessee paying amounts to Hotel Ground Lessor on account of the Hotel Parking Rights pursuant to the Hotel Ground Lease, Hotel Ground Lessee shall pay directly to the City of Pasadena [or the Pasadena Community Development Commission, as applicable], in full satisfaction of all parking charges due and owing under the POMA and/or REA, the following sums on account of the use by Hotel Ground Lessee of the Hotel Parking Rights during the balance of the term of the Hotel Ground Lease:

- (i) \$9,000 per month during the period from July 1, 2021 until June 30, 2031; and
- (ii) as of July 1, 2031 and commencing on each 10-year anniversary thereof, such monthly rental amount shall be increased by 10%.

City of Pasadena  
August 24, 2021  
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Such Hotel Parking Rights may continue to be exercised by Hotel Ground Leasee so long as the Hotel continues to operate and/or the Hotel Ground Lease remains in full force and effect.

The payment of the foregoing parking charges by Hotel Ground Lessee shall be made to the City of Pasadena [or the Pasadena Community Development Commission] on the \_\_\_\_ day of each month as follows: \_\_\_\_\_

If the foregoing is in accordance with your understanding, please indicate the same by countersigning this letter in the signature space below.

Unless explicitly defined herein, all capitalized terms used in this letter shall have the meanings given to them in the REA, POMA and/or Hotel Ground Lease.  
Sincerely,

**PASEO PASADENA HOTEL INVESTMENT, LLC,**  
a Delaware limited liability company

By: Ensemble Hotel Partners, LLC, its manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Agreed to and Accepted this \_\_\_\_ day of \_\_\_\_\_, 2021:

CITY OF PASADENA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A**

**Hotel Parking Spaces**