

DEVELOPMENT MANAGEMENT AGREEMENT

BETWEEN

DOWNTOWN SAVANNAH AUTHORITY
("DSA"),

THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, GEORGIA
("City")

AND

EW MFR VENTURE I LLC
(as "Development Manager")

FOR

Public Parking Garage to be constructed
and installed at Eastern Wharf – Phase 1 Project

DEVELOPMENT MANAGEMENT AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of _____, 2018, by and between **DOWNTOWN SAVANNAH AUTHORITY**, a public corporation of the State of Georgia ("DSA"), **THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, GEORGIA**, a Georgia municipal corporation ("City"), and **EW MFR VENTURE I LLC**, a Georgia limited liability company ("Development Manager").

BACKGROUND STATEMENT

A. DSA, City, Development Manager and SRL Land Venture LLC ("SRL"), an Affiliate of Development Manager, have previously entered into that certain Phase 1 Project Development Agreement (the "Development Agreement") dated as of _____, 2018, pursuant to which the City, DSA, Development Manager and SRL have agreed to cooperate with one another in connection with the construction, development and financing of a public parking garage (the "Public Parking Garage") and certain other improvements including multifamily residential apartments, retail shops, restaurants and service office spaces in a mixed-use development to be located in Eastern Wharf, Savannah, Georgia (the "Phase 1 Project").

B. DSA has agreed to finance the construction of the Public Parking Garage portion of the Phase 1 Project through the issue of its Taxable Revenue Bonds (City of Savannah SRL Parking Garage Project), Series 2018 in the original principal sum not to exceed \$33,000,000.00 (the "Bonds").

C. Upon completion of the Phase 1 Project, the Public Parking Garage portion of the Phase 1 Project shall be deeded to the DSA.

D. As contemplated in the Development Agreement, City and DSA have agreed to retain Development Manager to manage and coordinate the construction of the Public Parking Garage using the funds raised by the Bonds, and Development Manager has agreed to accept the engagement on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) paid in hand, each to the other, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DSA, City and Development Manager hereby agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Specific Terms. In addition to the terms defined elsewhere in this Agreement, the following terms shall, when used herein, have the meaning set forth below:

"Affiliate" shall mean, with respect to an Entity, any other Entity, which directly or indirectly controls, through one or more intermediaries, is controlled by, or is under common control with the Entity in question.

"Approve," "Approved" or "Approval" or any variation thereof, shall mean an express approval in a written statement signed by the approving Entity. Any Party having the right to approve any matter hereunder shall exercise such right reasonably, promptly and in good faith for the purpose intended, unless this Agreement expressly gives the approving Entity the right to exercise its sole discretion, in which case the approving Entity may act in such sole discretion but shall still act promptly. As provided in Section 11.15 hereof, with respect to approvals requested from DSA, all such approvals may be given by the City on behalf of DSA.

"Approved Project Budget" shall have the meaning set forth in Section 3.1.4. ***[Budget for the Public Parking Garage only]***

"Architect" shall mean Cooper Carry, Inc., as the architect of the Parking Garage Project.

"Architect's Agreement" shall mean the agreement by and between ***[SRL]*** and Architect, for architectural services for the Parking Garage Project.

"Authorized Representative" shall mean any officer, agent, manager, employee, independent contractor or other representative of an Entity acting within the actual or apparent authority granted by the Entity or who is otherwise authorized to perform the act in question on behalf of such Entity. The Authorized Representatives of DSA shall be limited to the DSA's Representatives defined below.

"Contractor(s)" shall mean Choate Construction Company, the general contractor selected and retained by ***[SRL]***, and approved by DSA, as the general contractor of the Parking Garage Project and any other contractors, subcontractors and vendors SRL and/or Development Manager may use for the construction of the Parking Garage Project.

"Contractor Agreements" shall mean the agreements to be executed between ***[SRL]*** and Contractors, providing for construction services for the Parking Garage Project.

"DSA Representative" shall mean _____ and _____, who DSA hereby designates and appoints as the authorized representative of DSA for all purposes under this Agreement, including, without limitation, granting consents or Approvals, making submittals, receiving or delivering notices, and for all other purposes under this Agreement. The DSA Representative may be changed or other individuals may be added or changed from time to time in the sole discretion of DSA by delivery of Notice to Development Manager. ***[confirm that blanks will reflect names of applicable persons at the City authorized to provide approvals and consents]***

"Development Manager Defaults" shall have the meaning set forth in Section 10.1.

"Development Manager Representative" shall mean _____ and _____, each of whom Development Manager designates and appoints as the

authorized representative of Development Manager for all purposes under this Agreement, including, without limitation, granting consents or Approvals, making submittals, receiving or delivering notices, and for all other purposes under this Agreement. The Development Manager Representative may be changed or other individuals may be added or changed from time to time in the sole discretion of Development Manager by delivery of Notice to DSA.

“Disbursement Agreement” shall mean that certain Disbursement Agreement dated of even date herewith by and between DSA and Development Manager, pursuant to which Development Manager shall be permitted to draw down on the funds provided by the Bonds.

"Drawings and Specifications" shall mean all blueprints, schematic renderings, architect's/engineer's drawings, specifications, written descriptions and similar items for the Parking Garage Project and all related drawings, plans and data (and all supplements and amendments authorized and Approved by DSA), and which relate to the design, construction, equipping and furnishing of the Parking Garage Project, all of which are to be prepared by Architect or Engineer and will be subject to Approval by DSA.

"Engineer(s)" shall mean the engineer(s) (if any) selected by SRL and/or Development Manager, and Approved by DSA, to provide engineering services for the Parking Garage Project.

"Engineer's Agreement(s)" shall mean the agreement by and between *[SRL]* and Engineer(s), for engineering services for the Parking Garage Project.

"Entity" shall mean a natural person, corporation, limited or general partnership, limited liability company, tenant-in-common, joint venture, association, business trust, and any other organization and any combination of them.

“Final Completion” shall mean after Development Manager has determined that Final Project Completion has been achieved and Development Manager has fulfilled all its obligations under this Agreement, including but not limited to its obligations under Section 3.1.27.

“Final Project Completion” shall mean such time after Substantial Completion as: (i) all Punch List Items have been fully completed to the satisfaction of DSA; (ii) the final certificate of occupancy or completion and all final governmental permits have been issued for the Parking Garage Project; (iii) Contractor has confirmed in writing to DSA and Development Manager that Contractor has not received any notice from any governmental authority of any claimed violations of any legal requirements relating to the Parking Garage Project; (iv) Contractor has delivered to DSA and Development Manager all previously undelivered manufacturer and subcontractor guarantees and warranties; (v) Contractor has delivered to DSA and Development Manager Contractor's final contractor's affidavit evidencing no outstanding monies due and all waivers and releases of lien complying with Georgia law to insure that no person or entity shall have any right to obtain a construction lien on the Public Parking Garage as well as satisfactions of lien (or transfer to bond) for any claims of lien recorded on account of the work performed in connection with the Parking Garage Project, and such other affidavits, waivers and releases as DSA and Development Manager may reasonably require in order to assure lien-free completion thereof; (vi) Contractor and/or Development Manager has delivered to DSA all shop drawings, revised plans, and final “as built” drawings and surveys for the Parking Garage Project; and (vii) the Parking

Garage Project is accessible by vehicles from public streets adjacent to the Phase 1 Project by means of the garage entrance located on the west side of the Parking Garage Project facing the existing Marriott hotel.

"Laws" means any constitution, law, statute, code, ordinance, resolution, rule, regulation, judgment, writ, injunction, order, decree or demand of any governmental authority having jurisdiction over the Project.

"Notice" shall have the meaning set forth in Section 11.4.

"Other Contractors" shall collectively refer to contractors or other service providers under any Other Project Agreements.

"Other Project Agreements" shall mean any agreements, other than Contractor Agreements, which SRL and/or Development Manager may elect to enter into for the purpose of carrying out the Parking Garage Project.

"Parking Garage Project" shall mean the design and construction of the Public Parking Garage, which work is more particularly described on Exhibit "A" attached hereto and made a part hereof. *[Attach reference to plans and specs for the garage]*

"Parties" shall mean DSA, City and Development Manager.

"Project Budget" means a schedule of all costs and expenses, which Development Manager estimates will be incurred by or on behalf of DSA in connection with the Parking Garage Project and to be submitted by Development Manager to DSA for review and Approval.

"Project Construction Schedule" shall mean a detailed schedule for the design, construction and installation of the Parking Garage Project prepared by Development Manager, based on consultation with the Project Team, and more particularly described in Section 3.1.5 below.

"Project Team" shall mean Development Manager, Architect, Contractor(s) and Engineer(s).

"Punch List Items" shall mean details of construction related to the Parking Garage Project and identified as contemplated in Section 3.1.26 hereof, that, in the aggregate, are minor in character.

"Substantial Completion" shall mean that construction of the Public Parking Garage has been completed except for any outstanding Punch List Items.

ARTICLE 2
ENGAGEMENT AND TERM

2.1 Appointment. DSA hereby engages the services of Development Manager, and Development Manager hereby accepts the engagement, to plan, arrange, supervise, administer, direct, coordinate, manage and monitor on behalf of DSA all design, development, construction and installation services for the Parking Garage Project, subject to and in accordance with the terms of this Agreement.

2.2 Term. The term ("Term") of this Agreement shall commence on the date of this Agreement and unless sooner terminated as provided herein, shall expire upon Final Completion.

2.3 Nature of Relationship. Development Manager agrees to furnish skill and judgment in good faith to DSA and to cooperate with DSA in the performance of this Agreement and to use commercially reasonable efforts to furnish efficient business administration and oversight of the Parking Garage Project. DSA hereby expressly confirms that DSA understands that the Parking Garage Project is a portion of the larger Phase 1 Project, which SRL and Development Manager shall be installing during and after completion of the Parking Garage Project. The Project Team working on the Parking Garage Project is also working on the other portions of the Phase 1 Project with SRL and Development Manager. Nothing herein shall be deemed to prevent Development Manager or its Affiliates from engaging or participating in any other business or investment, whether or not competitive with the Parking Garage Project or any other business or investment of DSA.

2.4 Status of Development Manager. In the performance of its duties and obligations under this Agreement, Development Manager is, and shall at all times during the Term of this Agreement be, an independent contractor, and not an employee or agent of DSA.

2.5. No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be deemed or construed to create a partnership or joint venture between DSA and Development Manager.

ARTICLE 3
DUTIES AND SERVICES OF DEVELOPMENT MANAGER AND DSA

3.1 Duties and Services. Development Manager shall perform the services and responsibilities expressly set forth in this Agreement, together with the following:

3.1.1 Development Manager shall assist and cooperate with the Project Team in the preparation and completion of Drawings and Specifications, feasibility studies, engineering studies and other matters related to the construction of the Parking Garage Project.

3.1.2 Development Manager shall select the Architect, Engineer(s), Contractor and any Other Contractors, subject to DSA's Approval, and shall oversee the negotiation of contractual agreements.

3.1.3 Development Manager shall prepare all necessary and appropriate recommendations for the development, design, construction and installation of the Parking Garage Project.

3.1.4 Prior to commencement of construction of the Parking Garage Project, Development Manager shall prepare and submit to DSA for review, revision and Approval, the proposed Project Budget setting forth the costs and expenses which Development Manager anticipates that DSA will incur in connection with the design, construction and installation of the Parking Garage Project. Development Manager shall also respond to DSA with regard to DSA's questions and comments concerning, and proposed revisions to, the proposed Project Budget. DSA shall retain final authority to Approve the proposed Project Budget and any supplements or amendments thereto. The Project Budget, as Approved by DSA, together with any supplements or modifications thereto, as Approved by DSA, is referred to herein as the "Approved Project Budget." Upon DSA's Approval of the Approved Project Budget, the Parties shall supplement this Agreement by attaching hereto a copy of the Approved Project Budget as Exhibit "B".

3.1.5 Attached hereto as Exhibit "C", and incorporated herein by this reference, is the "Initial Project Construction Schedule." Once the necessary information is available from other members of the Project Team, Development Manager shall prepare and submit to DSA for review, revision and Approval, a "Final Project Construction Schedule" setting forth construction start and completion dates along with details of major tasks included in the work. DSA will retain final authority to Approve the Initial Project Construction Schedule and any amendments thereto. Upon DSA's Approval thereof, the Parties shall supplement this Agreement by attaching hereto a copy of the Final Project Construction Schedule as Exhibit "C-1", and such Final Project Construction Schedule shall be the "Project Construction Schedule" for all purposes of this Agreement.

3.1.6 Development Manager shall assist in obtaining all applicable building permits, utility approvals and connection permits, and all other licenses, permits and governmental approvals actually required in connection with the construction and installation of the Parking Garage Project.

3.1.7 Prior to submission to DSA, Development Manager shall monitor, review and make recommendations upon any and all progress payment applications made by Architect, Engineer(s), Contractor and, if applicable, Other Contractors, and any other party that may become involved in the development, design, construction and installation of the Parking Garage Project. On or about the date hereof, DSA and Development Manager shall enter into the Disbursement Agreement, which shall establish procedures to process and pay applications for payments which Architect, Engineer(s), Contractor or such Other Contractors may submit from time to time.

3.1.8 Development Manager, in conjunction with DSA, shall monitor the performance of Architect and Engineer(s), in connection with the Parking Garage Project, and Development Manager shall advise DSA whether such activities and services are or have been provided by Architect and Engineer(s) in substantial accordance with the terms of the Drawings and Specifications, Architect's Agreement, Engineer's Agreement, the Project Construction Schedule, the Approved Project Budget.

3.1.9 Development Manager shall visit and monitor the Parking Garage Project on a regular basis and recommend to DSA, based upon any recommendations received from Architect or Engineer, that DSA stop work or reject any work which fails to conform with the Drawings and Specifications.

3.1.10 Development Manager shall cause Architect and Engineer to review the Parking Garage Project as contemplated by the Architect's Agreement and the Engineer's Agreement, as applicable.

3.1.11 Development Manager shall prepare and maintain financial reports for the Parking Garage Project and shall cause the Contractor to maintain a complete set of working Drawings and Specifications and addenda and change orders thereto, on-site or at such other location as may be Approved by DSA.

3.1.12 Development Manager shall arrange for and conduct meetings of the Project Team and any other appropriate parties during the course of the Parking Garage Project as often as necessary, but not less frequently than once every month to provide continuing supervision and control of the Parking Garage Project and compliance with the Project Construction Schedule and the Approved Project Budget.

3.1.13 Promptly upon learning of same, Development Manager shall advise DSA of any disputes or potential disputes with any of the Project Team, any adjoining property owner, or any other party relating to or affected by the Parking Garage Project.

3.1.14 Development Manager shall review and update, at a minimum of once a month, the cost and status of the Parking Garage Project relative to the Approved Project Budget and the Project Construction Schedule (provided, however, that Development Manager may not make any material change to the Approved Project Budget or the Project Construction Schedule without the Approval of DSA). In the event that Development Manager determines that design and construction of the Parking Garage Project is not in accordance with the Approved Project Budget and/or the Project Construction Schedule, Development Manager shall promptly investigate the causes for the departure from the Approved Project Budget and/or the Project Construction Schedule and deliver in an expeditious manner and reasonable amount of time, to DSA recommendations as to how to most efficiently and economically come into compliance with the Approved Project Budget and/or the Project Construction Schedule, and implement DSA's decisions with respect thereto.

3.1.15 Development Manager shall recommend to DSA as necessary, and otherwise advise DSA, as appropriate of, possible change orders and potential cost savings for the construction of the Parking Garage Project, where appropriate.

3.1.16 Subject to the limitations in this Agreement, Development Manager shall arrange for any work to be performed under all change orders for the Parking Garage Project.

3.1.17 Development Manager shall implement the policies, procedures and decisions of DSA upon communication thereof to Development Manager in connection with the design and construction of the Parking Garage Project.

3.1.18 Development Manager shall use good faith efforts to obtain any certificates of occupancy or equivalent documents required to permit the occupancy of the Public Parking Garage and to obtain any approvals of the Parking Garage Project required either by any governmental authority, agency, bureau or department or under any of the Architect's Agreement or the Contractor Agreements.

3.1.19 Development Manager shall advise, counsel and assist DSA in connection with any claims made against DSA by Contractor, Architect, Engineer(s) or any Other Contractor in connection with the design and construction of the Parking Garage Project.

3.1.20 Development Manager shall coordinate all interparty activities between DSA and any appropriate governmental authority of the State of Georgia, as may be required from time to time in the construction of the Parking Garage Project.

3.1.21 Development Manager shall from time to time review, make recommendations on changes to, and enforce as necessary any and all performance and payment bonds, surety bonds or other assurances given to DSA in relation to the completion of the Parking Garage Project by Contractor.

3.1.22 Development Manager shall meet with DSA, its agents, employees or accountants, after receipt of reasonable advance Notice from DSA while this Agreement remains in effect.

3.1.23 Development Manager shall arrange for all tours of the Parking Garage Project requested in writing by DSA and/or governmental authorities. Further, Development Manager shall require the Contractor to provide the DSA Representatives with secure office space located within an on-site trailer which shall be accessible to the DSA Representatives and other representatives of the City during hours of construction and shall be capable of being locked by such representatives.

3.1.24 To the extent the same is required during construction of the Parking Garage Project, Development Manager shall obtain and deliver to DSA, and if necessary enforce, any and all warranties and guaranties to which DSA is entitled by any of the agreements relating to the construction of the Parking Garage Project.

3.1.25 Development Manager shall undertake any and all other tasks as may reasonably relate to the timely and efficient design and construction of the Parking Garage Project.

3.1.26 Development Manager shall review the Parking Garage Project with DSA, Architect, Engineer(s), Contractor and, if applicable, Other Contractors, at Substantial Completion of the Parking Garage Project. Development Manager (through Architect, Engineer or Contractor) shall compile and, submit to DSA for review, and monitor completion of any items of construction which are discovered upon such inspection and which have not been completed in accordance with standards applicable to public parking garage structures in the City of Savannah (the "Punch List Items").

3.1.27 Upon completion of the Phase 1 Project (including completion of the multifamily apartments and the retail shops), Development Manager shall visit the Parking Garage Project with Contractor, Architect and Engineer. During such visit, Development Manager shall review the Parking Garage Project, identify all observable defects and deficiencies, cause Contractor to correct or cause to be corrected such defects and deficiencies, take such steps as may be necessary to make a claim under any warranty provided with respect to the Parking Garage Project and fully assist throughout the warranty claim process.

3.2 Performance of Duties. Development Manager shall perform its duties and exercise its rights hereunder in a timely and professional manner, and shall exercise its rights and perform its duties with commercially reasonable judgment, and in good faith. Development Manager shall cause its employees, contractors, subcontractors and authorized agents, if any, to comply with all applicable federal, state, county and municipal laws, regulations, ordinances, rules, and requirements, including without limitation, the U.S. Environmental Protection Agency, the Occupational, Health and Safety Administration, National Fire Protection Agency or any other agency or governmental body having jurisdiction over the Parking Garage Project.

3.3 SBO Program Compliance. Development Manager agrees and acknowledges that Development Manager shall exercise good faith efforts to comply with all aspects of the City's Savannah Business Opportunity Policy, as promulgated by the City in September 2017, with respect to all work to be performed in relation to the Public Parking Garage.

ARTICLE 4 INSURANCE

4.1 Development Manager's Insurance Requirements. Throughout the Term of this Agreement, Development Manager shall carry and maintain in force the insurance described in Subsections 4.1.1 through 4.1.7, below:

4.1.1 Commercial General Liability Insurance (including protective liability coverage on operations of independent contractors engaged in construction, blanket contractual liability coverage, products liability coverage, and explosion, collapse and

underground hazards coverage). The policy must include Additional Insured, Waiver of Subrogation and Primary and Noncontributory endorsements in favor of DSA, and a limit of not less than \$1,000,000 in the event of bodily injury to any number of persons or of damage to property arising out of any one occurrence, and not less than \$2,000,000 in the aggregate applicable to this Parking Garage Project. Such insurance (which may be furnished under a primary policy and an "umbrella" policy or policies) shall also include coverage against liability for bodily injury or property damage arising out of use by or on behalf of Development Manager of any owned, non-owned or hired automotive equipment for a limit not less than that specified above. Such insurance shall include a cross-liability/severability of interest provision. DSA shall be named as additional insured on this policy.

4.1.2 Worker's compensation and Employer's liability insurance covering all employees of Development Manager, if any, employed in, on or about the Parking Garage Project as required by the laws of the State of Georgia. To the extent permitted by applicable law, the policy must include a Waiver of Subrogation in favor of DSA and must include the following limits:

Coverage A – Workers Compensation: Statutory Limits

Coverage B – Employers Liability:

Bodily Injury by Accident - \$500,000 each accident

Bodily Injury by Accident - \$500,000 policy limit

Bodily Injury by Disease - \$500,000 each employee

4.1.3 Automobile insurance including coverage for all owned automobiles, if any, with a \$1,000,000 combined single limit for bodily injury and property damage liability. To the extent permitted by applicable law, the policy must include Additional Insured, Waiver of Subrogation and Primary endorsements in favor of DSA, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, employees, agents and insurers.

4.1.4 Umbrella Liability insurance written excess and following form of the primary liability coverages (including Employers Liability) with a \$2,000,000 each occurrence and aggregate limit on terms at least as broad as the underlying Employer's Liability, Commercial General Liability and Business.

4.1.5 Development Manager will require from all subcontractors and third parties hired by Development Manager, if any, reasonable types and limits of insurance, given the services to be performed by each in connection with this Agreement; provided, however, that at a minimum, each such subcontractor shall maintain statutory limits of workers' compensation, employer's liability insurance with limits of \$500,000, business automobile liability insurance with limits of \$1,000,000, and commercial general liability insurance with limits of \$1,000,000, and all such insurance shall otherwise comply with all requirements regarding coverages, waivers of subrogation, additional insured requirements and primary and non-contributory status as set forth above. If applicable, the Development Manager will maintain proof of coverage and make it available to DSA upon request.

4.1.6 To the extent permitted by applicable law, each of Development Manager and DSA shall have included in all policies of insurance respectively obtained by it with respect to the Parking Garage Project a waiver by the insurer of all right of subrogation against the other for any loss or damage thereby insured against. Anything in this Agreement to the contrary notwithstanding, DSA and Development Manager each hereby waives any and all rights of recovery, claim, action or cause of action against the other for any loss or damage that may occur to the Parking Garage Project, arising from any cause that is insured against under the terms of the insurance required to be carried hereunder; provided that such waiver shall apply only to the extent that the insurance coverage actually in effect is adequate, in terms of both scope of coverage and amount of coverage, to fully cover such loss or damage. The foregoing waiver shall not apply if it would have the effect, but only to the extent of such effect, of invalidating any insurance coverage of DSA or Development Manager.

Development Manager shall deliver a Certificate(s) of Insurance evidencing the insurance coverage required by this Agreement to DSA at the address set forth below at the time this Agreement is executed, or within a reasonable time thereafter, and within a reasonable time after coverage is renewed or replaced. No insurance required to be maintained by Development Manager hereunder may be terminated or cancelled without thirty (30) days' advance notice to DSA. Each insurer writing coverage must have a rating of "A-VIII" or better under the A.M. Best rating system and must be licensed to provide such coverage in the state of Georgia. All insurance coverage provided by Development Manager shall be primary to all and non-contributory with any and all other coverage maintained by or afforded to DSA, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, employees and agents. DSA's receipt of certificates of insurance that do not comply with the requirements above, or failure to receive certificates, shall not constitute a waiver or modification of the requirements set forth herein. Should any of the above described policies be cancelled before the expiration thereof, Development Manager shall immediately replace such coverage so that no lapse in coverage occurs and provide notice in the form of binders or certificates of the replacement coverage to DSA. The address for delivery of certificates is:

Downtown Savannah Authority
Attn.: David Maxwell
2 East Bay Street
Savannah, Georgia 31401

The foregoing insurance requirements shall not limit the Development Manager's obligations under this Agreement, including, but not limited to, the Development Manager's indemnity obligations hereunder.

ARTICLE 5 REPORTING

5.1 Status Reports. Within fifteen (15) days after the end of each month, commencing after the date construction of the Parking Garage Project commences, Development Manager will,

as part of its responsibilities, prepare a report (the "Status Report") on the Parking Garage Project and shall cause such Status Report to be delivered to DSA. Each Status Report will contain the following information respecting the Parking Garage Project:

- (a) Costs, on a line item basis as shown on the Approved Project Budget, paid by DSA, as the case may be, pursuant hereto as of the date of such Status Report;
- (b) Accounts payable with respect to matters monitored by Development Manager involving the Parking Garage Project; and
- (c) A reconciliation of the stage of completion of each phase of the construction of the Parking Garage Project with any progress schedule submitted by Contractor.

5.2 Format Changes. DSA may, from time to time, specify additional information or changes in the format of any reports required to be prepared and submitted by Development Manager hereunder provided that such additional information is commonly and readily available to Development Manager (without additional cost or expense) through the performance of its duties hereunder.

ARTICLE 6
RESERVED

ARTICLE 7
PROJECT COSTS AND FINANCING

7.1 Payment of Project Costs. As provided in the Disbursement Agreement, DSA covenants and agrees to timely make payments of Project Costs to the parties entitled thereto. The term "Project Costs" as used herein shall mean all costs included in the Approved Project Budget and incurred in connection with the design and construction, excluding those expenses which are excluded from Reimbursable Expenses as contemplated by Section 7.2 below, but including without limitation, the following:

7.1.1 Amounts payable to Contractor(s) under the Contractor Agreements and to any Other Contractors under Other Project Agreements, to the extent such costs are within the Approved Project Budget, or contemplated by an approved change order.

7.1.2 Amounts payable to professionals to the extent such amounts are within the Approved Project Budget or contemplated by an approved change order.

7.1.3 Premiums payable for insurance policies obtained pursuant to this Agreement to the extent such premiums are within the Approved Project Budget.

7.1.4 Fees for governmental licenses and permits and other amounts payable under applicable Laws with respect to the construction of the Parking Garage Project to the

extent such fees are within the Approved Project Budget or contemplated by an approved change order.

7.1.5 Provided DSA expressly agrees in writing to an itemized list thereof prior to such payment, losses and costs incurred in the construction of the Parking Garage Project which are not covered by insurance and amounts paid or payable in settlement of claims involving the Parking Garage Project.

7.1.6 The Development Management Fee payable to Development Manager pursuant to the terms hereof and all reimbursements as defined in Section 7.2.

7.2 Reimbursement of Expenses. Provided that the same are included in the Approved Project Budget and are reasonable and necessary in the performance of Development Manager's obligations hereunder, DSA shall reimburse Development Manager for all reasonable out-of-pocket costs and expenses actually paid or incurred by Development Manager in connection with its performance under this Agreement, such costs and expenses to be prorated as between the Public Parking Garage and the remaining portions of the Phase 1 Project as appropriate and as agreed upon by the parties hereto; provided, however, that Development Manager shall not be entitled to reimbursement for its normal "day-to-day" business expenses, such as routine photocopying, facsimile transmittal, telephone charges, and local travel. It is the intention of DSA and Development Manager that Development Manager shall be reimbursed only for extraordinary expenses, such as long distance travel, sophisticated presentation materials (such as models, renderings and multimedia presentations) and marketing materials (such as brochures, flyers, advertising, signage and other graphics). Reimbursable expenses will not be incurred by or reimbursable to Development Manager without the prior written consent of DSA and will be charged by Development Manager to DSA "at cost", with no mark-up by Development Manager. All expenses for which Development Manager seeks reimbursement must be itemized in an invoice and supporting documentation shall be submitted to DSA upon request.

ARTICLE 8 INDEMNIFICATION

8.1 Intentionally Omitted.

8.2 Indemnity of DSA. To the fullest extent permitted by law Development Manager shall, and Development Manager does hereby agree to, indemnify DSA against, and hold, save and defend DSA harmless from, any and all claims, demands, actions, causes of action, suits, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and court costs actually incurred in enforcing this indemnity and otherwise) which DSA may suffer or incur, or which may be asserted against DSA, whether meritorious or not, if and to the extent the same arise by reason of (i) injury to persons (including death) or damage to tangible property caused by any gross negligence or willful misconduct of Development Manager or Development Manager's agents, employees or contractors, (ii) any failure by Development Manager to comply with Laws, or (iii) any Development Manager Defaults, which indemnity shall continue notwithstanding the expiration or earlier termination of this Agreement with respect to any occurrence preceding such expiration

or termination; provided, however, that in no event shall the indemnity provided under this Section 8.2 extend to any claim, demand, action, cause of action, suit, liability, damage, loss, cost or expense: (a) to the extent that DSA is reimbursed by proceeds of insurance, or (b) if and to the extent the same is caused by (i) any gross negligence or willful misconduct of DSA or its authorized agents, employees or contractors, (ii) any DSA Defaults or (iii) any failure by DSA to comply with Laws.

8.3 Relationship to Insurance. In no event shall the indemnification provisions of Section 8.2 above, diminish, affect, impede or impair, in any manner whatsoever, the benefits to which any party may be entitled under any insurance policy with respect to the Parking Garage Project required by this Agreement or otherwise, or under the terms of any waiver of any subrogation contained therein.

8.4 No Third-Party Beneficiaries. None of the duties and obligations of Development Manager under this Agreement shall in any way or in any manner be deemed to create any liability of Development Manager to, or any rights in, any person or entity other than DSA.

8.5 Independent Contractors. No person who shall be engaged as an independent contractor by either DSA or Development Manager, or both, shall be considered an employee, servant, agent or other person for whom Development Manager is responsible for the purposes of indemnifications in the foregoing Sections of this Article 8.

ARTICLE 9 COMPENSATION

9.1 Development Management Fee. As compensation for Development Manager's services rendered in connection with the Parking Garage Project, DSA shall pay to Development Manager a "Development Management Fee" in the amount of four percent (4%) of the total hard and soft costs incurred with respect to the Parking Garage Project.

9.2 Payment of Development Management Fee. The Development Management Fee shall be paid as follows (i) twenty-five percent (25%) upon the commencement of construction of the Public Parking Garage, and (ii) the remaining seventy-five percent (75%) in equal monthly payments over the term of the Parking Garage Project, as reflected in the Project Construction Schedule and as adjusted to take into account any change orders or other modifications to the Approved Project Budget. *[confirm paid separate from the development fee for the remainder of project]*

9.3 Additional Services. In the event that DSA requests that Development Manager perform services beyond the scope of this Agreement, DSA shall compensate Development Manager for such additional services provided Development Manager and DSA have entered into a separate written agreement or amendment or addendum hereto with respect to such additional services.

ARTICLE 10
TERMINATION OF AGREEMENT

10.1 Termination by DSA for Development Manager Defaults. DSA shall have the right to terminate this Agreement if any of the following events occurs (the "Development Manager Defaults"):

10.1.1 Development Manager fails to observe or perform its obligations expressly set forth in this Agreement, and such failure is not cured within thirty (30) days after date of receipt of a Notice of default from DSA, or if such failure is not susceptible to cure within such thirty (30) day period, Development Manager fails to commence such cure within thirty (30) days and thereafter to diligently pursue the same to completion; or

10.1.2 Development Manager, pursuant to or within the meaning of the Bankruptcy Code, Title 11 U.S.C., or any other present or future federal, state or other common law, case law, statute or regulation relating to bankruptcy, insolvency, appointment of receivers or custodians, dissolution, or other relief for debtors (i) commences a voluntary case, or (ii) consents to or is subject to the entry of any order for relief against it in an involuntary case, or (iii) remains a debtor in an involuntary case for more than sixty (60) days after the commencement of such case, or (iv) consents to or is subject to the appointment of a receiver, trustee, liquidator, custodian or other party serving a similar function, or (v) makes a general assignment for the benefit of creditors, or (vi) becomes insolvent, or (vii) is subject to the entry of an order for the liquidation of Development Manager;

Upon the occurrence of any Development Manager Default, DSA shall have the right, at any time after the final expiration of the aforesaid curative periods, to give Notice to Development Manager terminating this Agreement and to exercise such other remedies as may be provided by law or in equity.

10.2 Causes for Termination by Development Manager. Development Manager shall have the right to terminate this Agreement if any of the following events occurs (the "DSA Defaults"):

10.2.1 DSA fails to observe or perform its obligations expressly set forth in this Agreement, and such failure is not cured within thirty (30) days after date of receipt of a Notice of default from Development Manager or if such failure is not susceptible to cure within such thirty (30) day period, DSA fails to commence such cure within thirty (30) days and thereafter to diligently pursue the same to completion; or

10.2.2 DSA, pursuant to or within the meaning of the Bankruptcy Code, Title 11 U.S.C., or any other present or future federal, state or other common law, case law, statute or regulation relating to bankruptcy, insolvency, appointment of receivers or custodians, dissolution, or other relief for debtors (i) commences a voluntary case, or (ii) consents to or is subject to the entry of any order for relief against it in an involuntary case, or (iii) remains a debtor in an involuntary case for more than sixty (60) days after the

commencement of such case, or (iv) consents to or is subject to the appointment of a receiver, trustee, liquidator, custodian or other party serving a similar function, or (v) makes a general assignment for the benefit of creditors, or (vi) becomes insolvent, or (vii) is subject to the entry of an order for the liquidation of DSA.

Upon the occurrence of any DSA Default, Development Manager shall have the right at any time after the final expiration of the aforesaid curative periods to give Notice to DSA terminating this Agreement and to exercise any other remedies that may be provided at law or in equity.

10.3 Other Remedies. The termination of this Agreement by either Development Manager or DSA by reason of default by the other Party, as aforesaid, shall not relieve any party of any of its obligations heretofore accrued under this Agreement prior to the effective date of such termination.

10.4 Remedies Not Exclusive. The rights and remedies under this Agreement shall not be mutually exclusive. The exercise of one or more of the rights and remedies under this Agreement shall not preclude the exercise of any other right or remedy. Damages at law may not be an adequate remedy for a breach or threatened breach of this Agreement and in the event of a breach or threatened breach of any provision hereunder, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy. Notwithstanding any provision of this Agreement to the contrary, Development Manager and DSA each waive all claims against the other for consequential and/or incidental damages arising out of or relating to this Agreement.

10.5 Action Upon Termination. Upon the expiration or termination of this Agreement, Development Manager shall promptly (a) surrender and deliver to DSA any space in the Parking Garage Project occupied by Development Manager during the construction phase, (b) deliver to DSA all records, keys, Drawings and Specifications, permits and other governmental approvals, contracts, receipts for deposits, unpaid bills, bank statements, paid bills and all other records, papers and documents which relate to the Parking Garage Project which are in Development Manager's possession or control and (c) furnish all such information and take all such action as DSA shall reasonably require to effectuate an orderly and systematic transfer of Development Manager's duties under this Agreement to a new person or entity designated by DSA in writing.

10.6 Adjustment of Development Management Fee. Anything to the contrary in this Agreement notwithstanding, if this Agreement is terminated for any reason prior to the Final Project Completion, the amount of the Development Management Fee to be paid hereunder shall be reduced to an amount equal to the portion of the Development Management Fee actually earned by Development Manager through such date of termination of this Agreement and such amount shall constitute payment in full of the Development Management Fee required hereunder.

ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 Assignment. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective permitted successors, representatives and assigns. Notwithstanding the

foregoing, other than an assignment of this Agreement to an Affiliate of Development Manager, this Agreement and all rights hereunder shall not be assignable by Development Manager without DSA's prior Approval. DSA shall have the right to assign this Agreement without the Approval of Development Manager to an Entity to which DSA assigns the responsibility for funding the construction of the Parking Garage Project, provided that any such assignee agrees to be bound hereby to Development Manager for all terms and provisions of this Agreement pursuant to a written assignment and assumption agreement, a copy of which shall be provided to Development Manager.

11.2 Affiliates of Development Manager. Any contract of any kind whatsoever affecting or in connection with the Parking Garage Project between Development Manager and any Affiliate of Development Manager shall be subject to DSA's prior Approval, which Approval may be withheld by DSA in its absolute discretion for any reason whatsoever.

11.3 [Reserved].

11.4 Notices. All notices, demands, statements, and requests (collectively the "Notice") required or permitted to be given under this Agreement must be in writing and will be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the person to whom the Notice is addressed, or if such person is not available, the date such Notice is left at the address of the person to whom it is directed, or (ii) on the date the Notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt requested, or (iii) on the date the Notice is delivered by a courier service (including FedEx, Express Mail, Emery or similar operation) to the address of the person to whom it is directed, provided it is sent prepaid, with confirmation of receipt requested, or (iv) on the date such Notice is delivered by e-mail scanned signature and transmission. The initial notice address of each signatory to this Agreement is set forth below.

Rejection or other refusal by the addressee to accept or the inability to deliver because of a changed address of which no Notice was given shall be deemed to be the receipt of the Notice sent. The addresses of the Parties are as follows:

Development Manager:

EW MFR Venture I LLC
c/o Regent Partners
3340 Peachtree Road, NE
Suite 1400
Atlanta, Georgia 30326
Attn: Reid Freeman_____

With a copy to:

David G. Williams, Esq.
Sheley, Hall & Williams, P.C.
303 Peachtree Street, Suite 4440

DSA:

Downtown Savannah Authority
Attn: Mayor of the City of Savannah, Chairman
And David Maxwell, Secretary
2 East Bay Street
Savannah, Georgia 31401

With a copy to:

W. Brooks Stillwell, III, Esq.
2 East Bay Street, 3rd Floor
Savannah, Georgia 31401

Atlanta, Georgia 30308

11.5 Successors and Assigns. Subject to the provisions of Section 11.1 dealing with assignment, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

11.6 Entire Agreement. This Agreement constitutes the entire agreement of Parties with respect to the subject matter hereof. There are no further agreements or understandings, written or oral, in effect between the Parties with respect to the subject matter hereof. All amendments of or modification to the Agreement must be in a writing signed by the Parties.

11.7 No Waiver. The failure of either Party to insist upon the strict performance of any covenant, agreement, provision, or condition of this Agreement shall not constitute a waiver thereof. No waiver by either Party of any of the terms or provisions of this Agreement shall be enforceable unless expressed in writing and signed by the Party against whom enforcement is sought.

11.8 Severability. If any provision of this Agreement or the application thereof to any Entity or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to any other Entity or circumstance shall not be affected thereby and shall be enforced to the greatest extent permitted by Law.

11.9 Counterpart Execution. This Agreement may be executed by the parties hereto in two or more counterparts and each executed counterpart shall be considered an original. Any signature page from one counterpart may be appended to another counterpart to create a fully executed counterpart hereof. An electronic signature, as defined in O.C.G.A. § 10-12-1 et. seq., of any party or parties hereto shall have the same force and effect as an original of such signature(s) and the parties hereto agree to be bound by any electronic signature(s) and by any electronic record of this instrument executed or adopted with one or more electronic signatures.

11.10 Interpretation. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural; and the plural shall include the singular. Titles of articles and sections in this Agreement are for convenience only and neither limit nor amplify the provisions of this Agreement. All references in this Agreement to articles, sections, subsections or paragraphs shall refer to articles, sections, subsections and paragraphs of this Agreement, unless specific reference is made to the articles, sections or other subdivisions of another document or instrument. This Agreement shall not be interpreted in favor of either Party by virtue of said Party not having prepared this Agreement. Time is of the essence of this Agreement.

11.11 Governing Law. This Agreement shall be governed by the laws of the State of Georgia. Any legal suit, action or proceeding against any party hereto arising out of or relating

to this Agreement shall be instituted in any Federal Court in the Southern District of Georgia or state court in Chatham County, Georgia.

11.12 No Third Party Beneficiary. No other Entity other than DSA and Development Manager and each of their respective permitted successors and assigns are or shall be entitled to bring any action to enforce any provision of this Agreement. The provisions of this Agreement are solely for the benefit of and shall be enforceable only by DSA and Development Manager and their respective successors and assigns as permitted hereunder.

11.13 Dispute Resolution. During construction of the Parking Garage Project, DSA and Development Manager agree to use reasonable, good faith efforts to resolve any disputes which may arise in connection with this Agreement. If, after the exercise of good faith efforts to so resolve the dispute, the Parties are unable to do so, the Parties shall submit their dispute to be resolved in accordance with the dispute resolution structure set forth in the Contractor Agreement.

11.14 Enforcement. DSA and Development Manager hereby agree that in the event it becomes necessary for either party to institute legal proceedings to procure enforcement of any provisions of this Agreement, the prevailing party in such action or dispute, whether by final judgment or out of court settlement, shall be entitled to have and recover of and from the other party, upon the issuance of a court order with respect thereto, all reasonable third party out-of-pocket costs and expenses of suit, including reasonable attorneys' fees actually incurred. Any judgment or order entered in any final judgment shall contain a specific provision providing for the recovery of all reasonable third party out-of-pocket costs and expenses of suit, including reasonable attorneys' fees actually incurred in enforcing, perfecting and executing such judgment.

11.15 City as Agent for DSA. The parties to this Agreement acknowledge that the City shall act as the agent for the benefit of the DSA in connection with all approvals and consents that Development Manager may request from the DSA. Development Manager shall be permitted to rely on all such approvals and consents given by the City whenever this Agreement contemplates an approval or consent from the DSA.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

[SIGNATURE PAGE TO DEVELOPMENT MANAGEMENT AGREEMENT]

IN WITNESS WHEREOF, the Parties have executed this Agreement under seal with intent to be bound as of the date set forth above.

DSA:

DOWNTOWN SAVANNAH AUTHORITY

By: _____
Name:
Title:

(SEAL)

City:

CITY OF SAVANNAH

By: _____
Name:
Title:

(SEAL)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

[SIGNATURE PAGE TO DEVELOPMENT MANAGEMENT AGREEMENT]

DEVELOPMENT MANAGER:

EW MFR VENTURE I LLC, a
Georgia limited liability company

By: _____

Name:

Title:

(CORPORATE SEAL)

EXHIBIT "A"

PARKING GARAGE PROJECT

EXHIBIT "B"

APPROVED PROJECT BUDGET

(To be subsequently added by supplement to this Agreement pursuant to Section 3.1.4 hereof)

EXHIBIT "C"

INITIAL PROJECT CONSTRUCTION SCHEDULE

EXHIBIT "C-1"

FINAL PROJECT CONSTRUCTION SCHEDULE

(To be subsequently added by supplement to this Agreement pursuant to Section 3.1.5 hereof)