

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into as of the ____ day of July, 2025 (“Effective Date”) by and between **RHOWE DESIGN + BUILD, LLC** a Georgia limited liability corporation (“RHOWE”), and **THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH**, a municipal corporation existing under the laws of the State of Georgia (“City”). Collectively, the City and RHOWE are referenced herein as the “Parties.”

WITNESSETH:

WHEREAS, RHOWE is performing City approved and permitted renovation and construction work on a building located at 2517 Bull Street in Savannah, Chatham County, Georgia (the “Renovation Project”); and

WHEREAS, City is the owner of DeSoto Avenue and all public rights-of-way adjoining 2517 Bull Street in Savannah, Chatham County, Georgia (the “City Property”); and

WHEREAS, while completing new utility connections as part of the Renovation Project RHOWE discovered a buried underground storage tank (UST) in the City Property; and

WHEREAS, RHOWE immediately contacted the City about the discovery of the UST and RHOWE and City have agreed to collaborate and work together to assess, remove, and remediate the UST and any affected soils and ground water, and then backfill the resulting void with structural fill and repave the affected area per City specifications (the “Remediation Work”); and

WHEREAS, RHOWE has agreed to perform the Remediation Work as part of its Renovation Project and City will supervise and reimburse RHOWE for approved costs.

NOW THEREFORE, in consideration of the agreements set forth herein below, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the City and RHOWE agree as follows:

1. **Incorporation of the Recitals.** The foregoing recitals of this Agreement are incorporated herein as if fully set out below.

2. **City Agreements.** The City hereby agrees to the following:

(a) **Right of Access.** City grants RHOWE the non-exclusive right of access and use of the City Property to perform the Remediation Work, subject to approval by the City and in consultation and oversight of City’s environmental contractor Terracon, Inc.

(b) **Term.** The Term of the Right of Access to perform and complete the Remediation Work shall be thirty (30) days from the Effective Date of this Agreement. The Term shall automatically renew in thirty (30) day increments until the Remediation Work is completed unless terminated by either party, in their sole discretion, by providing termination notice prior to the expiration of the then current thirty-day Term. Notwithstanding the

foregoing, the Term will automatically expire, terminate, and not renew again after one hundred eighty (180) days from the Effective Date.

(c) Procurement Procedure. RHOWE shall comply with State statutes and City ordinances when procuring any assessment, testing, tank removal, soil removal, groundwater treatments, structural fill placement, asphalt paving, and all/other related costs. This includes, but is not limited to, obtaining at least three competitive quotes for each intended purchase or contract to be obtained from a particular vendor or contractor if the cost is less than \$25,000.00. Records of such competitive quotes shall be maintained by RHOWE and shall be made available to the City upon request. For any single purchase or contract valued in excess of \$25,000.00, RHOWE shall consult with an assigned City Purchasing Department Representative who shall determine and approve the proposed method of procurement to be implemented; which may include a public bid or piggy-back contract of a prior competitively bid state or cooperative contract and, if the cost exceeds \$50,000, City Council approval. Any procurement by RHOWE for the Remediation Work not in compliance with the requirements of this section shall not be eligible for reimbursement and shall be the sole responsibility of RHOWE .

- i. Pre-Approval. All Remediation Work shall be approved by the City Fire Marshal Office and the City Risk Management Office prior to commencement. The City shall expressly have no obligation to fund any Remediation Costs that are not prior-approved by the City. Any Costs incurred by RHOWE without such prior approval shall be paid by RHOWE.
- ii. Reimbursement Procedure. The City hereby agrees to reimburse RHOWE for all prior-approved costs of the Remediation Work plus a fifteen percent (15%) administrative mark-up fee within thirty (30) days of receiving the following: (i) reasonable evidence the prior-approved scope of Remediation Work has been completed in a good and workmanlike manner and (ii) any invoices and documentation reasonably requested by the City for such support, including receipts or invoices. Costs shall include, but shall not be limited to: labor, materials, supplies, and necessary professional services.
- iii. Termination. If this Agreement is terminated by either party prior to expiration, then City shall reimburse RHOWE for any work completed up to the date of termination according to the reimbursement provision outlined above.

3. **RHOWE Agreements.** RHOWE hereby agrees to the following:

(a) Permitting. RHOWE will submit the Remediation Work plan for review, approval, and permitting by the City. RHOWE shall not commence construction of any work on City Property until such review, approval, and permitting is completed.

(b) Diligent Completion. RHOWE agrees, upon receipt of requisite approvals and permits, and after commencement of construction, to work diligently to complete the Remediation Work in an expedited and timely manner. Notwithstanding the foregoing, RHOWE agrees to complete the Remediation Work within one hundred eighty (180) days of the Effective Date of this Agreement.

(c) Licensure. RHOWE shall oversee the construction of the Remediation Work to ensure it is constructed in a good and workmanlike manner. Before the date on which the construction starts, RHOWE and/or its agents and subcontractors shall obtain, and at all times during the term of this Agreement shall maintain, all necessary licenses and consents and comply with all relevant laws, regulations, rule, regulations and ordinances applicable to the provision of the construction of the Public Improvements and Infrastructure.

(d) Management and Administration. RHOWE shall be responsible for all RHOWE personnel (which includes, without limitation, employees, subcontractors and independent contractors) and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits.

(e) No Mechanic's Liens. RHOWE, in the exercise of its obligations herein, or in the performance of any duties under this Agreement, shall not cause or permit any mechanic's or materialman's lien to attach to or to be perfected or enforced against the City Property on which RHOWE performs work or causes work to be performed. If by reason of any alterations, repair, labor performed or materials for or on behalf of RHOWE any mechanics or other lien shall be filed, claimed, perfected or otherwise established as provided by law against the City Property on which RHOWE performs work or causes work to be performed, RHOWE shall discharge or remove the lien by bonding or otherwise, within thirty (30) days after notice from the City.

(f) Omissions. RHOWE shall be responsible to the City for acts and omissions of RHOWE's employees, subcontractors and their agents and employees, and other persons or entities performing all or portions of the work to construct the Improvements for or on behalf of RHOWE or any of their subcontractors. Upon request by the City and after payment, RHOWE, and/or its subcontractors shall provide interim and/or final lien waivers (as the case may be) in the standard Georgia forms.

(g) Insurance. During the term of this Agreement, RHOWE shall, at its own expense, maintain and carry in full force and effect with financially sound and reputable insurers, commercial general liability with limits no less than \$2,000,000.00 per occurrence and \$3,000,000.00 in the aggregate, including bodily injury and property damage and completed operations and advertising liability, which policy will include contractual liability coverage insuring the activities of RHOWE under this Agreement. Upon City's request, RHOWE shall provide the City with a certificate of insurance from RHOWE's insurer evidencing the insurance coverage specified in this Agreement. The certificate of insurance shall name the City as an additional insured. RHOWE shall provide the City with thirty (30) days' advance written notice in the event of a cancellation or material change in RHOWE's insurance policy. Except where

prohibited by law, RHOWE shall require its insurer to waive all rights of subrogation against the City's insurers and the City. RHOWE shall, to the extent required by applicable law, also provide Workers Compensation and Employers Liability covering \$500,000.00 and shall provide a certificate of insurance to the City evidencing such coverage upon executing this Agreement.

(h) **Hold Harmless and Indemnification.** RHOWE shall indemnify, defend, and hold harmless the City and its officers, directors, employees, agents, affiliates, successors, and permitted assigns (collectively, "Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, incurred by Indemnified Party (collectively, "Losses"), relating to, arising out of or resulting from: (i) any claim of a third party arising out of or occurring in connection with RHOWE's negligence, willful misconduct, or breach of this Agreement, (ii) any negligent or willful acts and/or omissions of either RHOWE and their respective employees, agents, other contractors or subcontractors and/or (iii) performance of the construction of the Improvements.

4. **Force Majeure.** The Parties shall use reasonable diligence to perform the work described herein but shall not be liable to each other, or their successors or assigns, for damages, costs, attorneys' fees, reasonably and actually incurred (including costs or attorney's fees on appeal) for breach of contract, or otherwise, for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the Parties. Such causes may include but shall not be limited to, Acts of God, acts of other governmental entities, strikes, lockouts or unavailability of materials.

5. **Agency.** RHOWE and the City, and their agents, contractors, or subcontractors, shall perform all activities that are outlined in this Agreement as independent entities and not as agents of each other.

6. **Controlling Laws; Jurisdiction; Venue.**

(a) 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.

(b) 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.

7. **Miscellaneous.**

(a) Except as amended by this Agreement, all terms and conditions of the Lease shall remain in full force and effect. The undersigned hereby ratify, confirm and reaffirm

the Lease, as hereby modified and amended. In the event of a conflict between the terms of the Lease and the terms of this Agreement, the terms of this Agreement shall control.

(b) There are no other agreements or understandings, either oral or written, between the Parties of this Agreement or the subject matter covered by this Agreement, except as otherwise specifically provided for or referred to herein. No change or addition to, or deletion of, any portion of this Agreement shall be valid or binding upon the Parties hereto unless the same is approved in writing by the Parties.

(c) No Assignment. This Agreement shall not be assignable in whole or in part by a Party without the prior written consent of the other Parties. Any attempted assignment without prior written consent shall be void and of no force or effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns.

(d) Strict Performance. No failure by a Party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise a right or remedy shall constitute a waiver. No waiver of any breach shall effect or alter this Agreement, but each and every covenant, condition, agreement and term of this Agreement shall continue in full force and effect with respect to any other existing or subsequent breach.

(e) 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", "subsection", "Exhibit" or "Schedule" shall refer to the corresponding Section, subsection, Exhibit, or Schedule 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 or subsection in which such term is used.

(f) Severability. In the event that any court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable, such provision shall be deemed an independent provision and such determination shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect and which shall be construed as to be valid and enforceable under applicable law.

(g) Default. RHOWE shall be in default under this Agreement if RHOWE and Declarant fails to perform any of its respective duties and obligations stated herein and does not cure or remedy such failure to perform within fifteen (15) calendar 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 fifteen (15) 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 RHOWE or Declarant commences such cure within fifteen (15) days after receipt of written notice from the City and thereafter proceeds diligently and in good faith to cure.

- i. Upon the occurrence of a default by RHOWE under this Development Agreement, the City may, in addition to any other remedy provided to the City under law and/or equity, pursue any one or more of the following remedies, separately or concurrently or any combination, without further notice or demand whatsoever:
- ii. City may terminate RHOWE's rights under this Development Agreement by giving RHOWE written notice of such termination.
- iii. With or without terminating RHOWE's rights under this Agreement, City may bring an action against RHOWE to recover all damages, recoverable at law, suffered, incurred or sustained by City in connection with such default.

Notwithstanding anything to the contrary contained herein, in no event shall any party hereto be liable hereunder for any punitive, special, indirect, and/or consequential damages such party may suffer or incur, and each party hereto unconditionally and irrevocably acknowledges and agrees that the individual officers, members, managers, shareholders, and agents of each party hereto shall not be personally liable for any obligations hereunder, which acknowledgement and agreement shall survive the termination of this Agreement.

(h) Notices. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when (i) hand delivered to the person hereinafter designated, (ii) upon receipt as evidenced by delivery receipt if sent by a national overnight delivery service (iii) sent by electronic mail or facsimile to the addresses or numbers below if a confirmed receipt, date and time is provided (iv) upon receipt of such notice when deposited in the United States Mail, postage, prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the applicable party shall have specified, from time to time, by written notice to the other party delivered in accordance with:

If to RHOWE: Rhowe Design + Build, LLC
 Attention: James Bonney. Vice President
 613 Suncrest Blvd
 Savannah, Georgia 31410
 Phone: 706-725-9109
 Email: jdbonney@evans-gc.com

If to the City: City of Savannah
 Attention: Jay Melder, City Manager
 City Hall, P.O. Box 1027
 Savannah, Georgia 31402
 Phone: (912) 651-6415
 Facsimile: (912) 238-0872
 Email: jay.melder@savannahga.gov

with a copy to: Bates Lovett, City Attorney
 Office of the City Attorney

Post Office Box 1027
Savannah, Georgia 31402
Phone: (912) 525-3092
Email: blovett@savannahga.gov

David Keating, Sr. Director of Real Estate
Post Office Box 1027
Savannah, Georgia 31402
Phone: (912) 651-6521
Email: dkeating@savannahga.gov

IN WITNESS WHEREOF, each of the Parties has executed and delivered this Agreement under seal as of the date first above written by and through its duly authorized officer or representative.

RHOWE:

By: _____
Name: James Bonney
Title: Vice President

CITY:

**MAYOR AND ALDERMEN OF THE CITY OF
SAVANNAH**

By: _____
Name: _____
Its: _____

