

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2023, by and between RAHN BAHIA MAR L.L.C., a Delaware limited liability company, whose principal address is 1175 NE 125th Street, Suite 102, North Miami, FL 33161 ("Developer") and the City of Fort Lauderdale a municipal corporation, whose principal address is _____ ("City").

R E C I T A L S

WHEREAS, Pursuant to that certain lease approved by the City on April 5, 2022 pursuant to City Resolution No. 22-73 and dated April 13, 2022, as may be amended from time to time ("Lease"), Developer is the Lessee of the Property generally located at 801 Seabreeze Boulevard in the City of Fort Lauderdale, as more particularly described in **Exhibit "A"** attached hereto (the "Property"); and

WHEREAS, on _____, _____, 2023, Developer received approval for a Site Plan and Planned Development District (City Case # UDP-PDD22004) ("PDD") rezoning of the Property pursuant to City Ordinance No. C-23-24 ("Project"); and

WHEREAS, the Project includes 350 residential units, 60 hotel residences 256 hotel rooms, approximately 88,000 square feet of commercial uses, a marina, and various ancillary facilities all located in buildings at various heights with the highest tower at 300' tall.

WHEREAS, as a condition of approval for the Project and pursuant to the City of Fort Lauderdale, Florida Unified Land Development Regulation ("ULDR") Section 47-37A.13, Developer is required to enter into a development agreement with regards to the implementation of any conditions imposed under the PDD approval; and

NOW, THEREFORE, Owner hereby declares the following:

1. Recitals. The recitals set forth above are true and correct and are incorporated herein by reference.
2. Development Uses Permitted on the Land. City Ordinance No. C-23-24, adopted on _____, 2023, approved the Project subject to certain conditions imposed by the City Commission. The Project is consistent with the City of Fort Lauderdale Comprehensive Plan and Unified Land Development Regulations.
3. Developer Obligations. Developer agrees to the following obligation:
 - (a) Conditions of Approval. Developer agrees to comply with all conditions imposed by the City Commission as part of the PDD approval which

conditions are attached hereto as **Exhibit “B”**, as same may be amended from time to time.

(b) Phasing Project. Developer shall construct the Project in five (5) phases consistent with the Phasing Plan depicted in the PDD site plan, Sheet L-106. In the event the Developer seeks an amendment to the Phasing Plan, then such amendment shall be processed consistent with ULDR, Section 47-37A.15.

(c) Public Improvements. Developer shall construct and maintain the public improvements as described in the PDD approval in accordance with the following:

- (1) The marina promenade, beachwalk (sidewalk along Seabreeze Boulevard), and the park open space shall be constructed and completed during Phase 2 as depicted in the PDD site plan, Sheet L-106.
- (2) The public improvements shall be located as depicted on the site plan and constructed consistent with the detailed drawings in the site plan set as to materials and amenities such as benches, trash receptacles, lighting, and wayfinding signage subject to minor alterations as approved by City staff.
- (3) Public access wayfinding signage including hours of access shall be provided at entrance areas and/or pedestrian connections to the public sidewalk.

(d) Parking and Valet Operations

1. The Developer shall execute a parking reduction order reflecting the reduced parking for the project. The parking reduction order shall be executed and recorded prior to the submittal of the first building permit for Phase 2. Developer shall provide a copy of the recorded parking reduction order to the City's Development Services Department at time submittal of the first building permit for Phase 2.
2. A valet parking agreement shall be executed and recorded prior to the submittal of the first building permit for Phase 2. Developer shall provide a copy of the recorded valet parking agreement to the City's Development Services Department at time submittal of the first building permit for Phase 2.

4. City Obligations.

- a) The City agrees to cooperate with the Developer in securing all permits and approvals necessary to complete the Project pursuant to this Agreement.
- b) The City agrees to provide impact fee credits to the Developer for any buildings demolished on the Property, which shall reduce any impact fees payable on any new buildings approved for construction on the Property.
- c) The City agrees that throughout the term of this Agreement, the site plan approval for the Project shall not expire and shall remain an active site plan.

5. Entire Agreement. This Agreement, together with all exhibits attached hereto, constitutes the entire agreement of the Developer and the City of Fort Lauderdale. Any oral representations, inducements or agreements between the Developer and the City which are not specifically incorporated in this Agreement are not binding upon the Developer or the City of Fort Lauderdale.

6. Effective Date. This Agreement shall be effective upon recordation in the Public Records of Broward County, Florida. Developer shall record this Agreement at its sole expense.

7. Venue. Venue of any litigation arising out of this Agreement will be in Broward County, Florida.

8. Severability. If any term or provision of this Agreement or the application of it to any person or circumstances is to any extent invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to person or circumstances, other than those as to which it is invalid or enforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and is intended to be enforced to the fullest extent permitted by law.

9. Successors and Assigns. This Agreement will inure to the benefit of and be binding upon the Developer, its heirs, personal representatives, successors and assigns, and upon any person acquiring the Property or any portion thereof (or the leasehold interest in the Property or any portion thereof), or any interest therein whether by operation of law or otherwise. The new owner(s) of the Property or any portion thereof (or the leasehold interest in the Property or any portion thereof) (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or

otherwise), will be liable for all obligations arising under this Agreement with respect to such property after the date of sale and conveyance of title.

10. Modification or Termination. Except as otherwise provided herein, this Agreement shall not be modified, amended, discharged or terminated, except by an instrument in writing signed by Developer and the City of Fort Lauderdale, or their respective successors or assigns, and recorded in the Public Records of Broward County, Florida.

11. Compliance with Governing Laws. The parties shall comply with all applicable laws, ordinances, and codes of the United States of America, the State of Florida and all local governments having jurisdiction, in carrying out the rights and responsibilities provided in this Agreement. If state or federal laws are enacted after the execution of this Agreement which are applicable to and preclude the parties' compliance with the terms of this Agreement, this Agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws. The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

12. Third Party Beneficiary Rights. This Agreement is not intended to create, nor to be interpreted or construed in any way to create any third-party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

13. Duration of the Development Agreement. The duration of this Agreement shall be 11 years but may be extended by mutual consent of the City Commission and the Developer.

14. Tolling and extension of Provisions of Development Agreement. The declaration of a state of emergency issued by the Governor of the State of Florida for a natural emergency that effects the jurisdiction of the City of Fort Lauderdale tolls the period remaining to exercise the rights under this agreement for the duration of the emergency declaration and further extends the period remaining to exercise the rights under this agreement for six (6) months in addition to the tolled period if the Developer provides notice consistent with the requirement of Section 252.363, Florida Statutes.

This Agreement is executed as of the date first above written.

[Signatures begin on the following page]

WITNESSES:

Print Name: _____

Print Name: _____

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023 by _____, as _____ of RAHN BAHIA MAR L.L.C., a Delaware limited liability company. He is personally known to me or has produced _____ as identification.

AS TO DEVELOPER:

**RAHN BAHIA MAR L.L.C., a
Delaware limited liability
company**

By: _____
Name, Title:

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgement)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

AS TO CITY:

WITNESSES:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida

[Witness type or print name]

[Witness type or print name]

By: _____
Dean J. Trantalis, Mayor

By: _____
Greg Chavarria, City Manager

ATTEST:

(CORPORATE SEAL)

David R. Soloman, City Clerk

APPROVED AS TO FORM:

By: _____
D'Wayne M. Spence
Interim City Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by [] physical presence or [] online notarization this ____ day of _____, 2023, by DEAN J. TRANTALIS, Mayor of the City of Fort Lauderdale, Florida.

Signature of Notary Public – State of Florida

Print, Type of Stamp Commissioned Name of
Notary Public

Personally Known ____ OR Produced Identification ____
Type of Identification Produced: _____

Exhibit "A"

Legal Description of the Property

All that part of Bahia Mar, according to the plat thereof, recorded in Plat Book 35, Page 39 of the public records of Broward County, Florida, lying west of the right-of-way line of Seabreeze Boulevard, excepting therefrom Parcel 1; also excepting therefrom the North 80 feet of Parcel 34.

Exhibit “B”

PDD Conditions of Approval

[see attached conditions of approval]

EXHIBIT B
CONDITIONS OF APPROVAL
Case No. UDP-PDD22004

1. Prior to Final DRC, the applicant shall provide a copy of the Preliminary School Capacity Determination Letter (SCAD) for school capacity.
2. Applicant shall continue to work with FDOT and the City for possible bike lanes on A1A.
3. Prior to submittal of the building permit for the first residential tower, applicant shall provide the Final School Capacity Availability Determination (SCAD) letter that confirms that school capacity is available, or if capacity is not available, that mitigation requirements have been satisfied.
4. Pursuant to ULDR Section 47-38A, Park Impact Fees, the applicant will be required to pay Park Impact Fee for the proposed residential units and hotel rooms prior to issuance of building permit for such use.

The following conditions apply to Phase 1A, "Marina Village".

5. Prior to issuance of any Final Certificate of Occupancy, applicant will coordinate with the City regarding legal conveyance of property for all proposed public utilities.

The following conditions apply to Phase 2 through 5.

6. In accordance with the Water and Wastewater Capacity Availability letter issued by the City Public Works Department dated February 8, 2023, the existing water and sewer distribution systems require improvements to accommodate the proposed development. Prior to any Certificate of Occupancy, all necessary improvements shall be constructed, certified and in operation per ULDR section 47-25.2.
7. Prior to any Final Certificate of Occupancy, applicant shall dedicate right-of-way as public deed or easement along the west side of Seabreeze Boulevard varying in width as required by Broward County Trafficways Plan and approved by the Florida Department of Transportation.
8. Prior to building permit issuance, the proposed development shall be designed to provide adequate water and sanitary sewer system. The design shall include the necessary areas and easements needed for the installation and maintenance of the systems.
9. Prior to building permit issuance, applicant must provide plans, sections and details to effectively conduct safe and adequate pedestrian movement through

public pedestrian facilities along Seabreeze Blvd in compliance with ULDR Section 47-25.2.M.6.

10. Prior to building permit issuance, applicant shall provide proper drainage design and supporting documentation to demonstrate compliance with ULDR Sec. 47-25.2.L.
11. Prior to building permit issuance, applicant must provide utility plan and legal conveyance of any property necessary to serve, access and maintain the proposed public utilities serving the development.
12. Prior to building permit issuance, applicant must coordinate and define any encumbrance found within the site that would otherwise restrict the proposed development.
13. The applicant shall execute and record in the Broward County Public Records a Declaration of Restrictive Covenants restricting the following areas as a "Park" as defined in Section 47-18.44.A.1. of the Unified Land Development Regulations:
 - A. The area adjacent to the Intercoastal waterway identified as "Bahia Mar Central Park" or "Bahia Mar Central Park Space" or "Central Park" in the Ordinance approving the Rezoning, Associated Site Plan, and Phasing Plan (CAM #23-0607 and Case No. UDP-PDD22004).
 - B. The area identified as "Pedestrian Promenade" or "Marina Promenade" in the Ordinance approving the Rezoning, Associated Site Plan, and Phasing Plan (CAM #23-0607 and Case No. UDP-PDD22004).

The Declaration of Restrictive Covenants shall state that "the Park shall be open to members of the public, subject to the conditions and limitations in the Master Lease Agreement, as amended from time to time." The applicant shall record the Declaration of Restrictive Covenants in the Broward County Public Records at its own cost and expense and provide the City Clerk with a copy of the recorded Declaration of Restrictive Covenants within 10 days after the Ordinance approving the Rezoning, Associated Site Plan, and Phasing Plan (CAM # 23-0607 and Case No. UDP-PDD22004) is adopted by the City Commission. The Declaration of Restrictive Covenants cannot be terminated without consent from the City Commission.