

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (this “Second Amendment”) is made and entered into as of the \_\_\_ of \_\_\_\_\_, 2024 (“Effective Date”) by and between **EAST RIVER STREET, LLC**, a Georgia limited liability company (“Developer”); and **THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH**, a municipal corporation existing under the laws of the State of Georgia (“City”).

WITNESSETH:

**WHEREAS**, Developer is the owner of certain property being more specifically described as Parcel \_\_\_\_\_ on Exhibit A attached hereto and incorporated herein by reference (“Property”);

**WHEREAS**, Developer desires to develop the Property for mixed use commercial purposes, together with open space and public space for the use and benefit of the Property and the general public (“Project”); and

**WHEREAS**, Developer and City wish to establish certain rights, duties and obligations and to memorialize such terms in a written agreement.

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

1. Background. Developer and the State of Georgia (“State”) have entered into a settlement agreement whereby (i) a three foot (3’) line located south of the riverwalk has been established as the boundary line between property owned by the State and property owned by Developer; (ii) Developer has agreed to quitclaim to the State all properties located north of the line identified as “3’ South of Face of Bulkhead” as shown and described on that certain Exhibit captioned “East River Development Area to Be Conveyed,” prepared by Thomas & Hutton, dated January 4, 2024, and attached hereto as Exhibit “A” (“Exhibit”); and (iii) State has agreed to quitclaim to Developer all properties located south of the line identified as “3’ South of Face of Bulkhead” as shown and described on the Exhibit. The area located between the southern face of the bulkhead and the line identified as “3’ South of Face of Bulkhead” will be the subject of an easement from the State to the City. The conveyance from Developer to the State as described herein shall be executed by the Developer and the City to agree to the following provision: “This conveyance is made subject to that certain Non-Exclusive Easement between the STATE OF GEORGIA acting by and through the STATE PROPERTIES COMMISSION and the CITY OF SAVANNAH, GEORGIA dated April 14, 1997 and recorded on July 26, 1997 in Deed Book 186V, Page 463, Chatham County, Georgia records (the “Easement”). The Parties agree that the Easement is effective and binding on the Easement Area as described in such Easement and effective as of the date of such Easement on April 14, 1997 and shall continue to bind and run with the land of such Easement Area as described in such Easement.”

2. Riverwalk. The City and Developer acknowledge and agree that the Developer will develop the Project on its Property and that improvements will be built adjacent to the area identified as “3’ South of Face of Bulkhead.” Notwithstanding any provision contained in any other instrument to the contrary, and to the extent the City has the right to grant Developer the rights described herein (considering the Property is owned by the State and not the City), Developer shall be permitted to use the surface area of the area located between the southern face of the bulkhead and the line identified as “3’ South of Face of Bulkhead” for landscaping, hardscaping and utilities serving the Project, and Developer further agrees that it will maintain the surface area of the area located between the southern face of the bulkhead and the line identified as “3’ South of Face of Bulkhead” in a neat, clean and sanitary condition. Developer shall be responsible for keeping the area free of garbage, debris and other unsightly items. Developer shall not install plants, trees, flowers, shrubs, landscaping, hardscaping and/or utilities (collectively the “Improvements”) without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed; provided however: (i) the City shall at all times have the right to remove such Improvements if the City needs to make subterranean repairs, and notwithstanding anything to the contrary, the City shall have no responsibility to restore or replace any Improvements removed or damaged in such process and (ii) all Improvements are placed in such area at Developer’s risk and shall be subject to the rights of the State and that any approval of the City shall not be deemed an approval of the fee simple owner of the area, being the State. Approval by the City Manager or by a City department in writing shall be deemed City approval for all purposes hereunder.

3. Seawall. In connection with the “Existing Riverwalk” shown and described on “Section @ Riverwalk” prepared by GM Shay, dated February 19, 2022, and attached hereto as Exhibit “B”, the City has installed existing steel sheet pilings located adjacent to and south of the Existing Riverwalk and located three feet (3’) north of the cut-off wall to be installed by Developer. Developer shall indemnify, defend, and hold the City harmless from and against any and all claims for damage to its steel sheet pilings or any other property of the City arising from any construction activity done by Developer in or about the Project (provided such loss or damage is not caused by the gross negligence or willful misconduct of the City, or its agents, employees or contractors or invitees), including all costs, and reasonable attorneys' fees, whether at trial or on appeal, incurred in or about the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding is brought against City by reason of such claim, Developer, upon notice from City, shall defend the same at Developer’s expense by counsel reasonably satisfactory to City.

4. Binding Nature of Agreement. This First Amendment shall be binding upon and shall inure to the benefit of the parties and the successors or assigns of the parties and shall run with the Property and be binding upon and inure to the benefit of any person, firm or corporation that may become the successor in interest, directly or indirectly, to the Property, or any portion thereof.

5. Estoppel. By execution of this Second Amendment, the City acknowledges that the Agreement, as amended by this Second Amendment, is in full force and effect, and that there are no breaches of, violations of or defaults with respect to the terms, provisions, covenants, restrictions and agreements set forth under the Agreement or the Second Amendment as the same apply to the Property, and no event has occurred and no circumstances exist which, upon the giving of notice or the passage of time, or both, would constitute a breach of, a violation under or a default with respect to the Agreement and Second Amendment as the same apply to the Property.

6. Miscellaneous:

(a) 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 Second Amendment, except as otherwise specifically provided for or referred to herein. In the event of a conflict between the terms and conditions of this Second Amendment and the terms and conditions of the Agreement, the terms and conditions of this Second Amendment shall control. No change or addition to, or deletion of, any portion of this Second Amendment shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

(b) No Indemnification. The parties acknowledge and agree that neither this Agreement nor any of the Subordinate Agreements impose or shall impose any obligation on the part of City to indemnify or hold harmless Developer or any other person or entity.

(c) Waiver; Time. No waiver or breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provisions of this Agreement or any succeeding breach of the same provision. No delay in acting with regard to any breach of any provision of the Agreement shall be construed as a waiver of such breach. Time is of the essence in the performance of the terms and provisions of this Agreement.

(d) 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 "Exhibit" 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 or subsection in which such term is used.

(e) 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.

(f) 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, which includes the date and time of delivery, is provided, or (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 601 East River Street: 601 East River Street, LLC  
c/o Northpoint Hospitality  
3405 Piedmont Road NE, Suite 55  
Atlanta, GA 30305-4891  
Email: [ed.stelling@northpointhospitality.com](mailto:ed.stelling@northpointhospitality.com)

with a copy to: Hunter Maclean  
Attention: Harold B. Yellin, Esq.  
200 East Saint Julian Street  
Savannah, GA 31412  
Email: [HYellin@HunterMaclean.com](mailto:HYellin@HunterMaclean.com)

if to River Street 1: River Street 1, LLC  
c/o Northpoint Hospitality  
3405 Piedmont Road NE, Suite 55  
Atlanta, GA 30305-4891  
Email: [ed.stelling@northpointhospitality.com](mailto:ed.stelling@northpointhospitality.com)

with a copy to: Hunter Maclean  
Attention: Harold B. Yellin, Esq.  
200 East Saint Julian Street  
Savannah, GA 31412  
Email: [HYellin@HunterMaclean.com](mailto:HYellin@HunterMaclean.com)  
Facsimile: (912) 236-4936

if to City: City of Savannah  
Attention: City Manager  
City Hall  
2 East Bay Street  
Savannah, GA 31401  
Email: [jmelder@savannahga.gov](mailto:jmelder@savannahga.gov)  
Facsimile: (912) 238-0872

with a copy to:

R. Bates Lovett, Esq.  
Office of the City Attorney  
6 East Bay Street, 3rd Floor  
Savannah, GA 31401  
Email: [blovett@savannahga.gov](mailto:blovett@savannahga.gov)

(g) Exhibits. The following exhibits are attached hereto and incorporated by this reference herein:

Exhibit A East River Street Development (“Area to be Conveyed”)  
Exhibit B Section @ Riverwalk prepared by GM Shay

SIGNATURE PAGES ON FOLLOWING PAGES

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement under seal as of the day and year first above written.

**Developer:**

**601 EAST RIVER STREET, LLC**, a Georgia limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**RIVER STREET 1, LLC**, a Georgia limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**City:**

**THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH**, a Georgia municipal corporation

By: \_\_\_\_\_

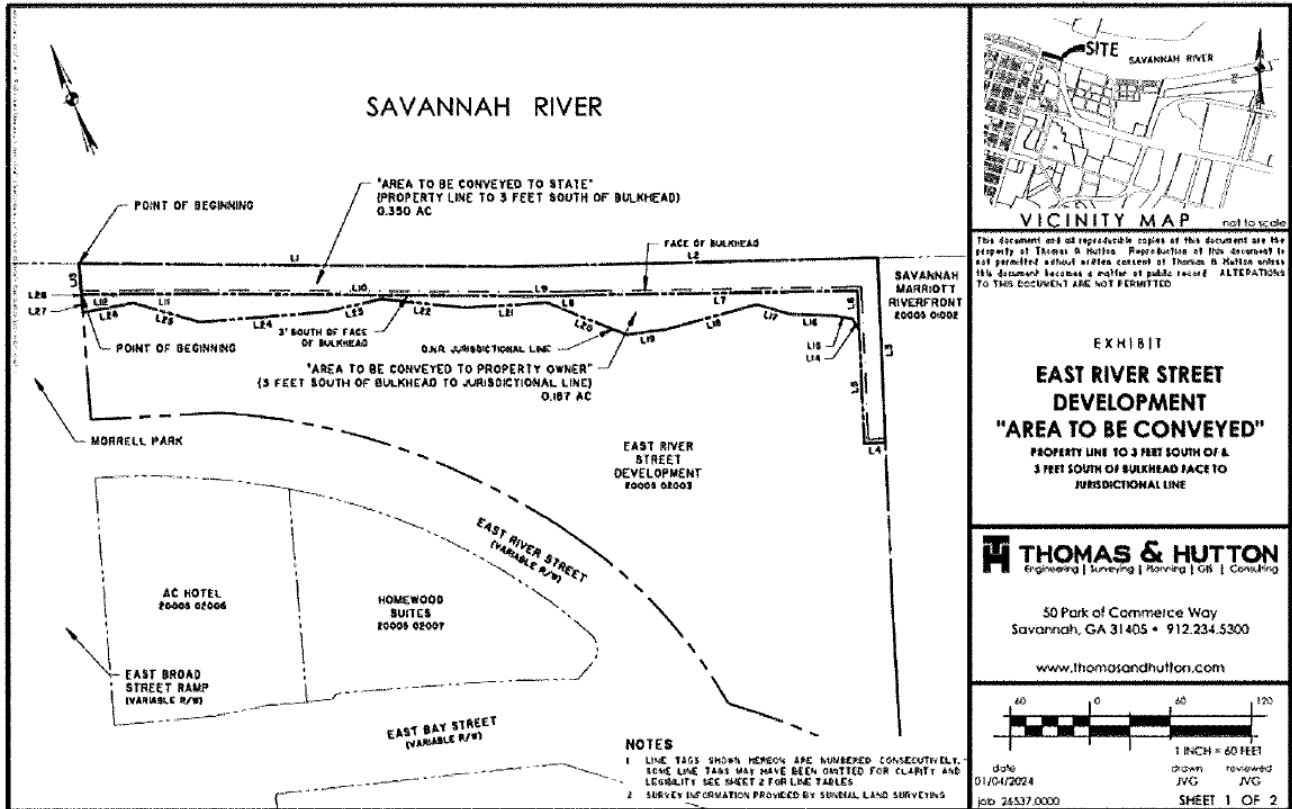
Jay Melder  
City Manager

Attest: \_\_\_\_\_

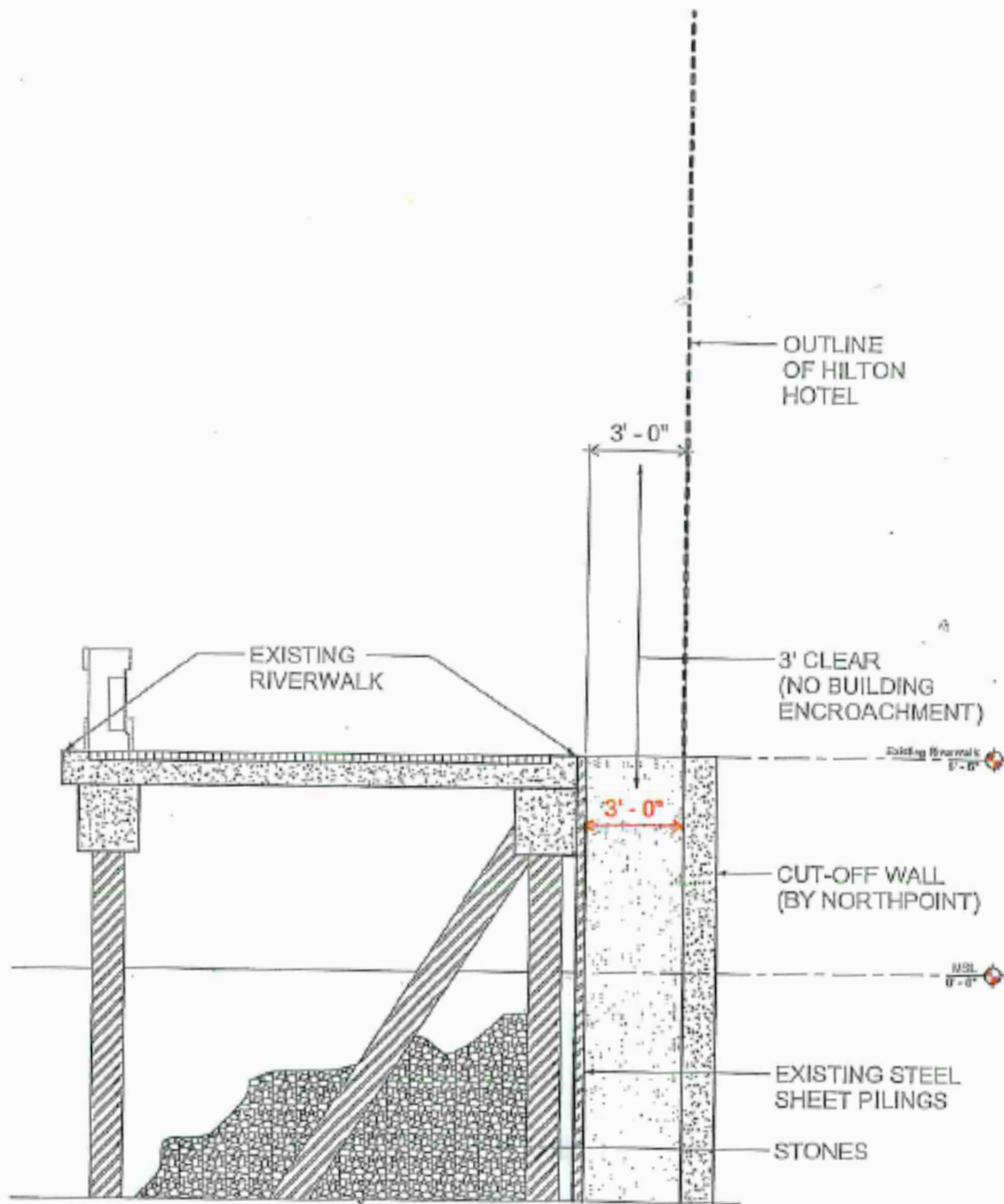
Mark Massey  
Clerk of Council

[OFFICIAL SEAL]

# EXHIBIT A



**EXHIBIT B**



1  
A315 TYPICAL SECTION @ HILTON HOTEL (ANNE HOTEL SIMILAR)  
1/2" = 1'-0"

**FULL SERVICE HOTEL**  
SECTION @ RIVERWALK



22/02/17

© 2022 Gann Murphy & Gray Architects, P.C.  
All Rights Reserved  
Contact Patrick Gray @ 912.992.5151