

**INFRASTRUCTURE REPAIR AGREEMENT FOR
SAVANNAH RIVER LANDING**

THIS INFRASTRUCTURE REPAIR AGREEMENT (this "Agreement") is made and entered into as of the 19 day of JANUARY, 2017, by and between the **MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH** (the "City") and **MMA/PSP SAVANNAH RIVER, LLC**, a Georgia limited liability company ("Owner"). [Capitalized terms shall have the meanings defined below]

WITNESSETH:

WHEREAS, ALR Oglethorpe, LLC, a Georgia limited liability company (the "Prior Owner") recorded a Subdivision Plat (defined below) for the project known as Savannah River Landing showing infrastructure improvements to be constructed, but did not complete construction of said infrastructure improvements;

WHEREAS, the Prior Owner provided performance bonds to the City to guarantee completion of the infrastructure improvements contemplated by the Subdivision Plat (the "Performance Bonds");

WHEREAS, the City collected net funds (net of attorney's fees) in the amount of \$1,458,136.10 pursuant to the Performance Bonds (the "Bond Funds"), which amount the City intends to use to assist with the financing of work on the infrastructure improvements;

WHEREAS, the City and the Prior Owner entered into that Water and Sewer Agreement dated December 1, 2006 for the project known as Savannah River Landing (the "Prior Water and Sewer Agreement");

WHEREAS, the City has agreed to reimburse Owner \$716,834.62 for work performed by the Prior Owner on the City's behalf pursuant to the Prior Water and Sewer Agreement, as amended by that assignment of rights from Prior Owner to Owner (the "W&S Funds");

WHEREAS, Owner, as the owner of the Property, as defined below, desires to continue work on the infrastructure improvements;

WHEREAS, the City has agreed to make the Bond Funds and the W&S Funds available to the Owner for the completion of a portion of the infrastructure improvements, and Owner has agreed to use the Bond Funds and the W&S Funds for the completion of said portion of the infrastructure improvements on the Property, as defined below.

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

1. **Definitions.** In addition to any other terms which are defined in this Agreement, each of the following terms, when used in this Agreement with an initial capital letter, shall have the following meaning:

1.1 "Construction Agreement" shall mean an AIA or similar format agreement between Owner and a public road and utilities contractor for the completion of the Public Improvements Work, as more particularly provided in Section 4.1.

1.2 "Construction Funds" shall mean the aggregate of the Bond Funds and the W&S Funds in the total amount of \$2,174,970.72.

1.3 "Development Regulations" shall mean and include all of the City's rules, regulations and ordinances governing the development of the Property and the Project, including the applicable Code of Ordinances of the City of Savannah, including but not limited to the applicable zoning and subdivision ordinances, building codes, narratives, applications, site development standards and applicable ordinances, as the same may be hereafter amended.

1.4 "Engineer of Record" shall mean Thomas & Hutton Engineering Company or such other engineering company engaged by Owner with respect to the Public Improvements as Owner and the City shall mutually agree upon.

1.5 "Expiration Date" shall mean the sooner of December 31, 2017, or the date Owner has fully performed its obligations hereunder.

1.6 "Owner" or "Owners" shall mean and refer to MMA/PSP Savannah River, LLC, and its successors and assigns, as the owner of one or more Parcels at the time of the event specified in this Agreement.

1.7 "Parcel" shall mean and refer to any lot subdivided out of the Property.

1.8 "Party" or "Parties" shall mean, individually or collectively, as the context requires, Owner and/or the City.

1.9 "Project" shall mean the mixed use project currently known as Savannah River Landing.

1.10 "Property" shall mean the real property shown on the Subdivision Plat.

1.11 "Public Improvements" shall mean the construction and installation of the water and sewer service as well as the construction and installation of the streets,

drainage facilities, public square landscaping/hardscape and related improvements on the Property constructed or to be constructed as part of the Project, and described on Exhibit A attached hereto. The Public Improvements have been divided into the Stage 1 Public Improvements and the Stage 2 Public Improvements.

1.12 "Public Improvements Work" shall mean all of the work required to complete the Public Improvements, including, but not limited to, all costs associated with testing, engineering and permitting said Public Improvements, in accordance with the pertinent plans and specifications prepared by the Engineer of Record, and the provisions of the Construction Agreement.

1.13 "Record Drawings" shall mean the "as-built" drawings of the Public Improvements prepared by the Engineer of Record upon the completion of the Public Improvements Work as more particularly provided in Section 4.5.

1.14 "Stage 1 Public Improvements" shall mean that portion of the Public Improvements designated as Stage 1 on Exhibit A attached hereto to the extent Construction Funds are available to complete said Public Improvements. For purposes of clarification, the Stage 1 Public Improvements are limited by available Construction Funds to pay for said Public Improvements, even if identified as Stage 1 Public Improvements on Exhibit A.

1.15 "Stage 1 Public Improvements Work" shall mean all of the work required to complete the Stage 1 Public Improvements, including, but not limited to, all costs associated with testing, engineering and permitting said Stage 1 Public Improvements, in accordance with the pertinent plans and specifications prepared by the Engineer of Record, and the provisions of the Construction Agreement.

1.16 "Stage 2 Public Improvements" shall mean the Public Improvements that are not Stage 1 Public Improvements.

1.17 "Stage 2 Public Improvements Work" shall mean all of the work required to complete the Stage 2 Public Improvements, including, but not limited to, all costs associated with testing, engineering and permitting said Stage 2 Public Improvements, in accordance with the pertinent plans and specifications prepared by the Engineer of Record, and the provisions of the Construction Agreement.

1.18 "Subdivision Plat" shall mean that subdivision plat of the Property known as "*A Major Subdivision Plat of Savannah River Landing Phase 1, 2nd G.M.D., Lamar Ward, City of Savannah, Chatham County, Georgia,*" prepared by Robert K. Morgan, G.R.L.S. No. 3087, dated August 7, 2008, and recorded in Plat Book 40-S, page 80A, Chatham County, Georgia records.

2. **Nature of Engagement.** Nothing contained in this Agreement shall constitute or be deemed or construed to create a partnership or joint venture between Owner and the City.

3. **Term.** The term of this Agreement shall commence on the date hereof and shall continue, unless sooner terminated as herein provided, until the Expiration Date.

4. **Public Improvements.**

4.1 **Construction Agreement.** Owner agrees to enter into the Construction Agreement within ninety (90) days after the date hereof for the Stage 1 Public Improvements Work. The Construction Agreement shall be in a format reasonably acceptable to the City and shall include, but not be limited to, a stipulated sum price, monthly draws based on work completed, retainage, a requirement that all draws be approved by the Engineer of Record, a requirement that Owner shall only be required to pay contractor when funds are received from the City, for so long as the Construction Funds are available, a one (1) year warranty on new work, and immediate commencement of the work. Owner shall not agree to any material amendments to the Construction Agreement without the prior written consent of the City.

4.2 **Construction Permits.** The City agrees that the plans and specifications for the Public Improvements Work has been submitted and approved by the City, and that the City has issued the site development permit for the completion of the Public Improvements Work. The City waives all applicable permitting fees due from the Owner pursuant to the applicable Development Regulations.

4.3 **Completion of Stage 1 Public Improvements Work.** Subject to the exceptions listed below, Owner shall use its best efforts to achieve final completion of the Stage 1 Public Improvements Work (the "Completion Date") no later than one hundred eighty (180) days after commencement of the work. However, if reasons beyond Owner's control cause an unavoidable delay in the progress of construction (including, but not limited to, such factors as the unavailability of materials or utilities, differing site conditions, inclement weather, strikes, changes in governmental regulations, acts of governmental agencies or their employees, or acts of God), the Completion Date shall be extended appropriately. The Completion Date shall also be extended by the number of days agreed to by the Parties in conjunction with any agreed change in the scope of the Stage 1 Public Improvements Work.

4.4 **Construction Funds.** The City agrees to provide funds from the Construction Funds to Owner sufficient to pay draws pursuant to said Construction Agreement within twenty (20) days after approval by the Engineer of Record, or as otherwise required by the terms of the Construction Agreement, and further agrees that it will not delay payment for any reason so long as the draw has been approved by the Engineer of Record. Notwithstanding the foregoing, the Parties acknowledge and agree that City shall be required to fund such draws only to the extent of the amount of the

Construction Funds and that, when the Construction Funds are depleted, the City shall not be liable for additional funding of the Public Improvements Work. The City will fund the Stage 1 Public Improvements Work first, and, only when said Stage 1 Public Improvements Work has been substantially completed, will the City be obligated to use the Construction Funds to fund the Stage 2 Public Improvements Work.

4.5 Record Drawings and Acceptance of Public Improvements.

Promptly upon Owner's completion of the Public Improvements Work the Owner will engage the Engineer of Record to prepare Record Drawings, and Owner shall submit the Record Drawings to the City together with an application to the City for the dedication of the Public Improvements to the City. Upon receipt of the Record Drawings and said application, the City will perform the appropriate inspections and tests to confirm that the Public Improvements Work has been completed in accordance with the provisions of the Construction Agreement, the pertinent plans and specifications prepared by the Engineer of Record, the Development Regulations, and this Agreement. Upon making such determination the City, after appropriate acceptance of said infrastructure by the Mayor and Aldermen, shall promptly notify Owner that the Public Improvements are accepted by the City.

5. **Bonding Procedure.** Owner shall meet the bonding requirements and procedures of the Development Regulations with respect to all Public Improvements, provided that (i) no bonds shall be required for Public Improvements Work that constitutes repair work rather than new construction, (ii) completion bonds for the installation of all sidewalks, landscape and street lights shall be submitted by Owner of a Parcel at the time that a land disturbance activity permit is requested for the Parcel, and (iii) completion bonds for the installation of landscape hardscape work at each individual public park shall be provided at the time the plat which shows such public park is submitted to the City for approval.

6. **Transfer of Owner's Rights and Obligations.** Owner shall have the right to transfer all or any portion of the rights and obligations hereunder with respect to any Parcel to one or more purchasers of said respective Parcel with the consent of the City, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Owner may assign this Agreement in its entirety to a purchaser of all of the Property, including, but not limited to Savannah River Landing JV, LLC, a Georgia limited liability company, without the consent of the City. Upon the assignment and assumption of this Agreement, MMA/PSP Savannah River, LLC, as prior Owner shall have no further liability to the City hereunder, and the new Owner shall be responsible for all duties and obligations hereunder.

7. **Default and Remedies.**

7.1 **Default by Owner.** Owner shall be in default under this Agreement if Owner fails to perform any of its duties and obligations under this Agreement and does not cure or remedy such failure to perform within sixty (60) days after receipt of written notice from the City with respect thereto; provided, however, that, if such failure

to perform shall necessitate longer to cure than such sixty (60) day period, then such cure period shall be extended for such period of time as is reasonably necessary to cure such failure to perform if Owner commences such cure within sixty (60) days after receipt of written notice from the City and thereafter proceeds diligently and in good faith to cure.

7.2 Remedies of City. Upon the occurrence of a default by Owner under this Agreement the City may pursue any one or more of the following remedies, separately or concurrently or in any combination, without further notice or demand whatsoever:

7.2.1 City may terminate Owner's rights under this Agreement by giving prior written notice of such termination.

7.2.2 With or without terminating Owner's rights under this Agreement, the City may bring an action against Owner for specific performance of the terms of this Agreement related to completion of Stage 1 Public Improvements Work for which the City has disbursed Construction Funds.

7.3 Default by City. City shall be in default under this Agreement if City fails to perform any of its duties and obligations under this Agreement and does not cure or remedy such failure to perform within ten (10) days after receipt of written notice from Owner with respect to the funding of the Public Improvements; or within sixty (60) days after receipt of written notice from Owner with respect to any other default hereunder, provided, however, that, if such failure to perform shall necessitate longer to cure than such sixty (60) day period, then such cure period shall be extended for such period of time as is reasonably necessary to cure such failure to perform if City commences such cure within sixty (60) days after receipt of written notice from Owner and thereafter proceeds diligently and in good faith to cure.

7.4 Remedies of Owner. Upon the occurrence of a default by City under this Agreement, Owner may pursue all rights and remedies available at law or in equity.

8. Representations and Warranties.

8.1 Representations and Warranties of Owner. Owner represents and warrants to City that Owner is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Georgia, and has the full and complete right, power and authority to enter into this Agreement and perform its duties and obligations under this Agreement in accordance with the terms and conditions of this Agreement.

8.2 Representations and Warranties of the City. The City represents and warrants to Owner that the City is a municipal corporation, duly organized, validly existing and in good standing under the laws of the State of Georgia.

9. General Provisions.

9.1 Notices. Whenever any notice, demand or request is required or permitted under this Agreement, such notice, demand or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth below or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each Party set forth below or to such other numbers as are specified by written notice given in accordance herewith:

Owner:

Morrison Grove Capital Advisors
900 W. Platt Street, STE 200
Tampa, FL 33606
Attn: Mark Johnson
Fax: 813-254-1520

with a copy to:

Robert B. Brannen, Jr., Esq
Bouhan Falligant LLP
447 Bull Street
Savannah, Georgia 31401
Fax: 912-233-0811

City:

City of Savannah
Attention: City Manager
Post Office Box 1027
Savannah, Georgia 31402
Fax: 912-651-6408

with a copy to:

W. Brooks Stillwell, III, Esq.
City Attorney
6 East Bay Street
Savannah, Georgia 31401
Fax: 912-232-4999

All notices, demands or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given on the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal. Nonetheless, the time period, if any, in which a response to any notice,

demand or request must be given shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof. Any notice, demand or request not received because of changed address or facsimile number of which no notice was given as hereinabove provided or because of refusal to accept delivery shall be deemed received by the Party to whom addressed on the date of hand delivery, on the date of facsimile transmittal, on the first calendar day after deposit with commercial courier, or on the third calendar day following deposit in the United States Mail, as the case may be.

9.2 Authorized Representatives. Any consent, approval authorization or other action required or permitted to be given or taken under this Agreement by Owner or the City, as the case may be, shall be given or taken by one or more of the authorized representatives of each. For purposes of this Agreement: (i) the authorized representative of Owner shall be Mark Johnson; and (ii) the authorized representative of the City shall be the City Manager, or such other Party as is designated by the City Manager as the specific authorized representative to handle such matters. Any Party may from time to time designate other or replacement authorized representatives to the other Party. The written statements and representations of any authorized representative of Owner or the City shall be binding upon the Party for whom such person is an authorized representative, and the other Party shall have no obligation or duty whatsoever to inquire into the authority of any such representative to take any action which he proposes to take.

9.3 Captions and References; Interpretation. The captions and paragraph headings in this Agreement are for ease of reference only and are not intended to limit, describe, supplement or be part of this Agreement. Any reference in this Agreement to "Section" or "" shall refer to the corresponding Section or Exhibit of this Agreement, unless otherwise expressly indicated. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Whenever the word "including" is used, it shall have the same meaning as "including but not limited to" and "including without limitation." Any reference in this Agreement to "herein" or "hereof" shall refer to this Agreement as a whole rather than being limited to the particular section in which such term is used.

9.4 Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

9.5 Defined Terms. Capitalized terms used in this Agreement shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

9.6 Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, covenant, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, conditions and provision hereof shall remain valid and enforceable to the-fullest extent-permitted- by law.

9.7 Non-Waiver. Failure by either Party to complain of any action, non-action or default of the other Party shall not constitute a waiver of any aggrieved Party's rights hereunder. Waiver by either Party of any right arising from any default of the other Party shall not constitute a waiver of any other right arising from a subsequent default of the same obligation or for any other default, past, present or future.

9.8 Eminent Domain. Nothing set forth in this Agreement shall limit, impair or abrogate the City's rights and powers with respect to eminent domain under the laws of the State of Georgia.

9.9 Controlling Laws; Jurisdiction; Venue. This Agreement and provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Georgia and all duly adopted ordinances, regulations, and policies of the City now in effect and those hereinafter adopted. The location for settlement of any and all claims, controversies, or disputes, and any litigation arising out of or relating to any part of this Agreement, or any breach hereof, shall be Chatham County, Georgia. The Parties consent and agree that venue of any civil action arising from or related to this Agreement shall exclusively lie in the State and Superior Courts of Chatham County Georgia and the United States District Court for the Southern District of Georgia, Savannah Division, and the Parties hereby consent to the jurisdiction of those courts over them.

9.10 Entire Agreement. There are no other agreements or understandings, either oral or written, between the Parties affecting this Agreement or the subject matter covered by this Agreement, except as otherwise specifically provided for or referred to herein. This Agreement cancels and supersedes all previous agreements between the Parties relating to the subject matter covered by this Agreement. No change or addition to, or deletion of, any portion of this Agreement shall be valid or binding upon the Parties unless the same is approved in writing by the Parties.

9.11 Modifications. This Agreement shall not be modified or amended in any respect except by a written agreement executed by Owner and the City in the same manner as this Agreement is executed.

9.12 Agreement to Cooperate. In the event of any legal action instituted by a third-party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby expressly agree to cooperate in defending such action; provided, however, that each Party shall retain the right to pursue its own independent legal defense.

9.13 No Third-party Rights. The benefit of this Agreement is intended to inure only to the Parties and nothing in this Agreement shall be construed as creating or giving rise to any rights in any third Parties or deemed to confer any third-party beneficiary status on anyone who is not a Party.

9.14 Estoppel Certificate. During the Term of this Agreement, either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that this Agreement is in full force and effect; that this Agreement has not been amended or modified, or if so amended, identifying said amendments; whether, to the knowledge of such Party, the requesting Party is in default or claimed default in the performance of its obligations under this Agreement, and if so, describing the nature of such default or claimed default; and whether, to the knowledge of such Party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, would constitute a default and, if so, specifying each such event.

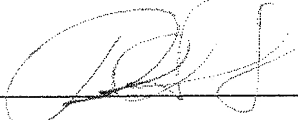
9.15 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the City and Owner have caused their respective duly authorized representatives to execute, seal and deliver this Agreement, as of the day and year first above written.

City:

MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH

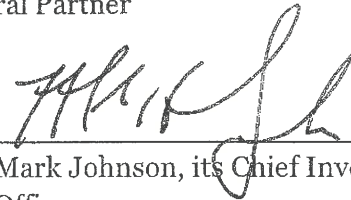
By:  _____
Name: _____
Its: _____

Owner:

MMA/PSP SAVANNAH RIVER, LLC

By: PM S-1 REO, LLC, its Managing Member

By: Morrison Grove Capital Advisors, its
General Partner

By:  _____
Mark Johnson, its Chief Investment
Officer

List of Exhibits:

Exhibit A: Description of Improvements

EXHIBIT A

Description of Public Improvements

Exhibit "A"- Stage I SRL Reimbursement Agreement Costs

Task	Stage 1 Cost	
	Estimated Consulting Cost ¹	Opinion of Probable Construction Cost
Work Order 2.01 - Update Sewer & Storm Infrastructure Punch List/Repair Evaluation	\$ 40,500.00	\$ -
Work Order 2.02 - Services for Surcharge and Roadway Design Plans for Boundary Street (Includes Geotechnical Evaluation by Terracon)	\$ 46,400.00	\$ -
Work Order 2.03 - Services for design, permitting, bidding, and construction observation for repair/rehabilitation of Sewer & Storm infrastructure within the Stage 1 area of SRL (Includes consulting cost for Benning St Completion)	\$ 129,640.00	\$ -
Terracon - Surcharge Monitoring ²	\$ 50,000.00	\$ -
Replace Missing Grates (42 Grates)	\$ -	\$ 14,560.00
Large Storm Line Pump-down (48", 60", and 72" RCP) and Cleaning for Final Video Evaluation	\$ -	\$ 25,329.92
Sewer/Storm Infrastructure Repairs	\$ -	\$ 1,009,515.80
Benning Street Completion (Crushed Stone Temporary Entrance)	\$ -	\$ 42,000.00
Surcharge and Boundary Street Completion (surcharge and roadway)	\$ 56,743.00	\$ 472,856.00
Total Anticipated Tasks	\$ 323,283.00	\$ 1,564,261.72
	\$1,887,544.72	

¹ Consulting engineering cost for these task have not yet been established due to unknown final scope of task. An assumed 12% of construction cost estimates are provided to budget for these upcoming consulting efforts.

² Terracon to provide consolidation monitoring during surcharge and construction of Boundary Street.

Exhibit "A" - SRL Stage 1 Reimbursement Agreement: Sewer/Storm Infrastructure Repair Costs	
Area	Stage 1
4	\$ 39,000.00
9	\$ 78,759.20
10	\$ 228,586.80
11	\$ 14,830.40
12	\$ 11,606.40
13	\$ 67,173.60
14 (60" Repair Item)	\$ 103,011.08
15	\$ 40,404.00
17	\$ 257,049.52
21	\$ 65,634.40
22	\$ 68,260.40
New Storm/Environmental Box Repair	\$ 35,200.00
Total Sewer/Storm Punchlist	\$ 1,009,515.80