***Bahia Mar***
***Community Development District***

***October 19, 2026***

# Bahia Mar
## Community Development District
### Agenda

| | |
|---|---|
| Seat 2: Kurt Drstvensek – (C.) | |
| Seat 4: Michael Fine – (V.C.) | |
| Seat 1: Ben Gerber – (A.S.) | |
| Seat 3: Landon McNeil – (A.S.) | |
| Seat 5: Michael Sperling – (A.S.) | |

**Thursday**
**October 19, 2026**
**9:00 a.m.**

**801 Seabreeze Blvd, Fort Lauderdale, FL 33316**
**Join the meeting now**
**Meeting ID: 267 340 774 202 and Passcode: pgmoK3**
**1 872-240-4685 and Phone Conference ID: 973 389 554#**

1. Oath of Office for Mr. Landon McNeil **– Page 3**
2. Roll Call
3. Audience Comments ***(Related to Right to Speak Statute Changes – Public Comment Limited to 3 Minutes)***
4. Approval of Minutes of the September 17, 2026 Meeting **– Page 4**
5. Discussion and Approval of:
   A. First Supplemental Report of District Engineer to the Board of Supervisors Determining the Second Phase Surplus Air Rights Parcel **– Page 12**
   B. Phase Lease Agreement - Hotel **– Page 31**
   C. Amended and Restated Agreement of Purchase and Sale (Air Rights) **– Page 178**
   D. Declaration of Air Rights, Covenants, Easements and Restrictions for BM Podium **– Page 219**
6. Consideration of **Resolution #2027-01** Approval of Additional Surplus Air Rights Parcel **– Page 386**
7. Staff Reports
   A. Attorney
   B. Engineer
   C. Manager
8. Financial Reports
   A. Approval of Funding Requests **#22 & #23 – Page 390**
   B. Approval of Unaudited Financials **– Page 392**
9. New Business
10. Supervisors Requests and Audience Comments
11. Adjournment

***Meetings are open to the public and may be continued to a time, date and place certain. For more information regarding this CDD please visit the website:*** **http://www.bahiamarcdd.com**

# *Oath of Office*

I, _____ a resident of the State of Florida and citizen of the United States of America, and being a Supervisor of the **Bahia Mar Community Development District** and a recipient of public funds on behalf of the District, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida, and will faithfully, honestly and impartially discharge the duties devolving upon me in the office of Supervisor of the **Bahia Mar Community Development District, _____County, Florida**.

**Signature:** _____

**Mailing Address:** _____

_____

**County of Residence:** _____

**Telephone #:** _____

**E-mail:** _____

**Date:** _____

Sworn to (or affirmed) before me this _____ day of _____, by _____ whose signature appears hereinabove.

_____
Notary Public State of Florida

_____
Print Name

My Commission expires

Personally known _____ or produced identification _____

Type of identification_____

# MINUTES OF MEETING
# BAHIA MAR
# COMMUNITY DEVELOPMENT DISTRICT

The special meeting of the Board of Supervisors of the Bahia Mar Community Development District was held on Thursday, September 17, 2026 at 9:00 a.m. at 801 Seabreeze Blvd., Mariner Room, Fort Lauderdale, Florida 33316

Present and constituting a quorum were:

| | |
|---|---|
| Kurt Drstvensek | Chairman |
| Michael Fine | Vice Chairman |
| Ben Gerber | Assistant Secretary (by phone) |
| Michael Sperling | Assistant Secretary |

Also present were:

| | |
|---|---|
| Ginger Wald | District Counsel (by phone) |
| Liza Smoker | Billing, Cochran |
| Andrew Gill | District Manager |
| Kenny Tate | Developer (by phone) |

## FIRST ORDER OF BUSINESS — Oath of Office for Mr. Landon McNeil

Mr. Gill: Not sure why item No. 1 is still on the agenda, that was already taken care of previously.

## SECOND ORDER OF BUSINESS — Roll Call

Mr. Gill called the meeting to order and called the roll.

## THIRD ORDER OF BUSINESS — Audience Comments (Related to Right to Speak Statute Changes – Public Comment Limited to 3 Minutes)

Mr. Gill: Next up is audience comments and those are limited to 3 minutes. We do not have any members of the public present in person or on the phone, so we can move to the next item.

## FOURTH ORDER OF BUSINESS Approval of the Minutes of the June 15, 2026 Meeting

Mr. Gill: Included as item No. 4 on your agenda are the minutes from the June 15, 2026 meeting, are there any additions, deletions or corrections?

Mr. Fine: No.

Mr. Gill: Hearing none I'll ask for a motion to approve.

> On MOTION by Mr. Fine seconded by Mr. Drstvensek with all in favor, the Minutes of the June 15, 2026 Meeting were approved.

## FIFTH ORDER OF BUSINESS Public Hearing to Adopt the Fiscal Year 2026 Budget

### A. Motion to Open the Public Hearing

Mr. Gill: Moving down to item No. 5 this is your public hearing to adopting the fiscal year 2026-2027 budget, I'm looking for a motion to open that public hearing.

> On MOTION by Mr. Fine seconded by Mr. Drstvensek with all in favor, opening the Public Hearing was approved.

### B. Public Comment and Discussion

### C. Consideration of Resolution #2026-02 Adopting the Final Budget

Mr. Gill: Ok, now that the public hearing is open, I'll open it up to public comment and discussion, as I said earlier, there are no members of the public present in person or on the phone. So, I'll move down to the resolution and the actual budget. I've printed out paper copies for you.

> On MOTION by Mr. Fine seconded by Mr. Sperling with all in favor, Resolution #2026-02 adopting the final budget was approved.

### D. Consideration of Developers Funding Agreement

Mr. Gill: The next item is, and as I said this budget is completely developer funded so the next item we have and this is presented every year is the developer funding agreement which details how the developer will fund the budget for this upcoming fiscal year. Are there any questions on the developer funding agreement, again, it's the same

form, the dates have been updated and the new budget is attached as an attachment but, there have not be any substantial changes or substantive changes to that document.

> On MOTION by Mr. Fine seconded by Mr. Drstvensek with all in favor, accepting the Developers Funding Agreement was approved.

### E. Motion to Close the Public Hearing

Mr. Gill: Next I'm just looking for a motion to close the public hearing.

> On MOTION by Mr. Fine seconded by Mr. Drstvensek with all in favor, closing the Public Hearing was approved.

## SIXTH ORDER OF BUSINESS — Executed and Recorded First Amendment to Interlocal Agreement between the City of Fort Lauderdale and Bahia Mar Community Development District

Mr. Gill: Moving down, the public hearing is now closed, I'll move into the main part of the agenda and our meeting. We've included item No. 6, and just for the record it's the executed and recorded first amendment to the interlocal agreement between the City of Fort Lauderdale and Bahia Mar Community Development District. This amendment as you may recall amends that interlocal agreement to include the improvement of the completed resurfacing of the basketball courts, installation of the pickleball courts, outdoor fitness center and relocation of storage and maintenance. Again, nothing is needed from the Board, this is just for your records.

## SEVENTH ORDER OF BUSINESS — Discussion of Second Phase of Surplus Air Rights

Mr. Gill: Jumping down to item No. 7, I'm not sure how much of a discussion we need to have on the second phase of surplus air rights but, we do have Kenny and Ginger here, I'm not sure if either of you want to provide any clarity on where we are with this.

Ms. Wald: I'll provide the update, this is Ginger Wald. So, with that the plans have been provided to the District engineer to review along with the revised legal description, this is dealing with the second phase we had already completed the conveyance of the first

phase and so after that review is completed the District engineer who I've been in touch with is going to provide that supplemental report. We hope to have that done for the next meeting, and then we will have the resolution for the Board to consider as to specifically declaring that section of the second phase surplus with the air rights so we can proceed forward with the conveyance. So, as I stated, we hope to have that on the next agenda.

Mr. Gill: Any questions for Ginger?

Mr. Drstvensek: No, thank you Ginger.

Mr. Gill: Thank you Ginger.

## EIGHTH ORDER OF BUSINESS — Consideration of Engagement Letter with Grau & Associates to perform the Audit for Fiscal Year Ending September 30, 2026

Mr. Gill: Item No. 8 this is consideration of the engagement letter with Grau & Associates who is your auditor to perform the audit for the end of this fiscal year which is September 30, 2026. That amount is $3,600 for the audit, and again this is your current auditor, they've been doing the audits for us and they did our prior audit as well. Are there any questions? Hearing no questions, I'm just looking for a motion to approve that engagement letter.

> On MOTION by Mr. Fine seconded by Mr. Drstvensek with all in favor, accepting the engagement letter with Grau & Associates to perform the audit for Fiscal Year ending September 30, 2026 was approved.

## NINTH ORDER OF BUSINESS — Staff Reports

Mr. Gill: Moving down to staff reports, we have Liza Smoker here and for the legislative update Ginger, do you want Liza to take it?

Ms. Wald: Yes, go ahead Liza.

### A. Attorney – Memorandum - 2026 Legislative Update

Ms. Smoker: So, every year our firm monitors the legislative session to see if there's anything affecting our Districts and we put together this memo which is there for your review. Just two items that I will highlight for you that might of interest is that there is now a formal recall process for elected Board members to remove Board members such

as malfeasance, misfeasance, neglect of duty, incompetence, drunkenness, permanent inability to perform duties, or conviction of certain felonies, so that is now a new process on the books. I will also mention that there's some legislation pertaining to development reform measure that primarily limits local government discretion in permitting, zoning and development regulation. So, a central component of the legislation requires that application fees for development permits and orders imposed by counties and municipalities must be directly tied to the actual costs of reviewing and processing applications, must be publicly listed and may not be based on construction value or project costs. So, that's going to prevent fee structures that scale with development size rather than administrative expense and there's more on that in the memo if you have any questions feel free to contact our office. Are there any questions for us?

Mr. Drstvensek: No.

Mr. Gill: Ok, thank you Liza.

### B. Engineer

Mr. Gill: The District engineer is available and I'll see if I can have him on the call for the next meeting since we do have the second phase of the air rights will be on that agenda so it may be useful to have him there but, he's always available if you all have any questions.

### C. Manager

#### 1) Execution of Developer Funding Agreement

#### 2) Consideration of Proposed Fiscal Year 2027 Meeting Schedule

Mr. Gill: For District manager, I put on the execution of the prior developer funding agreement and we'll have that executed shortly. Next is consideration of the meeting schedule for this upcoming fiscal year, this will be from October 1, 2026 to September 30, 2027. My office has included a draft of that advertisement with potential dates. I know the location may be different.

Mr. Drstvensek: What was the date on the meeting schedule?

Mr. Gill: So, we have the current schedule that we usually meet which is the third Monday of each month, we can keep that the same or we can use any dates that you all see fit. I think the most important part is the location.

Mr. Drstvensek: Go to here until the other location is available.

Mr. Gill: Ok.

Mr. Gerber: We're good through March 15, 2027.

Mr. Gill: Ok, so do we have an idea of where we want to go after that, if not we can advertise up until March 15th for this location.

Mr. Drstvensek: Yes, advertise through March 15th.

Mr. Gill: Ok, perfect, and then if we have another location for the March 15th date we can advertise the rest of the meetings as well. So, this is your fiscal year 2026-2027 regular meeting schedule which will be set for the third Monday of each month at 9:00 a.m. at 801 Seabreeze Blvd., Fort Lauderdale, Florida 33316. November 3, 2026 is an exception because that will be a regular and a landowners meeting, along with January 11, 2027. I'm just looking for a motion to authorize those dates up to March 15, 2027 and authorizing my office to advertise.

| |
|---|
| On MOTION by Mr. Fine seconded by Mr. Drstvensek with all in favor, accepting the proposed Fiscal Year 2027 Meeting Schedule authorizing staff to advertising the dates up to March 15, 2027 was approved. |

Mr. Gerber: Andrew, can you explain again what November 3rd and January 11th why they're different?

Mr. Gill: Sure, I think the January 1st may be a holiday, so the third Monday of January, let me just check.

Mr. Gerber: Oh, so the date is just the exception, I got it now.

Mr. Gill: Yes, the date is the exception.

Mr. Gerber: Ok.

3) **Form 1 Financial Disclosure Due July 1, 2026 - *Everyone has filed***
4) **Reminder to Complete Annual Ethics Training by December 31, 2026**
5) **Number of Registered Voters in the District – 10**
6) **Final Approval of the FY2025-FY2026 Report Performance Measures and Standards as Required by Florida Statute 189.069**
7) **Consideration of the FY2026-FY2027 Performance Measures and Standards as Required by Florida Statute 189.069**

Mr. Gill: Moving down to your Form 1s, everyone has filed their Form 1 financial disclosure so good job there. If you have not completed your ethics training, I will send those links again, it's a 4 hour video, and it can be free, you don't have to pay for it, and so

I'll forward those again and it's due by the end of the calendar year and again I'll forward those after this meeting to you if you haven't completed that, and next year when you do your Form 1 you'll check a box that says you completed the ethics training. I'm required to report on the number of registered voters in the District and that number is actually 10 registered voters. We reached out to the Supervisor of Elections to ask if that was correct, and it is correct, there are 10 people who are registered to vote in the boundaries of the District. Next is the performance standards and measures, we have included the standards and measures for the current fiscal year for your approval, and again, the legislature has required that we come up with matrix that the CDD has to meet during the fiscal year, we've made them pretty basic because they haven't provided us much guidance, so those measures were met. So, I'm just looking for a motion to approve the final for of those performance measures and standards with a signature and placed on the website for 2025-2026. Again, those measures are meetings, approving a budget before June 15th, adopting a budget before the end of the fiscal year which is September 30th, advertising our meetings, and holding the public meetings, and you've met those in 2025-2026 so I'm just looking for a motion to approve those.

> On MOTION by Mr. Drstvensek seconded by Mr. Sperling with all in favor, final approval of the FY2025-FY2026 Report Performance Measures and Standards as required by Florida Statute 189.069 and authorizing staff to post it on the District's website was approved.

Mr. Gill: Then the second thing I'm looking for is just a motion to use the same standards that we used for this current fiscal year for the next fiscal year for those matrix.

> On MOTION by Mr. Sperling seconded by Mr. Drstvensek with all in favor, accepting of the FY2026-FY2027 Performance Measures and Standards as required by Florida Statute 189.069 was approved.

## TENTH ORDER OF BUSINESS Financial Reports

### A. Approval of Funding Request #21
### B. Acceptance of Unaudited Financials

Mr. Gill: Moving on to financial reports, we have funding requests #21 on page 63 of your packet, along with the unaudited financials.

> On MOTION by Mr. Drstvensek seconded by Mr. Sperling with all in favor, Funding Request #21 and the unaudited financials were approved.

## ELEVENTH ORDER OF BUSINESS New Business

Mr. Gill: Next is new business, is there any new business prior to the next meeting?

Mr. Drstvensek: No.

Mr. Gill: Ok

## TWELFTH ORDER OF BUSINESS Supervisors Requests and Audience Comments

Mr. Gill: Then Supervisor's requests and audience comments, again there are no members of the public present in person or on the phone.

## THIRTEENTH ORDER OF BUSINESS Adjournment

Mr. Gill: If there's nothing from the Supervisors, I'm just looking for a motion to adjourn.

> On MOTION by Mr. Sperling seconded by Mr. Drstvensek with all in favor, the Meeting was adjourned.

_____ _____

Secretary /Assistant Secretary Chairman / Vice Chairman

**Bahia Mar Community Development District**

# First Supplemental Report of District Engineer to the Board of Supervisors Determining the Second Phase Surplus Air Rights Parcel

Prepared for
**Bahia Mar Community Development District**
**Board of Supervisors**
Fort Lauderdale,
Broward County, Florida

Prepared by
**Alvarez Engineers, Inc.**

8935 NW 35 Lane, Suite 101
Doral, FL 33172
Telephone 305-640-1345

E-Mail Address: Info@Alvarezeng.com

**October 19, 2026**

DRAFT

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**DRAFT No. 1**

8935 NW 35 Lane, Suite 101, Doral, Florida 33172
Telephone (305) 640-1345 E-Mail: Info@AlvarezEng.com

## I. Introduction.

On February 19, 2024, the Board of Supervisors of the Bahia Mar Community Development District (the "**District**" or "**CDD**") ratified the District Engineer's Report describing the air rights parcel conveyed by the City of Fort Lauderdale to the District (the "**Original Report**"). This parcel is referred hereafter as the "**CDD Air Rights Parcel**."

Additionally, the Original Report described the first portion of the CDD Air Rights Parcel that the District conveyed to Rahn Bahia Mar LLC (the "**Developer**") as surplus space that would not be needed for constructing CDD public improvements (the **"Initial" or "First Phase Surplus Air Rights Parcel**"). The Original Report also described the balance of the CDD Air Rights Parcel that remained under CDD ownership after such first conveyance (the **"Balance of the CDD Air Rights Parcel**"). Such residual parcel was intended to remain under District ownership until a second phase of surplus air rights could be determined from a more advanced set of construction plans for a future second conveyance to the Developer in accordance with an approved Amended and Restated Agreement of Purchase and Sale between the District and Developer (the "**Second Phase Surplus Air Rights Parcel**").

The purpose of this First Supplemental District Engineer's Report (the "**Report**") is to determine such Second Phase Surplus Air Rights Parcel with the intent of being subsequentially legally described by a Professional Surveyor and Mapper.

## II. Background.

The **CDD Air Rights Parcel** was originally conveyed by the City to the District by Quitclaim Deed recorded as Instrument # 119365858 in the Public Records of Broward County. Such quitclaim deed was replaced by Corrective Quitclaim Deed recorded as Instrument # 119949230 (Refer to Exhibit 1 of this Report for a copy of the corrective deed). The CDD Air Rights Parcel, as described in the corrective deed, consists of a 340,618 Square Foot horizontal area of unlimited height extending from Elevation 3.5' (NAVD '88).

The **Initial**, or **First Phase Surplus Air Rights Parcel** was originally conveyed by the District to the Developer by Quitclaim Deed recorded as Instrument # 119425082. Such deed was replaced by Corrective Quitclaim Deed recorded as Instrument # 119978353 (Refer to Exhibit 2 for a copy of the corrective deed). The First Phase Surplus Air Rights Parcel, as described in the corrective deed, consists of a 340,618 Square Foot horizontal area of unlimited height extending from Elevation 22.5' (NAVD '88). The boundary of such area coincides with the boundary of the CDD Air Rights Parcel.

The **Balance of the CDD Air Rights Parcel** that is currently under District ownership is the difference between the CDD Air Rights Parcel and the First Phase Surplus Air Rights Parcel and consists of a 340,618 Square Foot horizontal area of limited height extending from Elevation 3.5' to Elevation 22.5' (NAVD '88).

It is from this Balance of the CDD Air Rights Parcel that the **Second Phase Surplus Air Rights Parcel** will be carved out as described below.

## III. Determination of the Second Phase Surplus Air Rights Parcel.

The Developer has provided to the District Engineer a set of more advanced architectural construction plans titled "Bahia Mar – Mixed Use, 50% DD Re-Design" dated September 11, 2026, prepared by Arquitectonica. The Developer has also provided a preliminary set of legal descriptions and sketches titled "Conveyance From CDD to Rahn" dated August 25, 2026, prepared by Biscayne Engineering per directions by the Developer.



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Telephone (305) 640-1345 E-Mail: Info@AlvarezEng.com

Upon analysis of the architectural plans and the preliminary set of legal descriptions, it was determined that the Second Phase Surplus Air Rights Parcel would be a carved-out volume of space taken from the Balance of the CDD Air Rights Parcel between Elevations 3.5' and 22.5' presently owned by the District.

In accordance with the architectural plans, two garage parking levels are planned within the Balance of the CDD Air Rights Parcel: one named "Basement Level B1" within Elevations 9.5' and 22.5' and the other below B1 called "Basement Level B2" between Elevations 3.5' and 9.5'.

Level B1 is planned for two ADA parking spaces, 147 single parking spaces, 98 tandem parking spaces, and 42 triple parking spaces for a total capacity of 289 spaces.

Label B2 is planned for four ADA parking spaces, 215 single parking spaces, 124 tandem parking spaces, and 60 triple tandem parking spaces for a total capacity of 403 spaces.

In addition to the planned parking areas, both Basement Levels B1 and B2, have approximately 98,552 Square Feet of floor space on each level that are not yet planned for a specific use, and therefore are designated as "Future Phases" in the architectural plans.

With the exception of the ADA parking spaces on Level B1 and the Future Phases area on both Levels B1 and B2, which will be retained by the CDD, all remaining planned parking spaces, together with the driveways and ramps to access them, and other spaces ancillary to the planned parking spaces on each of the two floors, will constitute the **Second Phase Surplus Air Rights Parcel** as shown on Exhibits 3 and 4 of this Report.

The table below is a summary of the volumetric spaces that make up the Second Phase Surplus Air Rights Parcel and the spaces that will remain under District ownership after Second Phase Surplus Air Rights Parcel is conveyed to the Developer.

| Level | Elevation (NAVD '88) | | CDD ADA Spaces Area ID # | | CDD Future Phases Area ID # | | Second Phase Surplus Air Rights Parcel | Total Floor Area |
|---|---|---|---|---|---|---|---|---|
| | From | To | 1 | 2 | 3 | 4 | | |
| B1 | 9.5' | 22.5' | 1,571 | 1,571 | 49,976 | 48,576 | 238,923 | 340,618 |
| B2 | 3.5' | 9.5' | 0 | 0 | 49,976 | 48,576 | 242,066 | 340,618 |

Refer to Exhibits 3 and 4 for an illustrative depiction of the Second Phase Surplus Air Rights Parcel, and the areas that are to be retained by the CDD between Elevations 3.5' and 22.5'.

## IV. Summary and Conclusion.

The CDD will retain all the spaces within the District that are necessary for the construction of the future CDD-owned Public Improvements. The final elevations and horizontal areas of the private and public improvements may be further defined in the future by permitted construction and as-built plans.

It is our opinion that the Initial Second Phase Surplus Air Rights Parcel may be transferred to the Developer by the CDD and will not affect the construction of the District's Public Improvements.

I hereby certify that the foregoing is a true and correct copy of the First Supplemental District Engineer's Report for the Bahia Mar Community Development District.

Juan R. Alvarez, PE
Florida Registration No. 38522
Alvarez Engineers, Inc.
October 19, 2026

**DRAFT No. 1**

**EXHIBIT 1**
**RECORDED QUITCLAIM DEED OF ORIGINAL CDD AIR RIGHTS PARCEL**



8935 NW 35 Lane, Suite 101, Doral, Florida 33172
Telephone (305) 640-1345 E-Mail: Info@AlvarezEng.com

Instr# 119949230 , Page 1 of 9, Recorded 12/11/2024 at 04:23 PM
Broward County Commission
Deed Doc Stamps: $0.70

When Recorded Mail to:

Barry E. Somerstein, Esq.
Greenspoon Marder LLP
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, FL 33301

Prepared By:

Barry E. Somerstein, Esq.
Greenspoon Marder LLP
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, FL 33301

Folio:

**THIS IS A CORRECTIVE QUITCLAIM DEED TO CORRECT A SCRIVENER'S ERROR THAT WAS CONTAINED IN THE LEGAL DESCRIPTION OF THE PROPERTY SET FORTH IN THE QUITCLAIM DEED FROM THE CITY OF FORT LAUDERDALE TO BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT RECORDED JANUARY 31, 2024 UNDER INSTRUMENT #119365858 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA ("ORIGINAL DEED"). THERE IS NO NEW CONSIDERATION BEING PAID AND DOCUMENTARY STAMPS OF $0.70 WERE PAID ON THE ORIGINAL DEED.**

## CORRECTIVE QUITCLAIM DEED

THIS CORRECTIVE QUITCLAIM DEED is made this 9th day of December, 2024, by **CITY OF FORT LAUDERDALE**, a Florida municipal corporation ("Grantor"), whose address is 101 NE 3rd Avenue, Fort Lauderdale, Florida 33301, and **BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT** ("Grantee"), whose address is c/o District Manager, GMS-South Florida, 5385 N. Nob Hill Road, Sunrise, Florida 33351.

(The terms "Grantor" and "Grantee" as used herein shall refer to the respective parties, and the heirs, personal representatives, successors, and assigns of such parties.)

W I T N E S S E T H:

That Grantor, for and in consideration of TEN DOLLARS ($10.00) and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim unto Grantee, its successors and assigns, forever, all of Grantor's rights, title, and interest, if any, in and to the following described lands, lying and being in Broward County, Florida, to wit:

See **Exhibit A**, attached hereto and made a part hereof (the "Property").

**TO HAVE AND TO HOLD** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity, and claim whatsoever of the said Grantor, either in law or equity, to the only proper use, benefit, and on behalf of the said Grantee forever.

**THIS CONVEYANCE IS SUBJECT TO** all zoning rules, regulations, and ordinances and other prohibitions imposed by any governmental authority with jurisdiction over the Property conveyed herein; existing public purpose utility and government easements and rights of way and other matters of record; and real estate taxes for all years and the matters set forth on **Exhibit B**.

The Grantor hereby reserves and retains all rights and benefits under that Master Lease dated April 13, 2022, as amended, any and all Phased Leases, and that Declaration of Restrictive Covenants, as amended, by and between the City, the CDD and Rahn Bahia Mar LLC.

The Property being conveyed pursuant to this Corrective Quit Claim Deed is subject to a reverter as set forth in Section 16 of the Declaration of Restrictive Covenants recorded in Instrument No. 119363796 of the Public Records of Broward County, Florida.

**IN WITNESS WHEREOF**, Grantor has caused these presents to be executed in its name by the City Commission acting by the Mayor of said City Commission and the City Manager, the day and year aforesaid.

GRANTOR:

CITY OF FORT LAUDERDALE,
a Florida municipal corporation

ATTEST:

By: _____
David R. Soloman, City Clerk

(SEAL)

By: _____
Dean J. Trantalis, Mayor-~~Commissioner~~

9 day of December, 2024

By: _____
Susan Grant, City Manager

5TH day of December, 2024

APPROVED AS TO FORM:

D'Wayne Spence, Interim City Attorney,

By: _____
Lynn Solomon
Assistant City Attorney

3 day of December, 2024

**EXHIBIT A (to quit claim deed)**

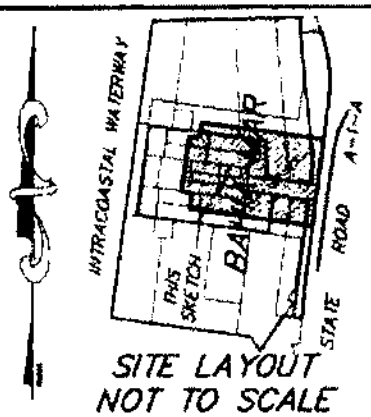
**Legal Description**

CONTROL POINT ASSOCIATES, FL, LLC.
LB #8137
TRADITIONAL METHODS | MODERN APPROACHES
1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
PHONE: (954) 763-7611 * EMAIL: DOONAHOE@CPASURVEY.COM

# SKETCH AND DESCRIPTION
# BAHIA MAR
# CDD PODIUM AIRSPACE
# SHEET 1 OF 2 SHEETS

LEGAL DESCRIPTION:

A portion of the Parcels and those certain 10.00 foot Walkways adjacent thereto and within said Parcels, BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, above the ground level, Elevation= 3.5 feet, North American Vertical Datum 1988, more fully described as follows:




SITE LAYOUT
NOT TO SCALE

Commencing at the Northeast corner of Parcel 32, of said BAHIA MAR; thence South 05°40'45" East, a distance of 80.22 feet, thence North 88°35'36" East, a distance of 116.79 feet, to a point on a line 29.00 feet West of and parallel with the centerline of State Road A-1-A (Seabreeze Boulevard) and to a point on a curve; thence Southerly on said West right-of-way line of State Road A-1-A (Seabreeze Boulevard) and on said curve to the right, whose radius point bears South 71°39'34" West, with a radius of 882.51 feet, a central angle of 26°06'26", an arc distance of 402.11 feet to a point of tangency; thence South 07°46'00" West, on said West right-of-way line, a distance of 188.88 feet to the Point of Beginning; thence continuing South 07°46'00" West, on said West right-of-way line, a distance of 478.34 feet; thence North 82°14'00" West, a distance of 685.51 feet; thence North 07°46'00" East, a distance of 86.67 feet; thence North 82°14'00" West, a distance of 42.35 feet; thence North 08°00'23" East, a distance of 304.77 feet; thence South 82°14'00" East, a distance of 41.07 feet; thence North 07°46'00" East, a distance of 86.90 feet; thence South 82°14'00" East, a distance of 685.51 feet to the Point of Beginning

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County Florida and containing 340,618 square feet or 7.8195 acres more or less

NOTES
1) This sketch reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by Control Point Associates, FL, LLC.
2) Legal description prepared by Control Point Associates, FL, LLC
3) This drawing is not valid unless sealed with an appropriate surveyors seal.
4) THIS IS NOT A BOUNDARY SURVEY
5) Bearings shown refer to the tangent, portion of the West right-of-way, State Road A-1-A as South 07°46'00" West.

## CERTIFICATION

Certified Correct. Dated at Fort Lauderdale, Florida this 12th day of November, 2024

James McLaughlin Jr.

CONTROL POINT ASSOCIATES, FL, LLC

JAMES M McLAUGHLIN JR
Registered Land Surveyor No. LS4497
State of Florida

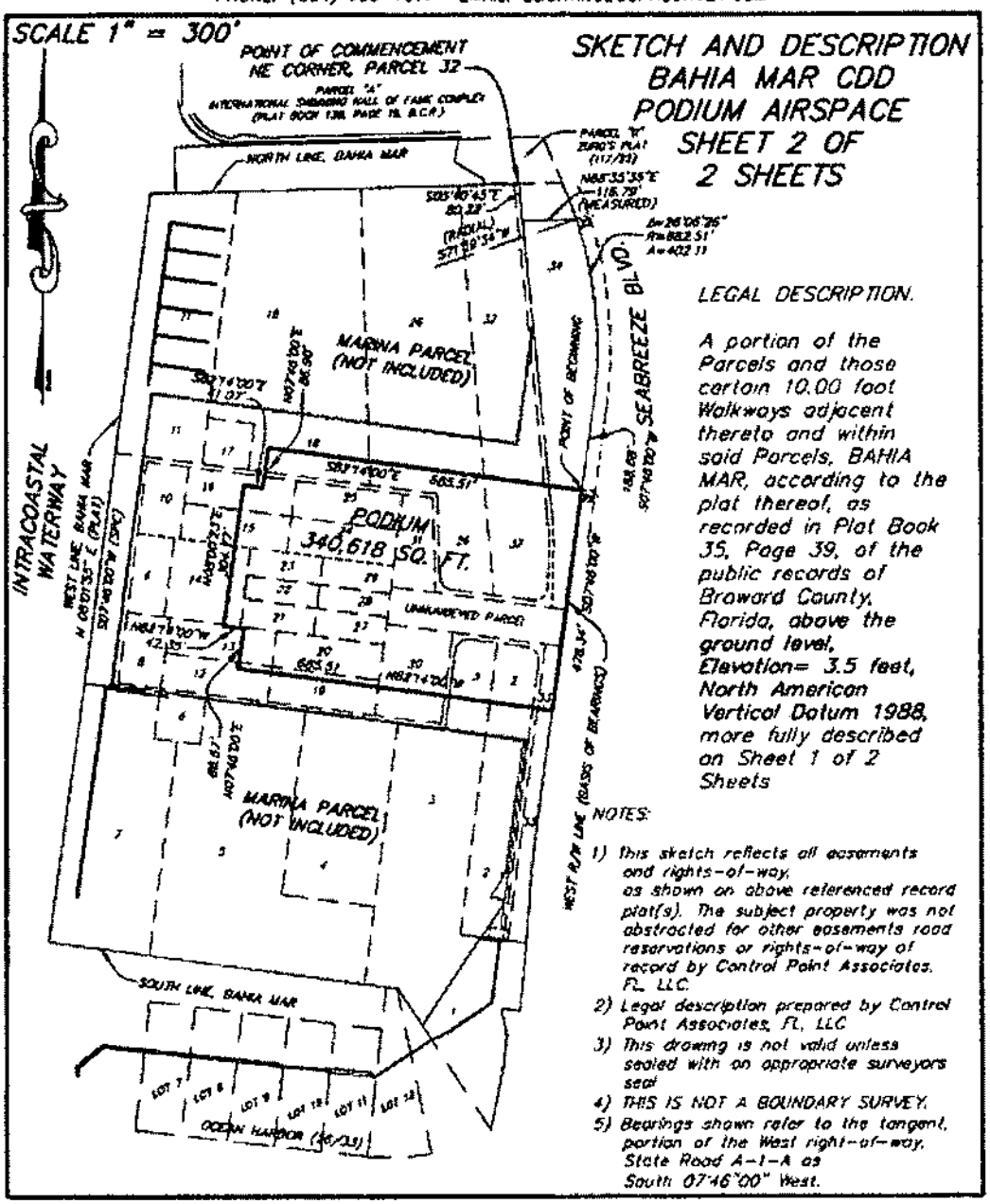
FIELD BOOK NO. _____ DRAWN BY: JMMJ

JOB ORDER NO 230306 (BAHIA MAR) CHECKED BY: _____

REF. DWG.: A-20(14), 97-3-134

CONTROL POINT ASSOCIATES, FL, LLC.
LB #8137
TRADITIONAL METHODS | MODERN APPROACHES
1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
PHONE: (954) 763-7611 * EMAIL: ODONAHOE@CPASURVEY.COM

SCALE 1" = 300'




# SKETCH AND DESCRIPTION
# BAHIA MAR CDD
# PODIUM AIRSPACE
## SHEET 2 OF 2 SHEETS

LEGAL DESCRIPTION.

A portion of the Parcels and those certain 10.00 foot Walkways adjacent thereto and within said Parcels, BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, above the ground level, Elevation= 3.5 feet, North American Vertical Datum 1988, more fully described on Sheet 1 of 2 Sheets

NOTES:

1) This sketch reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by Control Point Associates, FL, LLC.
2) Legal description prepared by Control Point Associates, FL, LLC
3) This drawing is not valid unless sealed with an appropriate surveyors seal
4) THIS IS NOT A BOUNDARY SURVEY.
5) Bearings shown refer to the tangent, portion of the West right-of-way, State Road A-1-A as South 07°46'00" West.

FIELD BOOK NO. _____ DRAWN BY: JMM

JOB ORDER NO. 230306 (BAHIA MAR) CHECKED BY: _____

REF. DWG.: A-20(14), 97-3-134

**EXHIBIT 2**
**RECORDED QUITCLAIM DEED OF FIRST PHASE SURPLUS AIR RIGHTS PARCEL**



8935 NW 35 Lane, Suite 101, Doral, Florida 33172
Telephone (305) 640-1345 E-Mail: Info@AlvarezEng.com

Instr# 119978353 , Page 1 of 9, Recorded 12/31/2024 at 01:09 PM
Broward County Commission
Deed Doc Stamps: $0.70

**When Recorded Mail to:**

Barry E. Somerstein, Esq.
Greenspoon Marder LLP
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, FL 33301

**Prepared By:**

Barry E. Somerstein, Esq.
Greenspoon Marder LLP
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, FL 33301

Folio:

**THIS IS A CORRECTIVE QUITCLAIM DEED TO CORRECT A SCRIVENER'S ERROR THAT WAS CONTAINED IN THE LEGAL DESCRIPTION OF THE PROPERTY SET FORTH IN THE QUITCLAIM DEED FROM THE BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT TO RAHN BAHIA MAR L.L.C., RECORDED MARCH 1, 2024 UNDER INSTRUMENT #119425082 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA ("ORIGINAL DEED"). THERE IS NO NEW CONSIDERATION BEING PAID AND DOCUMENTARY STAMPS OF $0.70 WERE PAID ON THE ORIGINAL DEED.**

## CORRECTIVE QUITCLAIM DEED

THIS CORRECTIVE QUITCLAIM DEED is made this 30th day of December, 2024, by **BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT** ("Grantor"), whose address is c/o District Manager, GMS-South Florida, 5385 N. Nob Hill Road, Sunrise, Florida 33351, and **RAHN BAHIA MAR L.L.C., a Delaware limited liability company** ("Grantee"), whose address is 1175 N.E. 125th Street, Suite 102, North Miami, Florida 33161.

(The terms "Grantor" and "Grantee" as used herein shall refer to the respective parties, and the heirs, personal representatives, successors, and assigns of such parties.)

W I T N E S S E T H:

That Grantor, for and in consideration of TEN DOLLARS ($10.00) and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim unto Grantee, its successors and assigns, forever, all of Grantor's rights, title, and interest, if any, in and to the following described lands, lying and being in Broward County, Florida, to wit:

See **Exhibit A**, attached hereto and made a part hereof (the "Property").

**TO HAVE AND TO HOLD** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity, and claim whatsoever of the said Grantor, either in law or equity, to the only proper use, benefit, and on behalf of the said Grantee forever.

**THIS CONVEYANCE IS SUBJECT TO** all zoning rules, regulations, and ordinances and other prohibitions imposed by any governmental authority with jurisdiction over the Property conveyed herein; existing public purpose utility and government easements and rights of way and other matters of record; and real estate taxes for all years and the matters set forth on **Exhibit B**.

The Property being conveyed pursuant to this Corrective Quit Claim Deed is subject to a reverter as set forth in Section 16 of the Declaration of Restrictive Covenants recorded in Instrument No. 119363796 of the Public Records of Broward County, Florida.

**[SPACE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, Grantor signed and sealed this deed on the 30th day of December, 2024.

Signed, sealed, and delivered
In the presence of:

**BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government organized and existing pursuant to Chapter 190, Florida Statutes

By: _____
Printed Name: KURT DESNOSKER
Title: CHAIRMAN

_____
Signature
Printed Name NAFIS WAHAB
2850 Tigertail ave 8th floor Miami FL 33133
Witness Address

_____
Signature
Printed Name SANTIAGO OLIASCHOV.
2850 TIGERTAIL AVE 8TH FL.
MIAMI FL 33133
Witness Address

(Corporate Seal)

STATE OF FLORIDA )
) SS:
COUNTY OF BROWARD )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, by KURT DESNOSKER, the Chairman, **of BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government organized and existing pursuant to Chapter 190, Florida Statutes, freely and voluntarily under authority duly vested in him by said corporation. He is personally known to me or has produced PHYSICAL PRESENCE as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 30th day of December 2024.

_____
Notary Public, State of Florida at Large, typed, printed or stamped name of Notary Public

DIANA CONTRERAS NOTARY PUBLIC MY COMMISSION EXPIRES 12-17-2028 STATE OF FLORIDA COMMISSION NUMBER HH 584626

My Commission Expires: 12-17-2028



37958.0031
59335844.2

## EXHIBIT A (to quit claim deed)

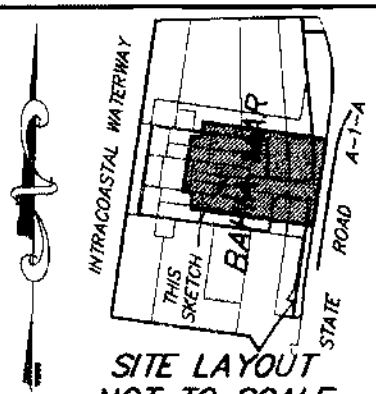
## Legal Description

CONTROL POINT ASSOCIATES, FL, LLC.
LB #8137
TRADITIONAL METHODS / MODERN APPROACHES
1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
PHONE: (954) 763-7611 • EMAIL: DDONAHOE@CPASURVEY.COM

### SKETCH AND DESCRIPTION
### SURPLUS AIRSPACE
### ABOVE PODIUM
### SHEET 1 OF 2 SHEETS

LEGAL DESCRIPTION:

A portion of the Parcels and those certain 10.00 foot Walkways adjacent thereto and within said Parcels, BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, **above an elevation, starting at Elevation= 22.5 feet, North American Vertical Datum 1988,** more fully described as follows:




SITE LAYOUT
NOT TO SCALE

Commencing at the Northeast corner of Parcel 32, of said BAHIA MAR; thence South 05°40'45" East, a distance of 80.22 feet; thence North 88°35'36" East, a distance of 116.79 feet, to a point on a line 29.00 feet West of and parallel with the centerline of State Road A-1-A (Seabreeze Boulevard) and to a point on a curve; thence Southerly on said West right-of-way line of State Road A-1-A (Seabreeze Boulevard) and on said curve to the right, whose radius point bears South 71°39'34" West, with a radius of 882.51 feet, a central angle of 26°06'26", an arc distance of 402.11 feet to a point of tangency; thence South 07°46'00" West, on said West right-of-way line, a distance of 188.88 feet to the Point of Beginning; thence continuing South 07°46'00" West, on said West right-of-way line, a distance of 478.34 feet; thence North 82°14'00" West, a distance of 685.51 feet; thence North 07°46'00" East, a distance of 86.67 feet; thence North 82°14'00" West, a distance of 42.35 feet; thence North 08°00'23" East, a distance of 304.77 feet; thence South 82°14'00" East, a distance of 41.07 feet; thence North 07°46'00" East, a distance of 86.90 feet; thence South 82°14'00" East, a distance of 685.51 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County Florida and containing 340,618 square feet or 7.8195 acres more or less.

NOTES:
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2) Legal description prepared by Control Point Associates, FL, LLC.
3) This drawing is not valid unless sealed with an appropriate surveyors seal.
4) THIS IS NOT A BOUNDARY SURVEY.
5) Bearings shown refer to the tangent, portion of the West right-of-way, State Road A-1-A as South 07°46'00" West.

**CERTIFICATION**

Certified Correct. Dated at Fort Lauderdale, Florida this 12th day of November, 2024.

James McLaughlin Jr.

CONTROL POINT ASSOCIATES, FL., LLC

JAMES M. McLAUGHLIN JR
Registered Land Surveyor No. LS4497
State of Florida.

FIELD BOOK NO. _____ DRAWN BY: JMMjr

JOB ORDER NO. 230306 (BAHIA MAR) CHECKED BY: _____

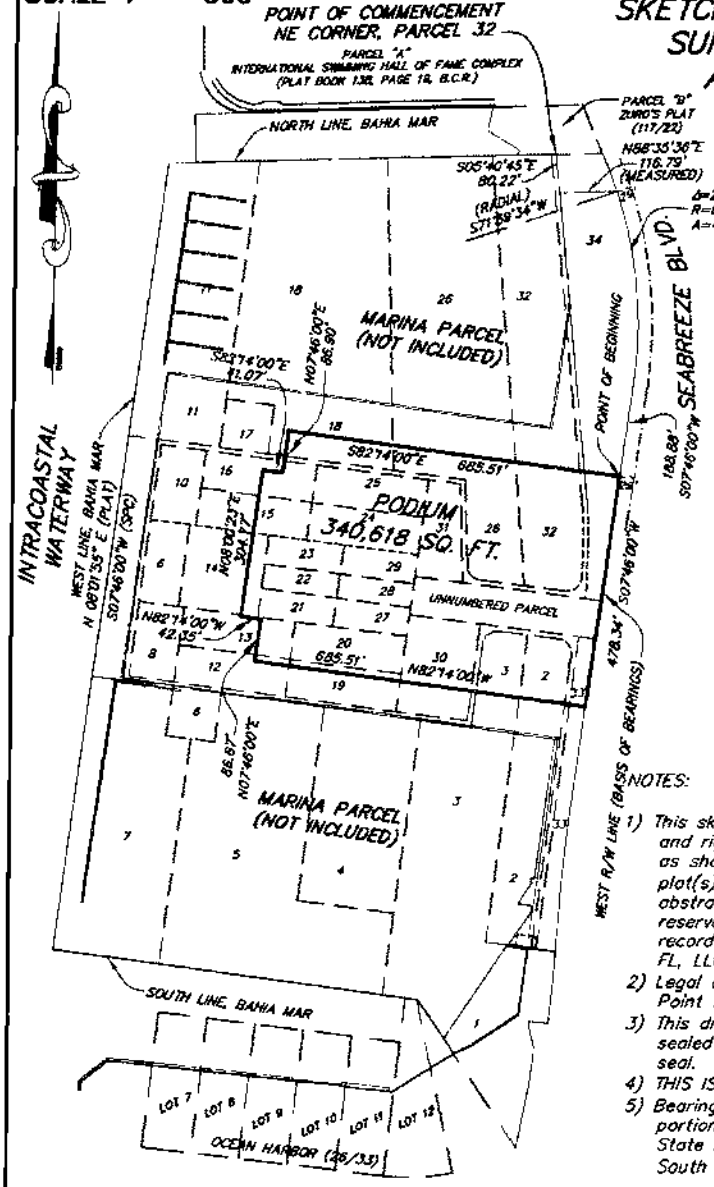
REF. DWG.: A-20(14), 97-3-134

CONTROL POINT ASSOCIATES, FL, LLC.
LB #8137
TRADITIONAL METHODS | MODERN APPROACHES
1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
PHONE: (954) 763-7611 * EMAIL: DDONAHOE@CPASURVEY.COM

SCALE 1" = 300'

# SKETCH AND DESCRIPTION SURPLUS AIRSPACE ABOVE PODIUM

SHEET 2 OF 2 SHEETS




LEGAL DESCRIPTION:

A portion of the Parcels and those certain 10.00 foot Walkways adjacent thereto and within said Parcels, BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, **above an elevation, starting at Elevation= 22.5 feet, North American Vertical Datum 1988,** more fully described on Sheet 1 of 2 Sheets.

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2) Legal description prepared by Control Point Associates, FL, LLC.
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5) Bearings shown refer to the tangent, portion of the West right-of-way, State Road A-1-A as South 07°46'00" West.

FIELD BOOK NO. _____ DRAWN BY: JMMjr

JOB ORDER NO. 230306 (BAHIA MAR) CHECKED BY: _____

REF. DWG.: A-20(14), 97-3-134 C:\JMMjr/2023/ 230306 (BAHIA MAR)

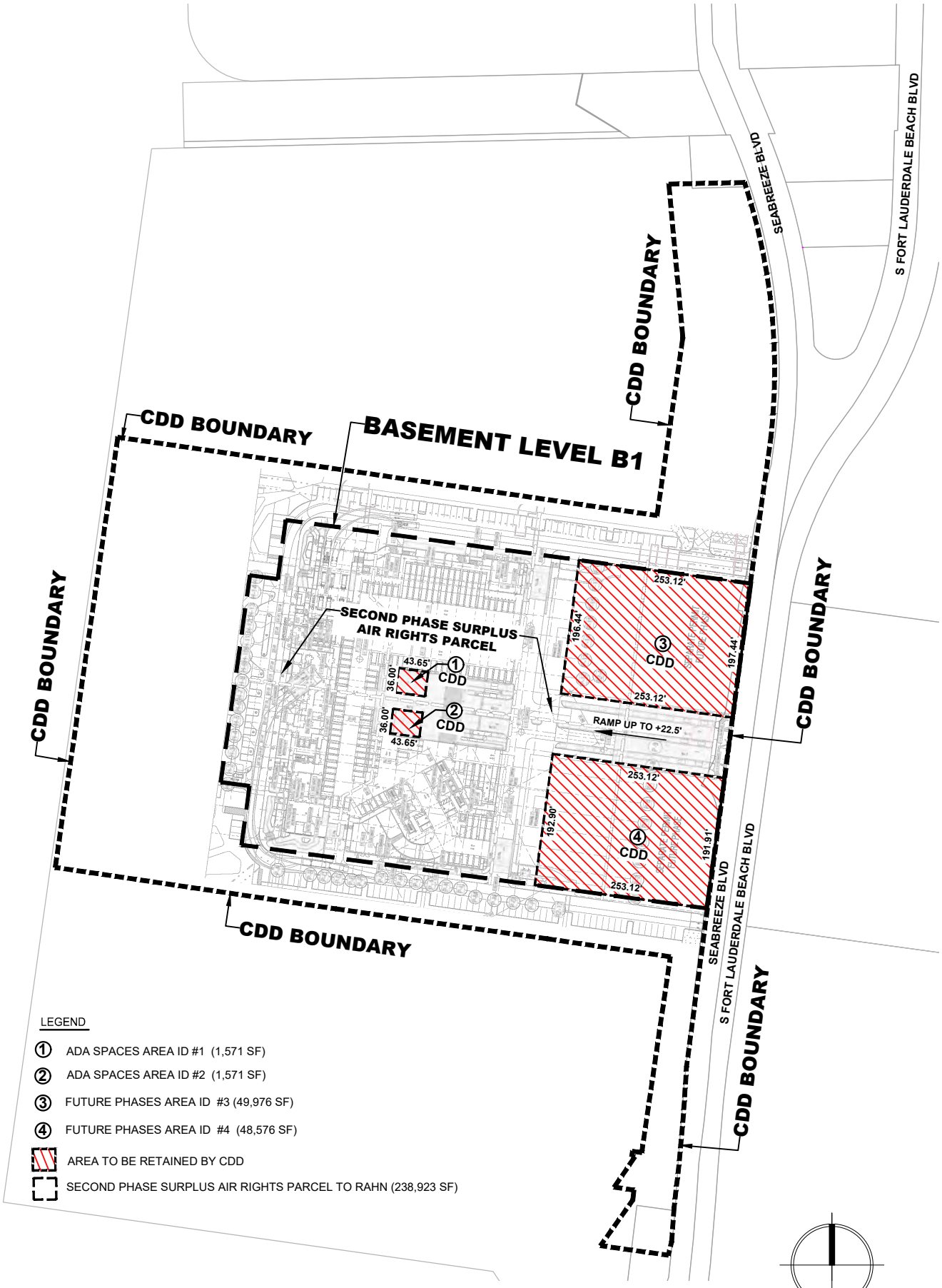
Exhibit A - 2

37958.0031
59335844.2

**EXHIBITS 3 AND 4**
**ILLUSTRATIVE EXHIBITS OF THE SECOND PHASE SURPLUS AIR RIGHTS PARCEL**



8935 NW 35 Lane, Suite 101, Doral, Florida 33172
Telephone (305) 640-1345 E-Mail: Info@AlvarezEng.com

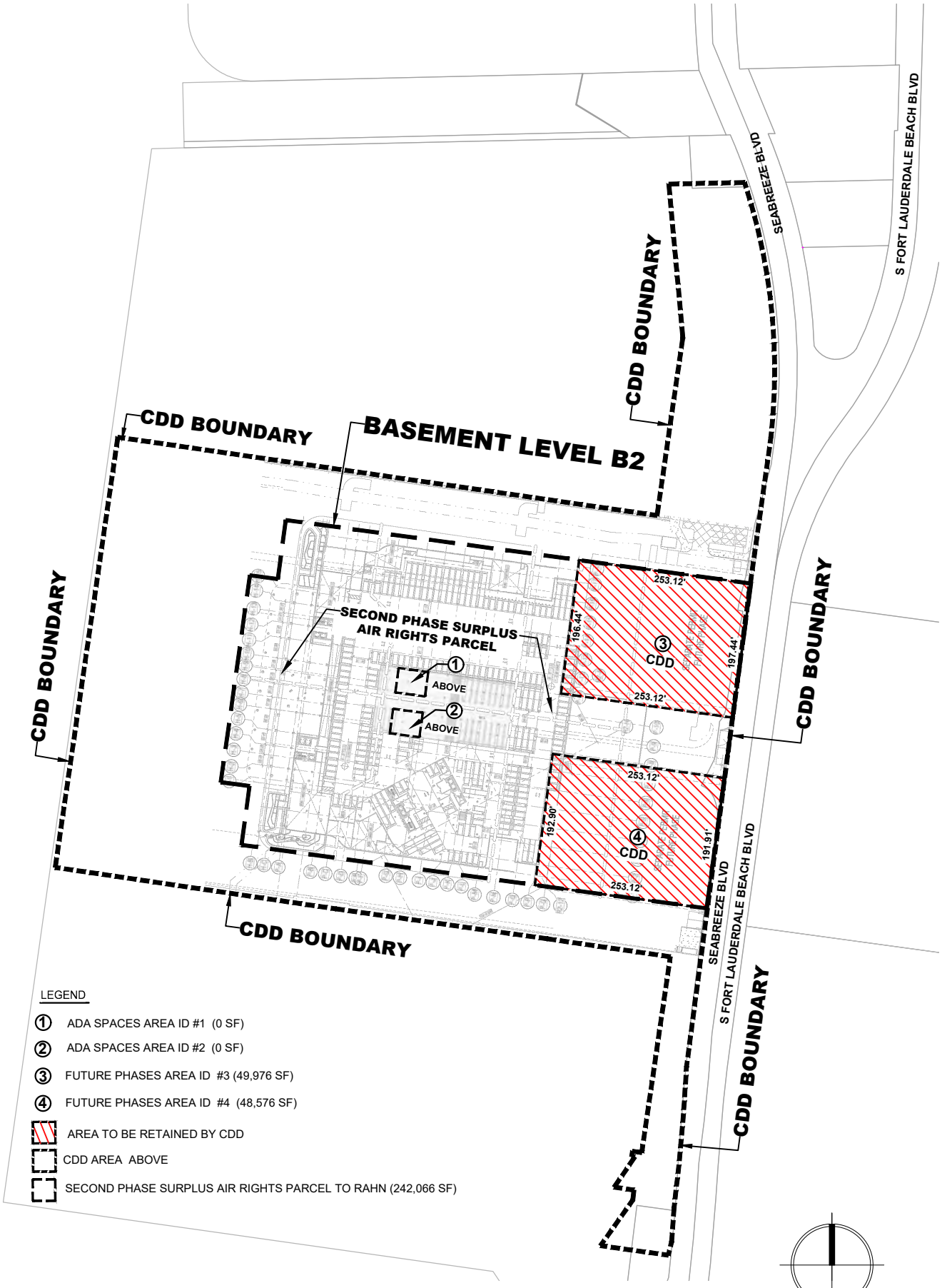



# ALVAREZ ENGINEERS, INC.

**BAHIA MAR CDD**

## CONVEYANCE FROM CDD TO RAHN (+9.5' TO +22.5')

**EXHIBIT 3**




# ALVAREZ ENGINEERS, INC.

**BAHIA MAR CDD**

## CONVEYANCE FROM CDD TO RAHN (+3.5' TO +9.5')

**EXHIBIT 4**

# PHASED LEASE AGREEMENT - HOTEL

THIS PHASED LEASE AGREEMENT - HOTEL ("**Lease**") is made and entered into at Fort Lauderdale, Broward County, Florida as of the Effective Date, by and between:

CITY OF FORT LAUDERDALE, a municipal corporation of Florida, hereinafter referred to and identified as the "**Master Lessor**" or "**CITY**";

Bahia Mar Community Development District (hereinafter referred to and identified as the "**CDD**") and together with the CITY and Rahn Bahia Mar L.L.C., are collectively the "LESSORS" and individually, a "LESSOR";

and

Rahn Bahia Mar L.L.C. (hereinafter referred to and identified as "**Master Lessee**" or "**Rahn**";

and

_____, a _____, hereinafter referred to and identified as the "**LESSEE**", and together with the LESSORS are collectively the "**Parties**" and individually, a "**Party**".

and

(The use herein of the plural shall include the singular, and the use of the singular shall include the plural; the use of the masculine gender shall include all genders, and the use of the neuter gender shall include all genders; the use of the words "**LESSORS**" "**LESSEE**" shall include their respective heirs, representatives, successors, grantees, and assigns).

## PREAMBLE

WHEREAS, the City of Fort Lauderdale received a deed on August 27, 1947 from the United States of America for certain real property known as the Bahia Mar, which deed is recorded in Broward County Official Records Book 604 at Page 529; and

WHEREAS, the Master Lessor and the Master Lessee executed that certain Master Lease Agreement dated April 13, 2022, as amended ("**Master Lease**") with respect to the "**Premises**" (as defined in the Master Lease); and

WHEREAS, the LESSORS collectively own all of the fee simple title to the Property; and

WHEREAS, the "**Property**" (as defined below) is a portion of the Premises known as the Bahia Mar Complex; and

WHEREAS, as a requirement of conveyance of certain air rights from the CITY to the CDD, a Declaration of Restrictive Covenants was recorded on January 30, 2024, Instrument #119363796 requiring the CDD join in Phased Leases; and

WHEREAS, LESSORS and LESSEE desire to enter into this Lease with respect to the Property; and

WHEREAS, pursuant to Section 8.06 of the Charter of the City of Fort Lauderdale, the City Commission of Fort Lauderdale, Florida has approved the terms and conditions of this Lease, including but not limited to those that apply during the Initial Term and the Extended Term thereof; and

WHEREAS, by Resolution No. 22-73 adopted at its meeting of April 5, 2022, the City Commission of LESSOR authorized the Master Lease, and pursuant to the Master Lease, authorized the execution of this Lease in the manner provided herein ("**City Commission Approval**"); and

WHEREAS, LESSORS (i.e. the CITY, CDD, and Rahn), Master Lessee, and LESSEE have simultaneous with the execution of this Lease, agreed that the Property is hereby removed from the Master Lease and that the Lease of the Property shall be governed by the terms and provisions of this Lease between LESSORS and LESSEE.

WHEREAS, LESSEE shall have the right to have portions of the Property developed as buildings which may or may not have residential, retail, commercial, or other uses located therein, as such building areas are shown on the Site Plan, as amended from time to time. The Parties acknowledge that as of the Commencement Date of this Lease, LESSORS and LESSEE have approved the development of the Proposed Improvements as contemplated by the Site Plan, but LESSEE may not have obtained all necessary governmental approvals from the City in order to develop such Proposed Improvements.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and TEN DOLLARS ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree that by virtue of the representations herein made, and not otherwise, LESSORS do hereby lease and let to LESSEE the Property (with the CITY retaining all economic benefits under this Lease) on the terms set forth in this Lease.

## ARTICLE 1
## PROPERTY

Section 1.1 Property. The Property demised under this Lease shall be subject to adjustment as provided in this Lease.

Section 1.2 Adjustments. The legal descriptions for the Property is presently coterminous with the current area planned for the Phased Building (including structural components, to the extent applicable) to be located thereon as contemplated by the Site Plan. The Parties hereby recognize that the legal description of the Property is presently shown on (i) **Exhibit A**, which legal is for the ground upward as to the area extending 5' beyond the outside boundary of the building pad of such Phased Building (including structural components to the extent applicable) ("**Legal Description**"). The Legal Description may need to be adjusted from time to time so as to be conterminous with the actual area of such Phased Building intended to be constructed upon such Property based upon (i) actual field measurements (for nominal adjustments); or (ii) revisions to the Site Plan as approved by applicable governmental authorities, and that such adjustments will necessarily cause some adjustments to the legal description of the Property and possibly, other adjoining portions of the Premises. To the extent that LESSEE determines that the area needed to comprise the Property for such Phased Building needs to be modified or otherwise adjusted as a result of Governmental Approvals or other reasons affecting such legal description, then LESSEE will prepare a written request to the City Manager and Master Lessee for a modification, which shall include a sketch reflecting the modification, along with the revised sketch and legal description for the Property and corresponding changes to the sketch and legal description of the Property ("**Revised Legal Description**") which Revised Legal Description shall be subject to the review and approval by the City Manager (which approval shall not be unreasonably denied, withheld, conditioned, or delayed) and the Master Lessee. Upon City Manager's and the Master Lessee's approval of such Revised Legal Description: (w) such Revised Legal Description shall become the Legal Description for both the Property and the legal description of the Property and the Premises shall be amended to conform to same; (x) the Revised Legal Description shall be a Permitted Change; and (y) LESSORS, Master Lessee and LESSEE will execute and record any applicable modification to the Memorandum of Lease, this Lease and the Master Lease to reflect such Revised Legal Description. In the event of a request for a modification of the legal description for the Property, then prior to submitting such request to the CITY, such request shall be signed by LESSEE and the Master Lessee.

Section 1.3 Modification of Premises under Master Lease. The Parties hereby agree that the Master Lease is hereby amended to remove the Property from the Premises under the Master Lease.

## ARTICLE 2
## MUTUAL REPRESENTATIONS AND WARRANTIES

The Parties (each to itself as applicable) hereto mutually represent, warrant, and disclose to each other the following:

Section 2.1 The CITY is a municipal corporation initially organized and existing pursuant to Chapter 57-1322, Special Acts of 1957, Vol. II, Part I, at page 1043 (effective May 6, 1957), as of September 1, 1962 (hereinafter, Statutory Charter). The Statutory Charter was repealed by operation of City of Fort Lauderdale Ordinance No. C-84-67, and a new Charter was adopted on second reading on October 2, 1984, and by a referendum vote of the electorate on November 6, 1984, as heretofore and hereafter amended from time to time (as amended, hereinafter referred to as "**Charter**").

Section 2.2 All steps, acts, and conditions required by the Charter of the CITY to be done as a condition precedent to the authorization of this Lease as of the date of City Commission Approval have been done, and the CITY has full authority to enter into this Lease.

Section 2.3 All steps, acts, and conditions required by the organizational and other documents creating and binding on the CDD, Rahn (as both one of the LESSORS and Master Lessee), and the LESSEE, as applicable, to be done as a condition precedent to the execution of this Lease have been done, and each such Party has full authority to enter into this Lease.

Section 2.4 The Parties mutually represent and warrant unto each other that this Lease constitutes the final repository of all agreements of the Parties relating hereto, and that there are no other verbal representations, warranties, agreements, or conditions with respect to the leasing of the Property, other than as set forth in this Lease.

Section 2.5 Each Party has full power and authority to enter into this Lease and perform in accordance with its terms and provisions and that the individuals signing this Lease on behalf of each Party have the authority to bind the Party on whose behalf they signed and to enter into this transaction and each Party has taken all requisite action and steps to legally authorize it to execute, deliver, and perform pursuant to this Lease.

Section 2.6 To the extent LESSEE submits portions of the Property to the form of ownership under the Act, that such portions of the Regime's property, if any, shall be leasehold Regime subject and subordinate to this Lease, and the Regime Documents shall be reviewed and approved by City Manager for the limited purpose provided in this Lease. The Regime Documents shall provide that upon the expiration of the Term, the portion of the Regime's property still subject to this Lease, if any, shall terminate, but to the extent any fee portion of the Property is submitted to condominium form of ownership under the Act such fee portions of such portions of the Property, if any, shall remain a fee condominium under the Act with regard to the portions of the Property submitted to such fee condominium. As between LESSORS and LESSEE, LESSEE shall be responsible and liable for ensuring that all legal requirements under the Act are met and satisfied for the creation of the leasehold Regime upon the Property pursuant to the Act, and LESSORS shall have no responsibility or liability for ensuring that all legal requirements are met and satisfied for the creation of any such Regime upon the Property under the Act or the Regime Documents.

## ARTICLE 3
## DEFINED TERMS

The following terms, as used and referred to herein, shall have the meaning as set forth below:

"**Act**" shall mean Chapter 718, Florida Statutes as such Chapter may be amended or replaced as of the time of submission of the Branded Unit to the Act.

"**Additional Rent**" shall mean all monetary obligations of LESSEE to the CITY (other than Annual Rent, Sales Consideration Fee and Transfer Fee(s)) payable pursuant to this Lease.

"**Adjustment Date**" shall mean on the first January 1 occurring after the earlier to occur of (i) three (3) years after the Initial Rent Payment Date or (ii) the date 50% of the Branded Residential Units have been conveyed from the Original Branded Residential Unit Owner to Initial Third Party Branded Residential Unit Owner(s) ("**First Adjustment Date**"), and on January 1 of each and every year thereafter during the Term.

"**Affiliate**" shall mean a Person who owns directly or indirectly (i) fifty-one percent (51%) or more of equity securities of the specified person with respect to whether or not a Sublessee is an Affiliate for purposes of a Fair Market Rent determination for a Sublease with an Affiliate as provided in the definition of Gross Revenue; and (ii) fifty-one percent (51%) or more of equity securities of the specified person as to other determinations of Affiliates, including with regard to assignment or subleases.

"**Annual Payment Date**" shall mean January 31 of each year of the Term for the prior calendar year (or part thereof if applicable) from and after the Commencement Date The Commercial Annual Rent under this Lease and the "Percentage Sum" (as provided in the Master Lease) shall be prorated with the Master Lessee being responsible to report Gross Revenue prior to the Commencement Date as set forth in the Master Lease and COMMERCIAL LESSEE shall report the Gross Revenue (as provided in this Lease) and each anniversary thereafter (as to the Commercial Space or the Commercial Units, as applicable).

"**Annual Rent**" shall mean the (i) Residential Annual Rent, and (ii) Commercial Annual Rent.

"**Applicable Approval(s)**" shall mean all Governmental Approvals (with all appeal periods having expired) required by LESSEE for the Proposed Improvements and any other improvements requiring such Governmental Approvals to the Property, including, but not limited to zoning, site plan approval, and building permits for the Proposed Improvements.

"**Applicable Percentage**" shall mean during each Lease Year of the Term, 4.25% until the Start Date, whereupon the Applicable Percentage shall be reduced to 3.75% from the Start Date until the Completion Date, at which time the Applicable Percentage shall be increased up to 6%.

"**Approved Plans**" shall mean the construction plans and specifications used to obtain a building permit (as amended from time to time) for improvements (other than interior improvements or improvements to the Units) to the Property and the Phased Building, as applicable, that are substantially consistent with the Site Plan, and that have received the review and, if acceptable, the prior written approval of the City and Master Lessee as required by this Lease.

"**Association**" shall mean the condominium association created under the Regime Documents.

"**Association Assignment**" shall have the meaning set forth in Section 22.1 of this Lease.

"**Authorized Representative**" shall mean (i) as to the City, the City Manager or such other person(s) as may be designated by the City Manager from time to time in writing to the other

Parties; (ii) as to LESSEE, James D. Tate, J. Kenneth Tate, or such other Person(s) as LESSEE may designate in writing from time to time to the other Parties (iii) as to the CDD, the Managers of the CDD or such other Person(s) as the CDD may designate in writing from time to time to the other Parties; and (iv) as to Master Lessee, James D. Tate, J. Kenneth Tate, or such other Person(s) as Master Lessee may designate in writing from time to time to the other Parties.

"**Bahia Mar Complex**" shall mean the property described on **Exhibit B**.

"**Boat Show**" shall mean the Fort Lauderdale International Boat Show, which typically runs 5 consecutive days each year in the Fall, and includes multiple locations within the City of Fort Lauderdale, including the Bahia Mar Complex. Typically featured at the Bahia Mar Complex are a range of large boats, such as yachts and superyachts, sport fishers, high performance boats, cabin cruisers, along with retailers, concessions, and food and beverages. For purposes of this Lease, the Boat Show includes the forgoing description, and specifically its activities at the Bahia Mar Complex.

**"Boat Show Event of Default"** shall mean a default by or through any Boat Show Tenant of their obligations, representations, or covenants under the Boat Show Lease not cured within the cure period set forth in Section 18(a) of the Boat Show Lease.

**"Boat Show Landlord"** shall mean Rahn Bahia, Mar L.L.C. and its successors and assigns of the Boat Show Lease.

"**Boat Show Lease**" shall mean the Extended Boat Show Lease dated June 6, 2017 between Boat Show Landlord and the Boat Show Tenant as may be amended from time to time.

"**Boat Show Tenant**" shall mean the Marine Industries Association of South Florida, Yachting Promotions Inc., and/or their respective successors and permitted assigns pursuant to the Boat Show Lease.

"**Branded**" shall mean each such Branded Apartment Unit or Branded Hotel Unit shall be partially managed by a four (4) star or higher hotel chain. Such management services provided by such hotel chain shall include access to a centralized rental reservation system for each Unit Owner and may include, at the option of each Association, management of recreation facilities, food & beverage outlets, fitness and/or health care related facilities, etc.

"**Branded Apartment Unit**" shall mean each residential dwelling unit located in the Proposed Improvements existing prior to the recording of the Regime Documents, whereby such areas would become Branded Residential Units upon recording of the Regime Documents.

"**Branded Hotel Unit**" shall mean each hotel room, if any, within the Property submitted to the Regime under the Act.

"**Branded Residential Unit**" shall mean: (i) each Branded Apartment Unit submitted to the Regime pursuant to the Regime Documents and (ii) each Branded Hotel Unit submitted to the Regime pursuant to the Regime Documents.

"**Branded Residential Unit Owner**" shall mean the owner of the Branded Residential Unit.

"**Branded Unit Assessments**" shall mean (i) all common expenses as set forth in the Regime Documents and as may be provided by law, (ii) an assessment against each Branded Residential Unit for the Residential Annual Rent, (iii) an assessment against each Commercial Unit for the Commercial Annual Rent and (iv) any other assessments set forth in the Regime Documents.

"**City**" shall mean the City of Fort Lauderdale, Florida.

"**City Appraiser**" shall have the meaning set forth in the definition of Fair Market Value Rent.

"**City Commission Approval**" shall have the meaning set forth in the Recitals.

"**City Governmental Approval**" shall mean the approval by the City in its capacity as a governmental authority to the extent such governmental approval is generally applicable as opposed to approval by LESSOR in its proprietary function as LESSOR under this Lease.

"**City Manager**" shall mean the City Manager of the City of Fort Lauderdale or other City official who may hereafter replace such office.

**"CITY Sales Fee"** shall mean, in connection with the initial conveyance of title of each Branded Residential Unit from the Original Branded Residential Unit Owner to the Initial Third Party Branded Residential Unit Owner, an amount payable to the CITY equal to 2% of the Net Sales Proceeds for such Branded Residential Unit for the Square Foot Price up to $1,200 per Square Foot plus: (i) for each Branded Residential Unit where the Square Foot Price is more than $1,200 per Square Foot and less than $1,500 per Square Foot, then 3% of the Net Sales Proceeds on the portion of the Square Foot Price in excess of $1,200 per square feet, (ii) for each Branded Residential Unit where the Square Foot Price is more than $1,500 per Square Foot and less than $1,800 per Square Foot, then 4% of the Net Sales Proceeds on the portion in excess of $1,200 per square foot, or (iii) for each Branded Residential Unit where the Square Foot Price exceeds $1,800 per Square Foot, then 5% of the Net Sales Proceeds on the portion of the Square Foot Price in excess of $1,200 per Square Foot.

"**CITY Transfer Fee**" shall mean an amount equal to .375% of the Net Sales Proceeds in connection with any conveyance of a Conveyed Branded Residential Unit which shall be paid to the City at the closing of such Conveyed Branded Residential Unit. No CITY Transfer Fee shall be payable in connection with the conveyance of a Conveyed Branded Residential Unit (i) to a Related Person(s), or (ii) for estate planning purposes of the transferor (as in the case of a transfer to a trustee for the benefit of the transferor or Related Person(s)).

"**Commencement Date**" shall mean the Effective Date.

"**Commercial Annual Rent**" shall mean the Applicable Percentage of the amount of the Gross Revenue derived from such Commercial Space or Commercial Unit (as applicable) by the

COMMERCIAL LESSEE for the prior calendar year (or prorated portion of a calendar year if less than one year).

**"COMMERCIAL LESSEE"** shall mean LESSEE as long as the Property is not submitted to Regime and the Commercial Unit Owner once the Commercial Space is part of the Regime.

"**Commercial LESSEE Appraiser**" shall have the meaning set forth in the definition of Fair Market Value Rent.

"**Commercial Space**" shall mean the area located in the Proposed Improvements which is used as a restaurant, retail, office, or other commercial space (excluding Branded Residential Units and Branded Apartment Units, Hotel, Branded Hotel Units, parking, and Common Areas related thereto) prior to the recording of the Regime Documents, whereby such space would be the Commercial Unit upon recording of the Regime Documents.

"**Commercial Unit**" shall be each of the commercial condominium units created pursuant to the Regime Documents.

"**Commercial Unit Owner**" shall mean the owner of a Commercial Unit. Any tenant of a Commercial Unit Owner shall be considered a Sublessee.

"**Common Areas**" or "**Common Elements**" shall mean the common areas or common elements of the Regime with respect to all or any portion of the Property created pursuant to (i) the Regime Documents, or (ii) any applicable Air Rights Declaration.

**"Community Trust Entity"** shall mean the Community Foundation of Broward, the United Way of Broward, and/or any other organization as mutually agreed to in writing by MASTER LESSOR and LESSEE ("**CTE**") who will receive the Community Trust Sales Fee and split the proceeds of all receipts into separate trust funds for the benefit of the following needs of the residents of the City of Fort Lauderdale: (i) affordable housing/homelessness programs, (ii) inner City parks programs, (iii) environmental/sustainability causes; and (iv) such other causes as mutually agreed to in writing by the MASTER LESSOR and LESSEE. The trust funds will be used to support such programs/causes and not for major capital improvements. An advisory board of no more than five residents of the City will be responsible for making recommendations to the CTE on where and how often said trust funds should be disbursed pursuant to these parameters. The Master Lessee and the City hereby agree to work closely together to finalize specific trust fund documents including the makeup of the advisory board, the splitting of contributed funds between the applicable trust funds, and minimum annual distributions of such funds.

"**Community Trust Sales Fee"** shall be an amount equal to 0.25% of the Net Sales Proceeds in connection with the initial conveyance of title of such Branded Residential Unit from the Original Branded Residential Unit Owner to the Initial Third Party Branded Residential Unit Owner which shall be paid to the Community Trust Entity at the closing of such Branded Residential Unit.

"**Community Trust Transfer Fee**" shall mean an amount equal to 0.125% of the Net Sales Proceeds in connection with any conveyance of a Conveyed Branded Residential Unit which shall be paid to the Community Trust Entity at the closing of such Conveyed Branded Residential Unit. No Community Trust Transfer Fee shall be payable in connection with the conveyance of a Conveyed Branded Residential Unit (i) to a person or persons related by blood, marriage, or adoption to the transferor ("**Related Person(s)**"), or (ii) for estate planning purposes of the transferor (as in the case of a transfer to a trustee for the benefit of the transferor or Related Person(s)).

"**Completion Date**" shall mean the earlier of (a) the date of the final certificate of occupancy (or similar permit) for the Proposed Improvements or (b) the date which is the 12th anniversary of the Start Date, subject to extension due to a Force Majeure Event.

"**Conveyed Branded Residential Unit**" shall mean each Branded Residential Unit after having been initially conveyed by the Original Branded Residential Unit Owner (or by a lender of the Branded Residential Unit Owner who acquires such Branded Residential Unit by foreclosure or deed in lieu of foreclosure) to a third-party purchaser of such Branded Residential Unit (but shall not include the transfer of the Branded Residential Unit in connection with a foreclosure of the Leasehold Mortgage encumbering the Property).

"**CPA Firm**" shall mean an independent firm of certified public accountants licensed by the State of Florida.

"**CPI Adjustment**" shall mean the Residential Annual Rent then in effect on the day immediately proceeding each Adjustment Date shall be multiplied by the percentage where the numerator is the CPI Index number in effect on October 1st immediately prior to such Adjustment Date and the denominator is the CPI Index number in effect on October 1st of the prior year but in no event shall any such CPI Adjustment be less than an increase of 1% nor more than an increase of 3%.

"**CPI Index**" shall mean the Consumer Price Index for All Urban Consumers (CPI-U) for all items (U.S. City Average) published by the Bureau of Labor Statistics, U.S., U.S. Department of Labor (1967 equals 100). If the Bureau of Labor Statistics shall ever cease to compile or publish the CPI-U, then CPI Index shall thereafter mean such other index of process published by the U.S. Government as most nearly approximates the CPI-U now published.

"**Cure Period**" shall mean the cure periods provided in Article 17.

"**Default Rate**" shall mean twelve percent (12%) per annum simple interest.

"**Early Termination Date**" shall mean such date as LESSEE may, in its sole and absolute discretion, elect to terminate this Lease upon written notice from LESSEE to LESSORS setting forth the date LESSEE elects to terminate this Lease.

"**Effective Date**" shall mean the last day this Lease is signed by the LESSORS and the LESSEE.

"**Environmental Agencies**" shall have the meaning set forth in Section 7.5 of this Lease.

"**Environmental Agency**" means a governmental agency at any level of government (i.e. municipal, County, district, State, or federal) having jurisdiction to define Hazardous Substances and create, amend, enforce, or administer Hazardous Substances Laws; and additionally, the term as used herein shall also include a court of competent jurisdiction when used as a forum for enforcement or interpretation of Hazardous Substances Laws.

"**Event of Default**" shall mean any default by LESSEE of its obligations under this Lease not cured within the applicable Cure Period for such default under this Lease.

"**Estoppel Statements**" shall have the meaning set forth in Section 32.18.

"**Excluded Revenues**" shall have the meaning set forth in the definition of Gross Revenues.

"**Extended Term**" shall have the meaning in Section 4.2 of this Lease.

"**Fair Market Value Rent**" shall be the amount of rent in effect on the commencement date of such lease representing at least ninety percent (90%) of the amount of rent that a third party tenant would pay a third party landlord for the lease of comparable space then being determined, taking into consideration, the amount of tenant improvement allowance being provided, brokerage commission being paid, age of the premises, location of the premises, term of such lease, and other applicable considerations in determining fair market value. The Parties hereby agree that in connection with each lease in which the Fair Market Value Rent needs to be determined, the CITY and COMMERCIAL LESSEE will attempt to agree between themselves as to the Fair Market Value Rent and, to the extent the CITY and COMMERCIAL LESSEE agree to same, such rent agreed to by the CITY and COMMERCIAL LESSEE shall be deemed to be the Fair Market Value Rent for such lease. In the event the CITY and COMMERCIAL LESSEE are unable to reach agreement as to the Fair Market Value Rent for such lease within thirty (30) days after written request by either party to the other, then the determination of the Fair Market Value Rent for such lease shall be determined as follows:

(i) Within ten (10) business days after the failure of the CITY and COMMERCIAL LESSEE to agree on the Fair Market Value Rent for such lease, the CITY shall appoint an MAI appraiser having at least ten (10) years' experience appraising commercial property in the Broward County area that has not performed appraisal services for the CITY in the last five (5) year period prior to such determination ("**City Appraiser**") and COMMERCIAL LESSEE shall appoint an MAI appraiser having had at least ten (10) years' experience appraising commercial property in the Broward County area who has not performed appraisal services for COMMERCIAL LESSEE within the five (5) year period prior to such determination ("**COMMERCIAL LESSEE Appraiser**"). In the event either the CITY or COMMERCIAL LESSEE fails to timely appoint such MAI appraiser, then the MAI appraiser of the Party who timely appoints its MAI appraiser shall, acting alone, determine such Fair Market Value Rent. Within thirty (30) days of the appointment of City Appraiser and/or COMMERCIAL LESSEE Appraiser,

City Appraiser and COMMERCIAL LESSEE Appraiser shall each submit their determination of the Fair Market Value Rent in question. In the event either Party's MAI appraiser fails to provide its determination of Fair Market Value Rent within such thirty (30) day period, then the Fair Market Rent of the MAI appraiser who timely provides its determination of Fair Market Rent shall be deemed to be the Fair Market Value Rent. If neither the CITY or LESSEE timely appoints its MAI appraiser or if both MAI appraisers fail to timely provide its determination of Fair Market Value Rent, then the CITY and LESSEE shall again restart the process to determine Fair Market Value Rent. To the extent that the Fair Market Value Rent as determined by City Appraiser and COMMERCIAL LESSEE Appraiser are within ten percent (10%) of each other, the Fair Market Value Rent shall be the average of the Fair Market Value Rent as determined by City Appraiser and COMMERCIAL LESSEE Appraiser.

(ii) If the Fair Market Value Rent as determined by City Appraiser and COMMERCIAL LESSEE Appraiser are not within ten percent (10%) of each other, then City Appraiser and COMMERCIAL LESSEE Appraiser shall jointly select a third appraiser within ten (10) days of request by the CITY or COMMERCIAL LESSEE to do so. If they fail to agree to such third appraiser within such ten (10) day period, then such third appraiser shall be selected by COMMERCIAL LESSEE and the CITY, and if they fail to agree on a third appraiser, then in accordance with the rules of the American Arbitration Association, a third appraiser shall be selected. The third appraiser in all cases shall be an MAI appraiser having at least ten years' experience appraising commercial property in the Broward County area who has not performed appraisal services for the CITY or COMMERCIAL LESSEE within the five year period immediately prior to the date of such determination ("**Third Appraiser**"). Upon appointment of the Third Appraiser, such Third Appraiser shall make a determination of the Fair Market Value Rent within thirty (30) days of being appointed and which Fair Market Value Rent shall no higher than the highest Fair Market Value Rent and no lower than the lowest Fair Market Value Rent of City Appraiser and COMMERCIAL LESSEE Appraiser. The Fair Market Value Rent shall be the average of the two closest appraised values of Fair Market Value Rent between City Appraiser, COMMERCIAL LESSEE Appraiser and the Third Appraiser. COMMERCIAL LESSEE shall pay for the COMMERCIAL LESSEE Appraiser, the CITY shall pay for City Appraiser and the costs of any arbitration and the Third Appraiser shall be split equally between the CITY and COMMERCIAL LESSEE or, to the extent the CITY desires that COMMERCIAL LESSEE pays the full cost of such arbitration and Third Appraiser, then one-half (1/2) of the cost of such arbitration and the Third Appraiser may be offset by COMMERCIAL LESSEE against Commercial Annual Rent due under this Lease.

"**Force Majeure Event**" shall mean any of the following occurring in or directly impacting Broward County, Florida: (a) hurricane, flood, tornado, excessive rain, wind, or other extreme unpredictable weather, natural disaster, meteorological events, seismic event, or other acts of God; (b) fire or other casualty; (c) earthquake; (d) explosion; (e) war (whether or not formally declared);

(f) civil unrest, riot, civil commotion or insurrection, or rebellion; (g) area-wide or industry-wide strike, lockout, or other labor dispute; (h) condemnation; (i) act or threat of terrorism; (j) a regional or national disruption of the delivery of materials, ability to receive services or utilities, or of shipping or transportation services; (k) shortage of any material or commodity, which is not due to LESSEE's failure to appropriately contract for the same; (l) embargo, quarantine, disease and/or virus outbreak, pandemic, or epidemic; (m) national, regional or local emergency; or (n) any other acts outside the control of LESSEE. Notwithstanding anything to the contrary herein, failure to secure or retain financing shall not be deemed a Force Majeure Event.

"**Governmental Approvals**" shall mean all governmental and quasi-governmental approvals from applicable city, county and other agencies and authorities required to develop the Property pursuant to the Site Plan, including, but not limited to, site plan approvals, plat approvals and recordation, public dedications, environmental approvals, land use approvals, zoning approvals, building permits, certificates of occupancy, and all other governmental approvals required in connection with the development of the Proposed Improvements contemplated by the Site Plan (and the expiration of all appeal periods with respect thereto) and other matters pertaining to the Property.

"**Gross Revenue**" means the following derived from each Commercial Space or Commercial Unit on the Property:

(a) Notwithstanding anything contained herein to the contrary, with respect to subleased space, an amount equal to the base annual rent (excluding taxes, insurance, common area charges and additional rent) paid by the Sublessee to LESSEE (i) if the Sublessee is not an Affiliate of LESSEE, or (ii) if the Sublessee is an Affiliate of LESSEE, then the amount of base annual rent (excluding taxes, insurance, common area charges and additional rent) paid by such Sublessee to LESSEE, provided the annual base rent (excluding taxes, insurance, common area charges and additional rent) payable under such Sublease shall be at a Fair Market Value Rent for such space.

(b) The following shall be applicable (i) if the COMMERCIAL LESSEE shall operate the business itself rather than sublease its Commercial Space or Commercial Unit, or (ii) if such sublease is to an Affiliate of such COMMERCIAL LESSEE at less than a Fair Market Value Rent, to wit:

Except as otherwise provided in this definition of Gross Revenue, the total of all revenues, rents, income and receipts received by COMMERCIAL LESSEE from any Person(s) whomsoever (less any refunds) of every kind derived directly or indirectly from the operation of the Commercial Space or Commercial Unit (as applicable), including, without limitation, income (from both cash and credit transactions and before commissions) from the following activity on the Commercial Space or Commercial Unit (as applicable):

(i) the rental of rooms, convention and meeting room facilities, banquet or other facilities (including facilities for the Boat Show which is annually held in the Commercial Space or Commercial Unit (as applicable)), exhibits, sales displays or advertising space of every kind, provided that as to the rental of convention, meeting and banquet room facilities and facilities for the Boat Show, where such facilities are rented to Non-Affiliated Persons, and where such

Non-Affiliated Persons also conduct sales in conjunction with the rental fee paid for the rental of the aforementioned facilities, the Gross Revenue shall be limited to the rental fee paid to the COMMERCIAL LESSEE for the rental of the aforementioned facilities and shall not include the sales or revenues of such Non-Affiliated Persons renting the aforementioned facilities;

(ii) Food, beverage (including alcoholic beverages sold by the drink or bottle), convention and banquet sales, including room service, and sales from vending machines provided that in room mini-bars shall be calculated on a net basis, wherein net mini-bar revenues shall be defined as gross mini-bar revenue, less any lease payment made by the COMMERCIAL LESSEE to a Person, with such net basis being subject to the Limitation on Net Income Rule and subject to the terms of subsection (c)(ii), where applicable, whereby the rent under any such food and beverage lease/concession agreement/management agreement will be included in Gross Revenue but Gross Revenues will not include the food and beverage sales received by the operator;

(iii) Net Income received from Concessions, if any, subject to the Limitation on Net Income Rule;

(iv) Net Income, if any, derived from telephone, cable television and telecommunication services, movie rentals, audio-visual services, and valet parking, such net income being subject to the Limitation on the Net Income Rule;

(v) Personal services, laundry services;

(vi) Wholesale and/or retail sales of goods or services, including merchandise;

(vii) Proceeds, if any, from business interruption or other loss of income insurance;

(viii) COMMERCIAL LESSEE's portion of any eminent domain award which is awarded to the COMMERCIAL LESSEE, in excess of the aggregate of (1) any such proceeds which are reinvested in the Property; (2) the fair market value of COMMERCIAL LESSEE's equity in the portion of the Commercial Space or Commercial Units, as applicable, which is taken; and (3) the amount, if any, used to pay any Leasehold Mortgagee whose mortgage encumbers the portion of the Commercial Space or Commercial Units, as applicable, that is taken.

(c) Gross Revenue shall not include ("**Excluded Revenue**"):

(i) Gratuities received by employees;

(ii) The portion of rent payable by a Sublessee attributable to tenant improvements given to such Sublessee under its Sublease amortized over the initial term of such Sublease at a commercially reasonable interest rate ("**Sub-Tenant Allowances**"), provided such Sub-Tenant Allowances shall only be excluded from Gross Revenue of Subleases to Affiliates of COMMERCIAL LESSEE to the extent the rent of such Sublease to an Affiliate of LESSEE is a Fair Market Value Rent;

(iii) Federal, state or municipal excise, sales, use, occupancy or similar taxes collected directly from sub-tenants, patrons, guests or otherwise, provided such taxes are separately stated;

(iv) Insurance proceeds (other than business interruption, or loss of income insurance);

(v) Proceeds from the disposition of personal property (such as furniture, fixtures and equipment no longer necessary for the operation of the Commercial Space or Commercial Unit, as applicable);

(vi) Interest income, if any;

(vii) Deposits until same are forfeited by the person making the deposit;

(viii) Advance rentals until such time that they are earned;

(ix) Any award or payment made by a governmental authority in connection with the exercise of any right of eminent domain, condemnation, or similar right or power relating to leasehold improvements and other property of COMMERCIAL LESSEE, except as provided in (b) above;

(x) Taxes, common area charges, utilities, insurance, expenses, and cure costs paid by any Sublessee to COMMERCIAL LESSEE as reimbursement or payment of such expenses;

(xi) In connection with any Sublease of portions of the Commercial Spaces or Commercial Units, as applicable, without Improvements thereon, then only the rent paid for the portion of the Commercial Spaces or Commercial Units, as applicable, being subleased shall be included in Gross Revenue and there shall be excluded from Gross Revenue, any rent which reimburses COMMERCIAL LESSEE for any tenant improvements allowance given by COMMERCIAL LESSEE to a Sublessee, amortized at a commercially reasonable interest rate over the initial term of such Sublease; or

(d) In the event that additional or new revenue-producing space or sources are created upon the Property or in the event that COMMERCIAL LESSEE, directly or indirectly, subsequently converts any space from the functions set forth in subsection (a) of this definition of Gross Revenue, to other legitimate business functions, then and in those events the Gross Revenue derived from such space or uses by COMMERCIAL LESSEE shall be included in the Gross Revenue for calculation of the Commercial Annual Rent, subject to the other provisions in this definition of Gross Revenue.

"**Hazardous Substances**" means any hazardous or toxic substances, materials or wastes, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) as now in effect or as same may be amended from time to time, or such substances, materials and wastes which are

now or hereafter become regulated by any Environmental Agency, including, without limitation, any material, waste or substance which is (i) petroleum; (ii) asbestos; (iii) polychlorinated byphenyls; (iv) radon; (v) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251, et. seq. (33 U .S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317); (vi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et. seq. (42 U.S.C. Section 6903); (vii) defined as "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et. seq. (42 U.S.C. Section 9601); or (viii) designated as a "hazardous substance" as defined in Chapter 403 (Part IV) of the Florida Statutes.

"**Hazardous Substances Laws**" shall mean all applicable municipal, County, district, State and federal laws, codes, ordinances, rules, regulations and orders, as same may now exist or may from time to time be amended, relating to industrial hygiene, environmental protection or regulation, protection of air, water or other natural resources, or the use, analysis, generation, manufacture, storage, disposal or transportation of any Hazardous Substances.

"**Hotel**" shall mean any hotel located on the Property (as same may be modified, replaced, and/or newly constructed from time to time) but shall exclude any Branded Hotel Unit.

"**Hotel Operations**" shall mean the operation of any Hotel within the Property.

"**Improvements**" shall mean any and all buildings, pavements, fixtures, permanently affixed equipment, facilities (both above ground and below ground), and all other structures or improvements now or hereafter constructed on the Property and all additions, alterations, modifications, renovations, and replacements thereto. The existence of the then existing Improvements shall be used for making a determination of Improvements as of the date such determination is required to be made (i.e., if there was a casualty to Improvements, then for purposes of determining what is to be repaired, would be the then existing Improvements and not Improvements to be constructed in the future).

"**Initial Rent Payment Date**" shall mean the date commencing on the later of (i) the recording of the Regime Documents in the Public Records of Broward County, Florida, and (ii) the date of the initial conveyance of title of the first Conveyed Branded Residential Unit to a third party.

"**Initial Term**" shall have the meaning set forth in Section 4.1 of this Lease.

"**Initial Third Party Branded Residential Unit Owner**" shall mean the first Branded Residential Unit Owner of a Conveyed Branded Residential Unit.

"**Lease**" shall mean this Lease, including any supplements, modifications or amendments thereof.

"**Lease Year**" means the first twelve (12) calendar months from the Commencement Date and each subsequent twelve (12) month period thereafter during the term of this Lease.

"**Leasehold Mortgage**" shall have the meaning set forth in Article 16.

"**Leasehold Mortgagee**" shall have the meaning set forth in Article 16.

"**Leasehold Mortgagee Assignee**" means the assignee of a Leasehold Mortgagee as to the leasehold interest represented by this Lease following the acquisition of such leasehold interest by the Leasehold Mortgagee by virtue of a foreclosure action or deed-in-lieu of foreclosure or similar proceeding.

"**Legal Description**" shall mean the legal description for the Property which shall be prepared by LESSEE and reasonably approved by City Manager as same may be amended as set forth in Sections 1.2 and 1.3 of this Lease.

"**LESSEE**" shall initially mean _____ and from and after the creation of the Regime, the Association shall become LESSEE under this Lease and their respective successors and assigns.

"**LESSORS**" shall mean the City of Fort Lauderdale, the CDD and Rahn and their respective successors and assigns and LESSOR shall mean any one of such LESSORS.

"**Limitation on Net Income Rule**" means that where Gross Revenues are predicated on Branded Residential Unit a "**Net Income**" formula for any given function, that the allowable deductible expenses under such formula shall in no event exceed the gross revenues from that function, and that no deficit of expenses over gross revenues shall be carried over from one calendar year to another.

"**Master Declaration**" shall have the meaning set forth in Section 32.2.

"**Master Lease**" shall have the meaning set forth in the Recitals.

"**Master Lessee**" shall have the meaning set forth in the Recitals.

"**Memorandum**" shall mean a memorandum of this Lease in the form of **Exhibit C** to be recorded in the Public Records of Broward County, Florida.

"**Net Income**" shall mean Gross Revenue which is net of direct expenses paid to Non-Affiliated Persons.

"**Net Sales Proceeds**" shall mean an amount equal to the purchase price of each Branded Residential Unit less reasonable and bona fide closing expenses, such as title insurance, documentary stamps, recording charges, attorneys' fees, and brokerage commissions.

"**Non-Affiliated Persons**" shall mean a Person or Persons who are not direct Affiliates of the COMMERCIAL LESSEE of the applicable Commercial Space or Commercial Unit, as applicable.

"**Non-Disturbance Agreement**" shall mean an agreement in the form of (i) **Exhibit D-1** (as to a Sublease); (ii) **Exhibit D-2** (as to a Sub-Sublease); and (iii) **Exhibit E-1** as to Leasehold

Mortgages, **Exhibit E-2** as to Sub-Leasehold Mortgages and **Exhibit E-3** as to Sub-Subleasehold Mortgages or such other forms of Non-Disturbance Agreement as LESSORS and the applicable LESSEE, Sublessee, Sub-Sublessee, Leasehold Mortgagee, Subleasehold Mortgagee, or Sub-Subleasehold Mortgagee may agree to in writing.

"**Original Branded Residential Unit Owner**" shall mean the first Branded Residential Unit Owner who recorded the Regime Documents.

"**Original Lease**" shall mean that certain Lease dated September 1, 1962, recorded in Official Records Book 2870, at Pages 530-581 of the Public Records of Broward County, Florida, as amended by instrument dated September 8, 1964, recorded in Official Records Book 2870, at Pages 582 to 583 of the Public Records of Broward County, Florida; as amended by an instrument entitled Modification of Lease dated December 7, 1971, recorded in Official Records Book 5080, at Pages 845 to 849 of the Public Records of Broward County, Florida; and further amended by that certain Amendment to Lease dated April 22, 1980, recorded in Official Records Book 8958, at Pages 334 to 338 of the Public Records of Broward County, Florida; and as assigned by that certain Assignment of Lease dated August 14, 1980, recorded in Official Records Book 9066, at Page 472 of the Public Records of Broward County, Florida; and further assigned by that certain Assignment of Lease dated May 12, 1982, recorded in Official Records Book 10204, Page 761 to 764 of the Public Records of Broward County, Florida; and further assigned to the current Master Lessee in that certain Consent to Assignment of Leasehold Interest and Assignment and Assumption of Leasehold Interest dated as of June 29, 1994, recorded in Official Records Book 22333, at Pages 886 to 893 of the Public Records of Broward County, Florida; and as amended and restated in that certain Amended and Restated Lease dated January 4, 1995, recorded in Official Records Book 23168, at Pages 347 to 395 of the Public Records of Broward County, Florida, as amended by First Amendment to Amended and Restated Ground Lease recorded in Official Records Book 50912, Page 1085 of the Public Records of Broward County, Florida, as amended and restated by this Lease.

"**Partial Release**" shall have the meaning set forth in Section 26.11 of this Lease.

"**Party" or "Parties**" shall have the meaning set forth in the Recitals.

"**Payment In Lieu Of Taxes**" shall have the meaning set forth in Article 29 of this Lease.

"**Permitted Change**" shall mean as to portions of the Property located outside the Units (a) a change to the Approved Plans which is substantially consistent with the Site Plan and required to be made to comply with applicable governmental requirements; (b) a change which involves only substituting materials; (c) any change with respect to the interior portions of the Improvements; (d) a change required by the failure of the Approved Plans to address field conditions where the change will not have a material adverse effect on the quality, appearance or function of such Improvements other than the Promenade; (e) a change which is made to correct inconsistencies in various plans and specifications; and (f) a change to the Approved Plans which is substantially consistent with the Site Plan and approved by the City Manager; and (g) a change in the legal description of the Property approved by MASTER LESSOR or City Manager pursuant to this Lease.

"**Permitted Exceptions**" shall mean (i) all matters of survey or title pertaining to the Property as of the Commencement Date; (ii) each Sublease; (iii) zoning restrictions and prohibitions imposed by governmental authority; (iv) this Lease; (v) matters contemplated by this Lease and any schedule thereto; (vi) the matters set forth in Schedule B, Section II of _____ Title Insurance Policy #_____ dated _____; as same may be amended from time to time; (vii) the Master Declaration; (viii) any leasehold easements (whether or not joined by LESSOR); and (ix) any other matters requested by LESSEE and reasonably approved by LESSOR.

"**Permitted Transfer(s)**" shall have the meaning set forth in Section 22.1 of this Lease.

"**Permitted Uses**" shall mean the permitted uses which may be made of the Property pursuant to Section 21.1 of this Lease.

"**Person**" means any individual, firm, partnership (general or limited), corporation, company, association, joint venture, joint stock association, estate, trust, business trust, cooperative, limited liability corporation, limited liability partnership, limited liability company or association, other form of legal entity, or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee or other person acting in a similar representative capacity for or on behalf of such Person.

"**Phased Building**" shall mean each of the building(s) and/or improvements generally shown on the Site Plan to be located upon the Property.

"**Podium Area**" shall mean the portion of the Bahia Mar Complex described on **Exhibit G** attached hereto and made a part hereof.

"**Premises**" shall have the meaning set forth in the Master Lease.

"**Prohibited Uses**" shall be the uses prohibited pursuant to Sections 21.2, 21.3 or 21.4 of this Lease.

"**Promenade**" shall have the meaning set forth in the Master Lease.

"**Promenade Completion**" shall mean the date of Substantial Completion of the Improvements comprising the Promenade within the Premises and accepted in writing by the City Manager.

"**Property**" shall mean the property as set forth on **Exhibits A**, as same may be modified as set forth in Section 1.2 of this Lease, with all Improvements thereon.

"**Proposed Improvements**" shall mean the improvements (renovation or new construction) hereafter made on the Property from and after the Commencement Date (including the demolition of any existing Improvements to allow for any other improvements) and appurtenances reasonably related thereto or as contemplated in the Site Plan.

"**Regime**" shall mean a leasehold condominium under the Act of the State of Florida.

"**Regime Documents**" will mean the declaration creating the Regime, the Prospectus, and all other documents necessary or required by the Act to submit LESSEE's leasehold estate to the Regime, discloses the existence this Lease to the Unit Owners, and to create the Regime. LESSEE shall prepare the Regime Documents and submit same to the City Manager for its limited review and approval in accordance with Section 32.12, which limited approval shall not be unreasonably withheld or delayed.

"**Related Person(s)**" shall have the meaning set forth in the definition of Community Trust Transfer Fee.

"**Removal Notice**" shall mean written notice given upon the expiration or termination of this Lease (other than a termination of this Lease as provided in Section 4.4 of this Lease), which shall be deemed given upon the later to occur of: (i) being posted on the entry door of each leasable space on the Property; (ii) recorded in the real property public records of Broward County, Florida; and (iii) set forth in a Resolution of the City Commission which is adopted after complying with any then required specific advertising and notice requirements for the adoption of municipal resolutions, if any.

"**Removal Period**" shall mean the period of sixty (60) calendar days after Removal Notice is given, whereby all Unit Owners, LESSEE, Sublessees, Sub-Sublessees and all others possessing any portion of the Property or having personal property thereon may remove their personal property and fixtures from the Property.

"**Rent**" shall mean the Annual Rent and any Additional Rent.

"**Residential Annual Rent**" shall be the annual amount payable by each Branded Residential Unit Owner (other than the Original Branded Residential Unit Owner) to the Association (who shall act as collection agent for the CITY) who shall remit same as collected to the CITY on each Annual Payment Date in an amount equal to (i) One and 30/100 Dollars ($1.30) multiplied by the Square Footage as actually constructed with respect to such Branded Residential Unit(s) each year until the First Adjustment Date whereupon on the First Adjustment Date and each Adjustment Date thereafter, the Residential Annual Rent then in effect immediately prior to such Adjustment Date shall be increased by the CPI Adjustment. Residential Annual Rent is a separate and different obligation from the Sales Consideration Fee and the Transfer Fee.

"**Restrictive Covenants**" shall have the meaning set forth in Section 4.4.

"**Revised Legal Description**" shall have the meaning set forth in Section 1.2.

"**Sales Consideration Fee**" shall be: (i) the CITY Sales Fee payable to the CITY and (ii) the Community Trust Sales Fee payable to the LESSEE to be promptly remitted to the Community Trust Entity, each in connection with the initial conveyance of title of each such Branded Residential Unit from the Original Branded Residential Unit Owner to an Initial Third Party Branded Residential Unit Owner which is contemplated to be paid out of the closing of each such Branded Residential Unit. LESSEE agrees that the CITY has a leasehold lien right, whereby a lien may be filed on each Branded Residential Unit which does not pay such Sales Consideration Fee payable as to such Branded Residential Unit as provided in this Lease.

"**Shared Facilities**" shall have the meaning set forth in the Master Declaration.

"**Show Dates**" shall have the meaning set forth in the Boat Show Lease.

"**Show Site**" shall have the meaning set forth in the Boat Show Lease.

"**Site Plan**" shall mean the site plan reflected by the referenced plans and exhibits identified in the list attached hereto and made a part hereof as **Exhibit H** which has been approved by the City prior to the Commencement Date, as same may be modified from time to time as provided in this Lease.

"**Special Functions**" shall have the meaning as set forth in the Master Declaration.

"**Square Foot Price**" shall mean the Net Sales Proceeds divided by the Square Footage of such Branded Residential Unit.

"**Square Footage**" or "**Square Foot**" shall mean the aggregate square footage of each Branded Residential Unit (as applicable) measured from the interior face of the boundary walls excluding balconies (i.e., paint to paint) of each such Branded Residential Unit (as applicable).

"**Start Date**" shall mean a date after the Commencement Date which is the date of commencement of construction of the first to occur of the first residential building or the new hotel on the Podium Area as contemplated by the Site Plan after the Governmental Approvals have been obtained for such improvements.

"**State**" shall mean the State of Florida.

"**Sublease**" shall have the meaning set forth in Section 22.2.

"**Subleased Premises**" or "**Sub-Subleased Premises**" shall mean the portion of the Property demised under a Sublease or Sub-Sublease, as applicable.

"**Subleasehold Mortgage**" shall have the meaning set forth in Article 16.2 of this Lease.

"**Subleasehold Mortgagee**" shall have the meaning set forth in Article 16.2 of this Lease.

"**Sublessee**" shall have the meaning set forth in Section 22.2.

"**Subsequent Sale**" shall mean the sale of a Conveyed Branded Residential Unit.

"**Subsequent Branded Residential Unit Owner(s)**" shall mean the Initial Third Party Branded Residential Unit Owner and each subsequent Residential Unit Owner to whom a Conveyed Branded Residential Unit is then being conveyed.

"**Substantial Completion**" shall mean completion of the work (as evidenced by a shell certificate of occupancy, certificate of completion or comparable certificate issued by the City in its governmental capacity under the Florida Building Code (and incorporated life safety codes), as amended, evidencing the work for which such certificate or permit has been issued as intended in

the next sentence is completed). It is the intent that Substantial Completion of the Proposed Improvements shall be when completion of the Proposed Improvements is to a level to permit conveyances of Branded Units under the Act.

"**Sub-Subleasehold Mortgage**" shall have the meaning set forth in Article 16.3 of this Lease.

"**Sub-Subleasehold Mortgagee**" shall have the meaning set forth in Article 16.3 of this Lease.

"**Sub-Sublessee**" shall have the meaning set forth in Section 22.2.

"**Sub-Tenant Allowances**" shall have the meaning set forth in the definition of Gross Revenue.

"**Term**" or words of similar import shall mean the term set forth in Article 4 hereof, including the Initial Term as extended by any Extended Term, as applicable, or shortened as provided in this Lease.

"**Third Appraiser**" shall have the meaning set forth in the definition of Fair Market Value Rent.

"**Third Party Contractor**" shall have the meaning set forth in Section 11.15.

"**Third Party Sublessor**" shall have the meaning set forth in Section 22.3.

"**Third Party Sub-Sublessor**" shall have the meaning set forth in Section 22.4.

"**Transfer Fee(s)**" shall be (i) the CITY Transfer Fee payable to the City and (ii) the Community Trust Transfer Fee payable to the Community Trust Entity, each to be paid at the closing of each Subsequent Sale.

"**Unit**" shall mean each Branded Residential Unit and/or Commercial Unit which is the subject of the Regime pursuant to the Regime Documents.

"**Unit Owner**" shall mean the owner of a Unit.

## ARTICLE 4
## TERM

Section 4.1 Term. This Lease shall begin at 12:01 a.m. local time on the Commencement Date, and continue for a period of fifty (50) years thereafter ("**Initial Term**"), as same may be extended pursuant Section 4.2, unless sooner terminated, whereupon said Property shall be returned to MASTER LESSOR or RAHN free of any encumbrances or obligations created by LESSEE.

Section 4.2 Extended Term. Provided no Event of Default exists at such time and LESSEE has obtained a shell certificate of occupancy for the Phased Building, LESSEE shall have

the right upon written notice to LESSORS to extend the Term of this Lease for an additional period of fifty (50) years after the expiration of the Initial Term] **("Extended Term")**.

Section 4.3 Termination/Expiration. In all events, at termination or expiration of this Lease, except as may be otherwise provided in Section 4.4 and/or in any Non-Disturbance Agreement(s) previously executed by any LESSOR, the Property with all Improvements thereon (except that personal property and trade fixtures of LESSEE, Sublessees, Sub-Sublessees and others shall remain the property of such parties and may be removed by such parties prior to the end of the Removal Period) shall be deemed returned to LESSORS and owned by LESSORS as to the portion of the Property owned in the fee simple by such LESSOR, free of any encumbrances or obligations created by or through LESSEE (except those obligations of LESSEE that expressly survive termination of this Lease as provided in this Lease). Attached personal property and trade fixtures which remain on the Property after the Removal Period expires shall be deemed abandoned by the owners thereof and owned by LESSORS as to the portion of the Property owned in the fee simple by such LESSOR, except as may be otherwise provided in any Non-Disturbance Agreement(s) previously executed by such LESSOR. Except as otherwise expressly provided for herein, all of the covenants, terms, conditions, and provisions set forth herein shall apply to, bind, and benefit LESSORS and LESSEE during the stated Term hereof commencing on the Commencement Date and ending at the expiration of the Term (as same may be extended).

Section 4.4 Lessee Election to Terminate This Lease. Notwithstanding anything contained in this Lease to the contrary, the LESSEE shall, in its sole and absolute discretion, have the absolute right (acting alone) to elect to terminate this Lease (with or without cause) upon written notice to LESSORS setting forth the effective date of the termination of this Lease. Upon the effective date of the termination of this Lease, the provisions of the Declaration of Restrictive Covenants recorded as Instrument #119363796 in the Public Records of Broward County, Florida on January 30, 2024 as same may be amended from time to time ("**Restrictive Covenants**") shall prevail and control. For the avoidance of doubt or confusion, the Rent to be paid to the CITY and/or the Community Trust Entity shall not be duplicated and shall only be paid pursuant to this Lease or the Restrictive Covenants (whichever document is in affect at the time).

## ARTICLE 5
## POSSESSION AND LETTING

Section 5.1 Possession. Possession of the Property by LESSEE shall continue from and after the Commencement Date. LESSEE may (i) make improvements and rehabilitate the Property; (ii) carry on and conduct its business and operate the Property; (ii) develop and redevelop the Property in accordance with the terms of this Lease; and (iv) use the Property as provided in this Lease. LESSEE shall continue to own the Improvements and other personal property located upon the Property, subject to the terms of this Lease.

Section 5.2 Quiet Enjoyment. LESSEE, upon paying the Rent and performing and observing all of the other terms, covenants and conditions of this Lease on LESSEE's part to be performed and observed, shall peacefully and quietly have, hold and enjoy the Property unabated during the Term without any interference, let, hindrance, or molestation from LESSOR, or any

persons claiming possession by, through, or under LESSOR, subject to the terms of this Lease and the Permitted Exceptions.

Section 5.3 No Merger of Title. It is the interest of the Parties that there shall be no merger in title if the LESSEE owns both a fee simple interest (as one of the LESSORS) and a leasehold interest (as LESSEE) of all or any portion of the Property.

## ARTICLE 6
## COMPLIANCE WITH REGULATIONS OF PUBLIC BODIES/RESPONSIBILITY FOR IMPROVEMENTS

Section 6.1 Compliance. LESSEE covenants and agrees that in connection with its operation of the Property, to perform such acts and do such things as shall be lawfully and generally required by any public body having jurisdiction over said Property, in order to comply with: (i) sanitary requirements, (ii) stormwater management and floodplain requirements; and (iii) land use and zoning, use, and site plan regulatory requirements (including physical site development criteria such as height, setback, land coverage, building mass, permeable area density, and parking requirements), as they exist from time to time, subject however, to any administrative relief or approvals to the foregoing as is obtained by LESSEE in the form of authorized special exceptions, variances, zoning, Site Plan waivers, conditional use approvals, or other authorized variations as same may exist from time to time.

Section 6.2 Permitted Action. It is the intent of LESSORS and LESSEE that LESSEE shall be permitted to develop, construct, operate on the Property as contemplated by this Lease.

Section 6.3 Improvements. During the Term, LESSEE (or its assigns) shall comply with the applicable provisions of the Florida Building Code (and incorporated Codes) in connection with Improvements constructed on the Property by LESSEE (or its assigns). The fact that the CITY is a municipal corporation, and will conduct plan review and inspections as one of the LESSORS as set forth in this Lease (in its proprietary capacity), the CITY may be required to approve such matters in its governmental capacity for general compliance with the Florida Building Code (and incorporated Codes), as amended. The acts of the City in its governmental capacity (as opposed to its capacity as one of the LESSORS) shall not act as an estoppel to, or a waiver of the CITY's governmental sovereign immunity, or right to require construction or reconstruction in accordance with the Florida Building Code (and incorporated Codes), as amended (subject to LESSEE's right to challenge such enforcement to the extent legally permitted).

## ARTICLE 7
## HAZARDOUS SUBSTANCES

Section 7.1 LESSOR'S Consent Required. During the Term, LESSEE covenants and agrees that in the use of the Property, no Hazardous Substances in excess of limits permissible by or in violation of applicable Hazardous Substances Laws shall be brought upon, kept or used in or about the Property by any Person whomsoever, unless such Person first obtains the written consent of LESSOR. LESSOR does hereby consent to the use of those Hazardous Substances reasonably

and normally used for the purposes of the operation of the Permitted Use, including, but not limited to, hotel, retail, office, and residential.

Section 7.2 Notices. Other than as has been previously disclosed in writing to LESSORS as shown on **Exhibit I**, if at any time LESSEE shall become aware, or have reasonable cause to believe, that any Hazardous Substance in violation of any applicable Hazardous Substances Laws has come to be located on or beneath the Property after the Commencement Date, LESSEE shall immediately, upon discovering such presence or suspected presence of the Hazardous Substance, give written notice of that condition to LESSORS. In addition, LESSEE shall promptly notify LESSORS in writing of (i) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed, or threatened pursuant to any Hazardous Substances Laws; (ii) any written claim made or threatened by any Person against LESSEE, the Property or improvements located thereon relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Substances; and (iii) any reports made to any Environmental Agency arising out of or in connection with any Hazardous Substances in or removed from the Property or any improvements located thereon, including any complaints, notices, warnings or asserted violations in connection therewith. LESSEE shall also supply to LESSOR as promptly as possible, and in any event, within five (5) business days after LESSEE first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations of any applicable Hazardous Substances Laws relating in any way to the Property or improvements located thereon or LESSEE's use thereof.

Section 7.3 Reports and Test Results Supplied to LESSOR. LESSEE agrees to provide to LESSORS a copy of all environmental and Hazardous Substance reports (including test results dealing with the Property) obtained by LESSEE after the Commencement Date hereof, or which otherwise come into LESSEE's possession, custody, or control (regardless of when conducted), within fifteen (15) days following LESSEE's receipt of same to the extent such reports contain information not previously disclosed to LESSORS.

Section 7.4 Remedial Action. The obligation of LESSEE as stated above shall include the reasonable costs of the following when required by Hazardous Substances Laws by Environmental Agencies:

(i) all required or necessary inspections, investigations, applications, permits, plans, licenses, consent orders, and the like;

(ii) all cleaning, detoxification, remediation, cleanup and disposal;

(iii) all tests, audit, monitoring, and reporting; and

(iv) all fees, costs, assessments, fines and penalties legally charged by Environmental Agencies in accordance with Hazardous Substances Laws.

Section 7.5 Hazardous Substances Indemnification of LESSORS.

(a) LESSEE shall indemnify, defend and hold LESSORS harmless of and from all claims, demands, fines, penalties, causes of action, administrative proceedings, liabilities,

damages, losses, costs and expenses (including reasonable attorneys' fees and experts' fees), which are asserted against LESSORS for bodily injury, disease, sickness, death, property damage (including the loss of use therefrom), damage or injury to the environment or natural resources, or some or all of the foregoing, and which relate, refer, or pertain to:

(i) the existence of Hazardous Substances on, under, or over the Property,

(ii) Hazardous Substances being released into the air, water, groundwater, or onto the ground in connection with operations on the Property,

(iii) gaseous emissions (excluding methane, radon, and other naturally occurring gases) from the Property,

(iv) the use, generation, or storage of Hazardous Substances on the Property,

(v) the disposal of Hazardous Substances, or

(vi) some or all of the foregoing.

The foregoing indemnity shall not apply to any LESSOR to the extent such LESSOR's negligent, grossly negligent, or intentional acts or omissions are the cause of any matter described in (i)-(vi) above.

(b) The indemnity in Section 7.5(a) shall include without limitation the reasonable costs of the following when required by Hazardous Substances Laws or by applicable governmental entities and agencies who are designated to enforce Hazardous Substances Laws (herein "**Environmental Agencies**"):

(i) all required or necessary inspections, investigations, applications, permits, plans, licenses, consent orders, and the like;

(ii) all cleaning, detoxification, remediation, cleanup and disposal;

(iii) all tests, audit, monitoring, and reporting; and

(iv) all fees, costs, assessments, fines and penalties charged by Environmental Agencies.

(c) LESSEE agrees to pay for all reasonable attorneys' fees, experts' fees and costs incurred by such applicable LESSOR in such applicable LESSOR's enforcement against LESSEE of the provision of this Section 7.5;

(d) The indemnification provided in this Section 7.5 and all indemnity obligations of the LESSEE in the Master Lease with respect to Hazardous Substances located on the Property shall survive the termination or expiration of this Lease, but shall end, with respect to

any claim or cause of action, with the expiration of any applicable statute of limitations for such claim or cause of action;

(e) The term "property damage" as used in this Section 7.5 includes, but is not limited to, damage to the property of LESSEE, LESSORS, and of any third parties (including the loss of use thereof), and damage which is caused by any Environmental Agencies, or which is caused by an applicable LESSOR or LESSEE acting pursuant to directives from an Environmental Agency or pursuant to a court order, or which is caused by all of the foregoing.

(f) Subject to the terms of this Lease in regard to any matter asserted against an applicable LESSOR by third parties which falls within the scope of this indemnity, neither the provisions of this Lease, nor LESSEE's indemnification of such LESSOR are intended to waive or affect, and shall not be construed to waive or affect, any applicable LESSOR's sovereign immunity (if applicable), and at all times the applicable LESSOR shall retain its sovereign immunity to the greatest extent as may be provided by law. Furthermore, in defending a LESSOR (having sovereign immunity) against claims of third parties pursuant to the Indemnity provided in this Section 7.5, LESSEE may assert LESSOR's sovereign immunity (if applicable) to the greatest extent as may be provided by law.

(g) In the event LESSOR's insurance coverage requires that LESSOR's carrier defend any claim that falls within the scope of this indemnity, LESSEE shall not be responsible to reimburse LESSOR for its costs of defense, to the extent such defense is provided or costs are reimbursed to LESSOR pursuant to LESSOR's insurance policy.

Section 7.6 LESSOR'S Right of Entry for Testing. At any time during the term of this Lease, each LESSOR may, upon reasonable prior written notice to LESSEE (taking reasonable action to minimize potential disruption of the operation of the hotel, retail, office, residential, and other Permitted Uses, and to minimize damage to the Property particularly during the tourist season), enter upon the Property (other than inside of Branded Units) for the purpose of conducting environmental tests, pursuant to Section 7.8 (and thus not as a result of the exercise of its regulatory governmental jurisdiction) ("**LESSOR's Tests**"), to determine the presence and extent of contamination by Hazardous Substances on or under the Property, provided that in connection with entering into the occupied portions of the Property, such LESSOR to perform such tests or inspection, shall provide reasonable advance notice to LESSEE and coordinate such access with LESSEE, in order to not unreasonably interfere with LESSEE and the business or other activity conducted on the Property. Such LESSOR performing such tests or inspection shall not be entitled to conduct LESSOR'S Tests unless: (1) a governmental entity (other than the applicable governmental LESSOR) shall have issued a written notice of violation to LESSEE or the other LESSORS with respect to Hazardous Substances on, within, or under the Property; or (2) LESSOR has reasonable cause to believe that Hazardous Substances exist on or under the Property in violation of Hazardous Substances Laws. Notwithstanding the limitations set forth in (1) and (2) above, no LESSOR may conduct LESSOR's Tests more often than twice every five (5) years without being subject to the limitations set forth in (1) and (2) above.

LESSOR'S Tests shall be at the sole cost of the LESSOR conducting such LESSOR's Tests. The cost and expenses relating to LESSOR's Tests shall not be included in

remediation provisions of Section 7.4 or in the scope of any indemnification provided in favor of LESSOR in this Lease, unless such testing resulted from the presence of Hazardous Substances caused by LESSEE's use of the Property. No LESSOR's Tests shall be conducted until such LESSOR conducting such LESSOR's Tests has provided to LESSEE the name of the testing contractor (which shall be fully licensed to conduct LESSOR'S Tests) and a certificate of insurance with limits reasonably acceptable to LESSEE confirming that LESSEE is an additional insured and that coverage exists for property damage, personal injury and business interruption which may result from LESSOR'S Tests. Such LESSOR agrees to indemnify and hold LESSEE harmless (subject to its limitation of sovereign immunity liability) with respect to any loss, claim or damage (including attorney's fees and expenses) which LESSEE shall suffer as the result of the conduct of LESSOR's Tests by such LESSOR.

Section 7.7 Petroleum Liability and Restoration Insurance Program. During the term of this Lease, LESSEE shall, so long as coverage is commercially available and the State of Florida maintains the Petroleum Liability and Restoration Insurance Program and the Inland Protection Trust Fund (or replacement programs), maintain in effect the Petroleum Liability and Restoration Insurance Program Coverage for Third Party Liability for Contamination in the amount of Ten Million Dollars ($10,000,000) which $10,000,000 shall remain until June 27, 2024 as described on **Exhibit J** attached hereto (and thereafter with coverages substantially similar thereto), and to the extent that same is available on a commercially reasonable basis, the amount of such coverage shall be increased every five (5) years thereafter as provided in Section 20.2 of this Lease.

## ARTICLE 8
## INDEMNITY AGAINST COSTS AND CHARGES

LESSEE and LESSORS agree that in connection with any disputes between the Parties pertaining to this Lease, the prevailing Party shall be entitled to recover from the non-prevailing Party all reasonable costs, expenses and attorneys' fees and shall be entitled to all remedies available at law or in equity for such breach (subject to the terms and limitations as to such enforcement set forth in this Lease) which may be incurred or sustained by such Party by reason of the defaulting Party's breach of any of the provisions of this Lease. Any sums due the CITY by LESSEE under the provisions of this Article shall constitute Additional Rent owed by LESSEE to the CITY.

## ARTICLE 9
## INDEMNIFICATION AGAINST CLAIMS

(a) LESSEE shall indemnify, defend, and hold harmless each LESSOR from and against all claims from compensatory damages (including those for bodily injury, disease, sickness, death, property damage), demands, fines, penalties, causes of action, administrative proceedings, liabilities, damages, losses, costs and expenses (including reasonable attorneys' fees and experts' fees), which are asserted against LESSOR by third parties which relate, refer, or pertain to:

(i) the rights, responsibilities and obligations of LESSEE under this Lease, the breach or default by LESSEE of any covenant or provision of this Lease, or

LESSEE's possession, use, or occupancy of the Property or the Improvements, or some or all of the foregoing;

(ii) any Regime development on the Property, to the extent a Regime is created by LESSEE upon any portion of the Property, that such Regime does not comply with the Act, or that no Regime was created in connection with the intended Regime, or that this Lease does not comply with §718.122, §718.401 or §718.404 of the Act, or that any documents used by LESSEE in the sale or marketing or description of the Regime condominium were inaccurate, misleading, incomplete, or failed to satisfy all legal requirements, or that involve owners or occupants of the Regime Units, or that the Regime is not a leasehold Regime;

(iii) an adverse interest being asserted against any LESSOR's fee simple interest in the Property arising after the Commencement Date, which is not based upon any Permitted Exceptions, any matters created by or through such LESSOR, interests expressly approved in writing by such LESSOR, or based on this Lease or a Non-Disturbance Agreement executed in connection with this Lease or subleases in connection therewith;

(iv) construction liens; other liens, levy or execution by judgment creditors; liens and assessments imposed by governmental authorities (excluding LESSOR); prescriptive rights and adverse possession, or other loss of title to or encumbrance of such LESSOR's interest in the Property arising due to LESSEE's acts or failure to act after the Commencement Date (other than when caused by the acts of or with the consent of LESSOR or through condemnation). LESSEE acknowledges and agrees that such LESSOR shall not be deemed to have waived any of its rights not to be subject to adverse possession, prescriptive rights or other loss of title as may be afforded such LESSOR pursuant to applicable law, whereby such LESSOR's fee simple real estate interests pass to third parties (if any);

(v) negligent, reckless, or willful or intentional acts or omissions of LESSEE's or its Sublessees, or anyone directly or indirectly employed by any of them and anyone for whose acts any of them may be liable during the performance of construction work or services related to the Improvements;

(vi) negligent, reckless, or willful or intentional acts or omissions of LESSEE, its Sublessees, and Sub-Sublessees, or of any other Person enjoying a right of possession or use of any portion of the Property by through or under any of them (except when such Person enjoying such derivative right of possession or use is such LESSOR or its agent, through access or use of the Property); or

(vii) some or all of the foregoing.

The foregoing indemnity shall not apply to the extent of such LESSOR's (or its agents, employees, contractors or others acting on behalf of such LESSOR) negligent, grossly negligent, or intentional acts or omissions which make LESSOR liable for any of the matters described in

(i)-(vii) above or for events conducted by or in connection with access or use of the Property by such LESSOR.

(b) LESSEE and each LESSOR agree that the prevailing Party shall be entitled to recover from the non-prevailing Party, reasonable attorneys' fees, experts' fees and costs incurred by the prevailing Party in connection with a dispute with respect to the provision of this Article 9.

(c) The indemnification provided in this Article 9 shall survive the termination or expiration of this Lease.

(d) In any matter asserted against any LESSOR by third parties which falls within the scope of this indemnity, neither the provisions of this Lease, nor LESSEE's indemnification of such LESSOR are intended to waive or affect, and shall not be construed to waive or affect, such LESSOR's sovereign immunity (if applicable), and at all times such applicable LESSOR shall retain its sovereign immunity to the greatest extent as may be provided by law. Furthermore, in defending such LESSOR against claims of third parties pursuant to the Indemnity provided in this Article 9, LESSEE may assert such applicable LESSOR's sovereign immunity, if any, to the greatest extent as may be provided by law.

(e) In the event any LESSOR's insurance coverage requires that such LESSOR's carrier defend any claim that falls within the scope of this indemnity, LESSEE or its Third Party Contractor (as applicable) shall not be responsible to reimburse such LESSOR for its costs of defense, to the extent such defense is provided pursuant to such LESSOR's insurance policy.

## ARTICLE 10
## INSPECTION

Each LESSOR or its Authorized Representative shall have the right to enter the Property and the buildings and improvements constructed thereon (other than occupied hotel rooms or Branded Units), at all reasonable hours and reasonable frequency for the purpose of inspecting the same, or for any other appropriate purposes not inconsistent with the terms or spirit of this Lease, provided such inspection shall be performed in a manner to minimize disruption to any business being conducted upon the Property, such LESSOR will restore any damage caused to the Property in connection with its inspections and each LESSOR shall provide LESSEE reasonable advance notice in order to coordinate such access by such LESSOR with operations conducted or to be conducted upon the Property.

## ARTICLE 11
## CONSTRUCTION BY LESSEE

Section 11.1 Construction. It is intended that the Property will be developed with the Proposed Improvements as contemplated by the Site Plan and the Property submitted to the Regime and the Branded Units sold to third parties, whereby such interests may be encumbered

by Leasehold Mortgage(s) and/or Subleasehold Mortgage(s) held by different lenders all as provided in this Lease. In connection with said contemplated development, the parties agree that:

11.1.1 All Proposed Improvements shall be developed substantially consistent with the Site Plan, Approved Plans, and all other relevant laws, rules and regulations affecting the Property;

11.1.2 Each LESSOR hereby approves the Site Plan and LESSEE will only amend the Site Plan as to the Property with the approval of the CITY, which approval will not be unreasonably withheld, delayed, or conditioned, subject to LESSEE also obtaining any required City Governmental Approval.

11.1.3 LESSEE may renovate, develop and construct Proposed Improvements and conduct activities on the Property during the Term of this Lease in conformance with this Lease. This Article 11 sets forth the provisions which apply when the City of Fort Lauderdale exercises the rights provided to it under this Lease as a landlord with respect to the Site Plan, which approval of CITY shall not excuse LESSEE from obtaining any City Governmental Approval required under applicable law with respect to such development.

11.1.4 Nothing herein shall be construed as a waiver of the CITY's regulatory and/or police power to grant or deny development approvals or consent to Proposed Improvements under the CITY's regulatory and/or police power when the City is reviewing same as a governmental agency versus as a LESSOR.

11.1.5 Each LESSOR will join in the Master Declaration and such easements, restrictive covenants, easement vacations or modifications, subdivision requirements and such other documents as may be necessary for LESSEE to develop the Property in a manner otherwise permitted hereunder.

11.1.6 The LESSEE shall within two (2) years after the Commencement Date (subject to extension of time due to delays in obtaining applicable governmental approvals, obtaining financing, (using good faith and reasonably diligent efforts to do so), obtaining presales of 65% or more of the Units (to be created by the Regime Documents) in the Phased Parcel and acts of Force Majeure) apply for governmental approvals to construct the Phased Building and upon obtaining a building permit for the Phased Building, proceed diligently to complete such Phased Building.

Section 11.2 Approved Plans and Permitted Changes. During the development of the Proposed Improvements on the Property by LESSEE, LESSEE shall submit to the CITY and Master Lessee for review and approval, Permitted Changes, construction plans, and specifications with respect to such Proposed Improvements (other than interior improvements) for City Manager's (as to the City) and Master Lessee's reasonable review and approval (which approval shall not be unreasonably withheld, conditioned, delayed, or denied if such Permitted Changes or construction plans and specifications are substantially consistent with the Site Plan). The review and approval of the Permitted Changes, construction plans, and specifications shall be performed by (i) the City Manager (as to the CITY) and the CITY agrees the City Manager shall review and either approve or disapprove and specify with reasonable specificity the basis for such disapproval

within thirty (30) days after request for such approval, and (ii) Master Lessee and the Master Lessee agrees that Master Lessee shall review and either approve or disapprove and specify with reasonable specificity the basis for such disapproval within thirty (30) days after request for such approval.

The approval by the City Manager (on behalf of the CITY in its proprietary capacity) and/or Master Lessee of any plans, specifications, or designs shall not constitute a representation or warranty by LESSOR as to such conformity with proper design or applicable law, and the responsibility therefor shall at all times remain in LESSEE.

The approval of the LESSORS, in their capacity as landlord, is not required for improvements to the Branded Units, provided such improvements shall be subject to all applicable permitting requirements.

Section 11.3 Deemed Approval. In the event that, with respect to approvals to be given by the City Manager on behalf of the CITY with respect to approval of the Permitted Changes or construction plans and specifications, the City Manager shall fail to approve or disapprove (and specify the basis for such disapproval) any Permitted Changes or plans or specifications submitted to the CITY which require its approval within thirty (30) days of being submitted to the CITY, LESSEE requesting such approval shall deliver written notice to the CITY advising the CITY that the CITY has not responded to LESSEE within the required 30-day period and the CITY shall have an additional ten (10) days thereafter to respond to LESSEE with such approval or disapproval. In the event that the CITY fails to respond after the expiration of the additional 10-day period, then the CITY shall be deemed to have approved such request, provided the correspondence of such submittal to the City Manager advises the City Manager that a failure to respond within such thirty (30) period shall be a deemed approval thereof under this Lease.

Section 11.4 Standards of Construction. As between LESSOR, the CITY, Master Lessee, and LESSEE, LESSEE shall ensure that any and all construction of the Proposed Improvements shall be performed in such a manner as to provide that the Proposed Improvements on the Property shall:

(a) Be properly designed, structurally sound, safe for human occupancy (to the extent applicable), and free from any unusual hazards;

(b) Comply in all material respects with the Approved Plans and the Governmental Approvals; and

(c) Comply in all material respects with the terms and provisions of this Lease.

(d) Construct the improvements in a good and workmanlike manner.

(e) Construct the improvements in compliance with American with Disabilities Act (ADA) requirements.

Section 11.5 Comply with Applicable Law. All Proposed Improvements constructed or installed by the LESSEE, its agents, or contractors, shall conform to all applicable state, federal,

county, and local statutes, ordinances, building codes, fire codes, and rules and regulations, as amended.

Section 11.6 Evidence of Funding. Prior to commencing construction of any of the Improvements shown on the Site Plan having a cost in excess of Ten Million Dollars ($10,000,000), the LESSEE shall provide the CITY with reasonable evidence of the ability to construct and pay for such improvements then being constructed which shall be subject to the City Manager's (as to the CITY) reasonable review and approval and which shall include providing a copy of any financing commitment and a certification that the balance will be funded from equity, deposits provided by third parties or other sources of funding such improvements, a copy of the proposed construction contract with the scope of work (including any payment and performance bonds (if applicable) to assure the performance of any construction contract which meets the requirements of Article 29), and other information regarding the foregoing as may be reasonably requested by the CITY.

Section 11.7 Encumbrances. LESSEE hereby represents, warrants and covenants to LESSOR that the fee simple title to such LESSOR's fee simple title in the Property shall be at all times free and clear of all liens, claims and encumbrances created by or through LESSEE (other than those created or consented to by such LESSOR); provided, however, that LESSEE shall be entitled to encumber the leasehold estate, subleasehold estates, sub-subleasehold estates and/or LESSEE's interest in the Improvements and Branded Units subject to the provisions of this Lease.

If any lien or notice of lien shall be filed against the fee simple title of a LESSOR to the Property created by or through the LESSEE (other than those created or consented to such LESSOR), the LESSEE shall, within thirty (30) calendar days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction. Neither LESSEE, any Sublessee or any Sub-Sublessee shall be deemed to be such LESSOR's agent so as to confer upon any contractor or subcontractor providing labor or services or material to the Property (whether in connection with LESSEE's Improvements or otherwise) a construction and/or mechanic's lien against such LESSOR's fee simple estate under the provisions of Chapters 255 or 713 Florida Statutes as amended from time to time. The foregoing shall be contained in a notice or memorandum to be recorded in the Public Records of Broward County in accordance with Florida Statutes Chapter 713.

Section 11.8 As Builts. Within one hundred twenty (120) days after the date a Certificate of Occupancy is issued for any Proposed Improvements requiring such document, the LESSEE shall, at its expense, provide the CITY with a complete set of "as built" plans and specifications, including mylar reproducible "record" drawings, and, if available, one set of machine readable disks containing electronic data in an AUTOCAD format that meets the CITY's graphic standards of the "as-constructed" or "record" plans for such Improvements.

Section 11.9 Required Governmental Approval. The LESSEE shall obtain all required Governmental Approvals having jurisdiction over any Proposed Improvements.

Section 11.10 Redevelopment. The LESSEE (or its designees) may, at no expense to any LESSOR, and at any time, construct, demolish and/or reconstruct additional buildings or structures on any portion of the Property and make such alterations, additions or changes, structural

or otherwise, in and to the Improvements as LESSEE may deem necessary or suitable to property it owns provided that such Improvements are consistent with the Site Plan and the Approved Plans for such component of the work or as approved by the City Manager.

Section 11.11 Governmental Approvals Joinder. Each of the LESSORS acknowledge that LESSEE intends to develop the Property or have the Property developed and that in connection therewith, it will be necessary for the LESSEE to apply to the City of Fort Lauderdale (in its governmental capacity) and other governmental and quasi-governmental authorities in an effort to obtain all final Governmental Approvals in connection with the development of such Improvements. Each of the LESSORS agrees to reasonably cooperate with LESSEE in seeking the Governmental Approvals from other governmental and quasi-governmental authorities for the Improvements. Each of the LESSORS shall reasonably cooperate in the execution of applications (to the extent required by any governmental or quasi-governmental authorities) and other documentation in connection with such Governmental Approvals; provided, no LESSOR shall be required thereto to expend any sums in connection with such assistance (other than its review and administrative costs) and provided such applications are substantially consistent with the Approved Plans and the Site Plan or as approved by the City Manager (as to the CITY) and Master Lessee.

Section 11.12 Omitted Intentionally.

Section 11.13 Insurance Requirements for Construction Contracts. Only in connection with the construction of new buildings or significant alterations, demolitions, and/or renovations, in each case in having a cost in excess of Ten Million Dollars ($10,000,000), the provisions of this Section 11.13 shall be applicable, to wit:

LESSEE agrees to include the following insurance requirements in any agreement it enters into with any contractor(s) performing construction work on the Premises and to require in its Subleases entered into after the date hereof (excluding boat leases at the Marina), the following insurance and LESSEE further agrees to provide to the CITY, prior to commencement of the improvements with respect to such contract, certificates of insurance evidencing the contractor's compliance with the requirements of this Section.

Providing proof of and maintaining adequate insurance coverage are material obligations of the LESSEE. The contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, or a lower rating subject to the reasonable approval of the CITY.

The coverages, limits, and/or endorsements required herein protect the interests of the CITY, and these coverages, limits, and/or endorsements shall in no way be relied upon by the contractor for assessing the extent or determining appropriate types and limits of coverage to protect the contractor against any loss exposures. The requirements contained herein are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the contractor.

The following insurance policies and coverages are required:

Professional Liability

Coverage must be afforded for wrongful acts in an amount not less than $2,000,000 each claim and $2,000,000 aggregate. Contactor must keep the professional liability insurance in force until the third anniversary of the acceptance of work.

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $5,000,000 each occurrence and $5,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury

- $5,000,000 each occurrence and $5,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The CITY, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the contractor. The coverage shall contain no special limitation on the scope of protection afforded to the CITY, its officials, employees, and volunteers.

Business Automobile Liability. Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident.

Crane and Rigging Liability. Coverage must be afforded for any crane operations under the Commercial General or Business Automobile Liability policy as necessary, in line with the limits of the associated policy.

If the contractor does not own vehicles, the contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Pollution and Remediation Legal Liability (Hazardous Materials). For the purpose of this section, the term "hazardous materials" includes all materials and substances that are designated or defined as hazardous by Florida or federal law or by the rules or regulations of Florida or any federal agency. If work being performed involves hazardous materials (other than as permitted under applicable law) the contractor shall procure and maintain the following coverage:

Contractors Pollution Liability Coverage. For sudden and gradual occurrences and in an amount not less than $5,000,000 per claim including but not limited to, all hazardous materials.

Property Coverage (Builder's Risk). Coverage must be afforded in an amount not less than 100% of the total project cost, including soft costs, with a deductible of no more than $25,000 (other than Flood which coverage and deductible shall be per standard Federal Flood Insurance policy limits and Windstorm which deductible may be as high as 5% of the project cost coverage; each (including the $25,000 deductible minimum) subject to availability at commercially reasonable premium rates and subject to Lessor's reasonable approval) each claim. Coverage form shall include, but not be limited to:

- All Risk Coverage including Flood and Windstorm with no coinsurance clause
- Guaranteed policy extension provision
- Storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project
- Equipment Breakdown for cold testing of all mechanized, pressurized, or electrical equipment

This policy shall insure the interests of the owner, contractor, and subcontractors in the property against all risk of physical loss and damage. This insurance shall remain in effect until the work is completed.

Workers' Compensation and Employer's Liability. Coverage must be afforded per Chapter 440, Florida Statutes and be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements.

(a) The LESSEE shall provide the CITY with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work.

(b) The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

(c) The CITY and CDD shall be named as an Additional Insured on all liability policies, with the exception of Professional Liability, Business Auto Liability, and Workers' Compensation.

(d) The CITY shall be granted a Waiver of Subrogation on the contractor's Workers' Compensation insurance policy.

(e) The title of the project or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale
_____
Fort Lauderdale, FL 33301
Attn: City Manager

Rahn Bahia Mar, L.L.C.
1175 NE 125th Street; Suite 102
North Miami, FL 33161
Attn: James D. Tate

Bahia Mar Community Development District
5385 N. Nob Hill Road
Sunrise, Florida 33351
Attn: District Manager

If the contractor's primary insurance policy/policies do not meet the minimum requirements, the contractor may provide evidence of an Umbrella/Excess insurance policy to comply with these requirements.

The contractor's insurance coverage shall be primary insurance as respects to the CITY, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

It is the LESSEE's responsibility to ensure that any and all of the LESSEE's contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the LESSEE.

Section 11.14 Omitted Intentionally.

Section 11.15 Contractor Indemnity. The LESSEE shall use commercially reasonable efforts (without being required to incur any significant increase in cost) to obtain in any contract for labor, services or materials to be provided in connection with the construction of Improvements in excess of $10,000,000 between LESSEE or its Affiliate and a general contractor constructing such Improvements (each a "**Third Party Contractor**") a provision for an indemnification clause whereby the Third Party Contractor shall indemnify, defend, and hold harmless LESSEE and LESSORS for any and all claims, suits, causes of action, and proceedings, for all loss, costs, damages, or expenses, including, but not limited to, attorneys' fees and court costs through all trial

and appellate levels and post judgment proceedings, with respect to claims for personal injury and/or property damage asserted against LESSORS, LESSEE, or both LESSORS and LESSEE, which are alleged to have been caused by the Third Party Contractor, its subcontractors, subconsultants, agents and employees in connection with performing or providing such labor, services or materials and/or any other of its obligations under the applicable contract and arising out of such Third Party Contractor's negligence and/or wrongful acts and omissions. Subject to the provisions of Section 9(e), the Third Party Contractor shall retain legal counsel to defend LESSORS with competent legal counsel reasonably acceptable to the CITY.

The provisions of this section shall not apply to the contractors performing construction services within a Unit for the owner or its designees thereof.

## ARTICLE 12
## NO LIENS CREATED BY LESSEE

LESSEE covenants and agrees that it has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title and interest of LESSOR's fee simple interest in and to the Property covered by this Lease, and that no Person shall ever be entitled to any lien, directly or indirectly derived through or under LESSEE, or his agents or servants, or on account of any act or omission of said LESSEE, which lien upon the Property shall be superior to the lien of this Lease reserved to the LESSOR. All Persons contracting with LESSEE, or furnishing materials or labor to LESSEE, or to his agents or servants, as well as all Persons whomsoever, shall be bound by this provision of this Lease. Should any such lien be filed, LESSEE shall discharge the same within thirty (30) days thereafter, by paying the same or by filing a bond, or otherwise, as permitted by law. LESSEE shall not be deemed to be the agent of any LESSOR, so as to confer upon a laborer bestowing labor upon the Property, or upon a materialman who furnishes material incorporated in the construction of improvements upon the Property, a mechanic's lien pursuant to Chapters 713 or 255, Florida Statutes, or an equitable lien upon any LESSOR's fee simple estate. This provision shall be deemed a notice under Section 713.10(1), Florida Statutes, as amended, of the "non-liability" of LESSORS, and shall be included in a Memorandum filed in the real property records in Broward County, Florida.

## ARTICLE 13
## OPERATING EXPENSES

Section 13.1 Until the Regime Documents are recorded and the Regime is created, LESSEE agrees to promptly pay when due all operating, maintenance and servicing charges and costs, including telephone, gas, electricity, water, sewer, sewer connections, and all other expenses incurred in the use and operation of the Property; provided, however, after the Regime Documents are recorded and the Regime is created, the Association, when it becomes the LESSEE, shall pay all operation, maintenance and service charges and costs with respect to the Common Areas of the Regime.

Section 13.2 Until recording of the Regime Documents, LESSEE agrees to obtain at its expense all permits and licenses which may be required by any governmental authority for LESSEE to maintain and operate the Property but not for portions of the Property subleased to

Non-Affiliated Persons. After the creating the Regime, the Association shall maintain all required licenses and permits to operate the Common Areas.

## ARTICLE 14
## NONWAIVER

Failure of any LESSOR to insist upon the strict performance of any of the covenants, conditions and agreements of this Lease in any one or more instances, shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions or agreements unless accepted by such LESSOR in writing.

## ARTICLE 15
## BANKRUPTCY OF LESSEE

Should LESSEE, at any time during the term of this Lease, suffer or permit an involuntary or voluntary petition in bankruptcy to be filed against itself, or institute an arrangement proceeding under the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., or any amendments thereto, or should LESSEE'S leasehold interest be levied on and the bankruptcy or lien thereof not discharged within one hundred twenty (120) days after written notice from the CITY to LESSEE of said levy having been made, then, in such event, and upon the happening of said events, the CITY shall have the right, at its election, to consider the same a material default on the part of LESSEE of the terms and provisions hereof. The pendency of bankruptcy proceedings, or arrangement proceedings, to which LESSEE shall be a party not cured within the applicable Cure Period shall not preclude the CITY from exercising the option herein conferred. Upon filing a voluntary or involuntary petition in bankruptcy, LESSEE consents to the entry of an agreed order (or immediate relief from the automatic stay), which provisions shall be self-operative.

## ARTICLE 16
## LEASEHOLD MORTGAGEE

Section 16.1 Leasehold Mortgage. LESSEE shall have the right to mortgage, assign, pledge or hypothecate its interest in this Lease to a Leasehold Mortgagee as security for an obligation ("**Leasehold Mortgage**"), provided in connection with obtaining such Leasehold Mortgage (i) the LESSEE shall forward to the CITY a copy of such Leasehold Mortgage, together with a written notice setting forth the name and address of the holder of such Leasehold Mortgage ("**Leasehold Mortgagee**"); and, (ii) in connection therewith, the CITY agrees that it will, within thirty (30) days of request by the LESSEE to the CITY, enter into a Non-Disturbance Agreement substantially in the form attached to this Lease and if not in such form, then in a form reasonably acceptable to the CITY and such Leasehold Mortgagee provided the LESSEE is not in default under this Lease as determined by the CITY in its commercially reasonable discretion at the time of the LESSEE's request to enter into such Non-Disturbance Agreement and if not in the form of **Exhibit E-1**, then in a form reasonably acceptable to the CITY and such Leasehold Mortgagee. Attached as **Exhibit E-1** is a form of Non-Disturbance Agreement which the CITY has reasonably approved for Leasehold Mortgagees. A Leasehold Mortgage can only exist between the LESSEE and a Leasehold Mortgagee, and such term as used in this Lease shall exclude leasehold mortgages executed by Sublessees or Sub-Sublessees. With respect to Leasehold Mortgages, the LESSEE agrees that LESSEE shall not cross-collateralize the Property with other property not related to:

this Lease, the LESSEE's leasehold or subleasehold interests in the Property, LESSEE's interest in the Property, or the LESSEE's tangible and/or intangible property relating to the Property.

Section 16.2 Subleasehold Mortgage. Any Sublessee shall have the right to mortgage, assign, pledge or hypothecate its interest in any Sublease as security for an obligation ("**Subleasehold Mortgage**"); provided however, only for Sublessees with whom the CITY has executed or is executing a Non-Disturbance Agreement with respect to the Sublease as contemplated in Sections 22.2 and 22.3 of this Lease: (i) the Sublessee shall forward to the CITY a copy of such Subleasehold Mortgage, together with a written notice setting forth the name and address of the holder of such Subleasehold Mortgage ("**Subleasehold Mortgagee**"); and (ii) in connection therewith, the CITY agrees that it will, within thirty (30) days of request by such Sublessee to the CITY, and upon the CITY's reasonable approval of the form of Non-Disturbance Agreement, enter into a Non-Disturbance Agreement with such Subleasehold Mortgagee. Attached as **Exhibit E-2** is a form of Non-Disturbance Agreement which the CITY has approved for Subleasehold Mortgagees and if not in such form, then in a form reasonably acceptable to LESSOR and such Subleasehold Mortgagee. With respect to a Sublease for which a Non-Disturbance Agreement for a Subleasehold Mortgage is being given, such Sublease and Non-Disturbance Agreement with the Subleasehold Mortgagee shall require that the Sublessee not cross-collateralize the Subleased Premises with other property not related to the Sublease, Sublessee's interest in the Subleased Premises, or Sublessee's tangible and/or intangible property relating to the Subleased Premises.

Section 16.3 Sub-Subleasehold Mortgage. Any Sub-Sublessee shall have the right to mortgage, assign, pledge or hypothecate its interest in any Sub-Sublease as security for an obligation ("**Sub-Subleasehold Mortgage**"); provided however, only for Sub-Sublessees with whom the CITY has executed or is executing a Non-Disturbance Agreement with respect to the Sub-Sublease as contemplated in Section 22.4 of this Lease: (i) the Sub-Sublessee shall forward to LESSOR a copy of such Sub-Subleasehold Mortgage, together with a written notice setting forth the name and address of the holder of such Sub-Subleasehold Mortgage ("**Sub-Subleasehold Mortgagee**") and, in connection therewith; and (ii) in connection therewith, the CITY agrees that it will, within thirty (30) days of request by the Sub-Sublessee to the CITY, and upon the CITY's reasonable approval of the form of Non-Disturbance Agreement, enter into a Non-Disturbance Agreement with such Sub-Subleasehold Mortgagee. Attached as **Exhibit E-3** is a form of Non-Disturbance Agreement for Sub-Subleasehold Mortgagees which LESSOR has approved for Sub-Subleasehold Mortgagees and if not in such form, then in a form reasonably acceptable to LESSOR and such Sub-Subleasehold Mortgagee. With respect to Sub-Subleasehold Mortgages for which Non-Disturbance Agreements are being given, the Sub-Sublease and Non-Disturbance Agreement for such Sub-Subleasehold Mortgage shall require that the Sub-Sublessee not cross-collateralize the Sub-Subleased Premises with other property not related to the Sub-Sublease, Sub-Sublessee's interest in the Sub-Subleased Premises, or Sub-Sublessee's tangible and/or intangible property relating to the Sub-Subleased Premises.

Section 16.4 Unit Financings. The Branded Residential Units and Commercial Units may be encumbered by mortgage liens on each of such Branded Residential Units and Commercial Units without the consent of the CITY; however, the CITY shall not be required to enter into non-disturbance agreements with regard to mortgages of Branded Residential Units or Commercial

Units after such Branded Residential Units and/or Commercial Units are created pursuant to the Regime Documents; provided, however, Non-Disturbance Agreements for Commercial Space executed prior to the recording of the Regime Documents creating the Regime shall remain in effect.

Section 16.5 Confirmation. Any mortgage on any leasehold, subleasehold or more remote interest shall be subject to the foregoing provisions and shall not encumber the fee simple title of any LESSOR. LESSOR shall, no more than two (2) times a year (as to each Leasehold Mortgage, and as to each Subleasehold Mortgage or each Sub-Subleasehold Mortgage for which LESSOR has signed a Non-Disturbance Agreement), upon reasonable written request, provide such Leasehold Mortgagee, Subleasehold Mortgagee or Sub-Subleasehold Mortgagee with estoppel information as to the status of this Lease in form and substance that is reasonably acceptable to such LESSOR. LESSEE and all outstanding Leasehold Mortgages, Subleasehold Mortgagees and Sub-Subleasehold Mortgagees acknowledge and agree that any assignment of an assignor's interest as LESSEE, Sublessee or Sub-Sublessee or to any Leasehold, Subleasehold or Sub-Subleasehold Mortgagee does not give the LESSEE or its assignee, Sublessee or Sub-Sublessee any lien or encumbrance upon the fee simple ownership and interest in the Property which is vested in either LESSOR.

Section 16.6 Extension by Mortgagee. In the event that LESSEE, Sublessee, a Sub-Sublessee or a more remote interest shall fail to timely exercise its option to extend the term of this Lease, any applicable Sublease, Sub-Sublease or more remote interest (to the extent applicable, at the time required to request such extension and subject to the right of such party's mortgagee to cure any breach as provided in the Non-Disturbance Agreement), the Leasehold Mortgagee, and the holder of any applicable Subleasehold, Sub-Subleasehold or more remote Mortgage, whose name and address are on file with LESSOR pursuant to the provisions of this Lease (and provided the CITY has signed a Non-Disturbance Agreement with such Leasehold Mortgagee, applicable Subleasehold Mortgagee, or Sub-Subleasehold Mortgagee) shall have the right, for a period of sixty (60) days following the last day on which LESSEE, applicable Sublessee, Sub-Sublessee or more remote interest could have exercised such option and for such period only, to exercise in the name of LESSEE, applicable Sublessee, Sub-Sublessee or more remote interest such option to extend the term of this Lease, the applicable Sublease, Sub-Sublease or more remote interest (as applicable).

Section 16.7 Cooperation. Each LESSOR shall reasonably cooperate in executing and delivering any required additional or collateral documentation necessary to effectuate the approvals of LESSOR, including, but not limited to, estoppel letters, provided same are in form and substance satisfactory to LESSOR in its reasonable discretion.

Section 16.8 CDD Non-Disturbance Agreements. There is no need for LESSEE to enter into any Non-Disturbance Agreement with the CDD and/or Rahn or its lenders as neither the CDD and/or Rahn (or those claiming by, through, or under the CDD and/or Rahn) shall have any rights to enforce the terms of this Lease as provided in Section 17.8 of this Lease.

## ARTICLE 17
## DEFAULT

Section 17.1 Default. If LESSEE shall fail to keep and perform any of the covenants, conditions and agreements herein provided to be performed by said LESSEE, and as to monetary defaults such default shall continue for thirty (30) days from the date of the CITY's notice to LESSEE of the existence of such default and as to nonmonetary defaults such default shall continue for a period of sixty (60) days from the date of the CITY's notice to LESSEE of the existence of such default, subject to the other terms of this Lease extending such Cure Period (LESSEE's Cure Period), the CITY shall have the right, subject to the terms of any Non-Disclosure Agreement(s) previously executed by the CITY, to treat same as a default hereunder, subject to any cure rights of LESSEE or its Leasehold Mortgagee. Any notice to be provided pursuant to the immediately preceding sentence shall be provided pursuant to the Article hereof entitled "*Notices*" to LESSEE, to Leasehold Mortgagees and mortgagees with whom the CITY has executed a Non-Disturbance Agreement directing that the said default be corrected within an additional thirty (30) days after the expiration of the applicable LESSEE's Cure Period.

Section 17.2 Extended Cure. As to non-monetary defaults, if LESSEE or Leasehold Mortgagee commences correction of said default within a sixty (60) day period and proceeds with diligence to completion, then the Cure Period shall be extended for a reasonable time as appropriate to complete such cure. This provision shall extend to any mortgagee of all or any part of the Premises with whom the CITY has executed a Non-Disturbance Agreement in the even such mortgagee elects to exercise its option to cure such default.

Additionally, to the extent of any Additional Rent that is owed by LESSEE after the recording of the Regime Documents creating the Regime, the Association shall have an additional Cure Period (not to exceed one hundred eighty (180) days) to enable the Association to levy a special assessment for the amount of such amount of Additional Rent and the Association shall have thirty (30) days after the imposition of such special assessments to pay such Additional Rent.

Section 17.3 Payment of Rent and Tax Prior to Creation of the Regime. Subject to the provisions of Section 17.5 of this Lease, each LESSOR hereby agrees that, notwithstanding any other provision of this Lease, (a) there will be no cancellation or termination of this Lease so long as all Annual Rent, taxes and insurance payable for the period prior to the recording of the Regime Documents and creation of the Regime are paid to the CITY when due or cured within the applicable Cure Period, and (b) the CITY will not, by reason of the nonpayment of Annual Rent, taxes or insurance, exercise its right to cancel or terminate this Lease prior to the expiration of the thirty (30) day Cure Period which commences after the LESSEE Cure Period in Section 17.1.

Section 17.4 After Creation of Regime. From and after the recording of the Regime Documents and creation of the Regime provided the Regime has not been terminated pursuant to the Act prior to the expiration of the Term, the CITY hereby agrees (i) not to exercise any right to terminate this Lease, and (ii) notwithstanding any default under this Lease and notwithstanding any express or implied right to terminate this Lease set forth herein or at law or in equity, this Lease shall remain in full force and effect and shall not be terminable or terminated by the CITY until the expiration of the Term of this Lease in accordance with its terms.

Section 17.5 Additional Remedies.

17.5.1 For the duration of the Regime (provided the Regime has not been terminated pursuant to the Act prior to the expiration of the Term), the Regime Documents shall include provisions which describe the obligations of the Association in this Lease and state that the Association (or any successor in interest to the Association) shall (i) act as the CITY's collection agent for the collection of Annual Rent due from each Branded Unit Owner (excluding the Original Branded Residential Unit Owner) and, upon receipt of the applicable Annual Rent from the Unit Owner(s) (excluding the Original Branded Residential Unit Owner), shall timely pay the Annual Rent to the CITY as provided in this Lease, and (ii) promptly assess an assessment and, if not timely paid, to cause a claim of lien to be executed and recorded in the Broward County Public Records pursuant to Chapter 718.116, Florida Statutes against the Units of the Regime who do not pay their respective Annual Rent when due. In the event the Association records any claim of lien, it shall deliver notice of such claim of lien together with a copy of the recorded claim of lien to the CITY within five (5) days after the date such claim of lien is recorded.

17.5.2 If the Sales Consideration Fee for any Branded Residential Unit was not paid when due, thereafter when such Unit becomes a Conveyed Branded Residential Unit, it shall pay both Sales Consideration Fee and interest at the Default Rate, and the Association (or any successor in interest to the Association) shall levy special assessments on such Conveyed Branded Residential Unit for such Sales Consideration Fee and interest, sufficient to collect and pay same to LESSOR.

17.5.3 LESSOR may elect to cure any non-monetary default of LESSEE (which is not cured within the applicable Cure Period of LESSEE and/or its Leasehold Mortgagee) and, upon such cure taking place, all of LESSOR's reasonably incurred costs in connection with such cure shall become Additional Rent which shall be due and payable within thirty (30) days of written notice from LESSOR to LESSEE of such costs incurred by LESSOR (together with providing reasonable supporting documentation of such expense).

17.5.4 The Regime Documents shall collaterally assign the Association's lien rights and the rights of enforcement thereof against the Units to the CITY solely to the extent necessary to collect the Annual Rent due from such Unit Owner so the Association may pay same to the CITY.

17.5.5 Each of the foregoing obligations of the Association and Unit Owners shall be affirmatively set forth in the Regime Documents. The common expense definition in the Regime Documents shall include the Annual Rent due and payable under this Lease, and shall provide that the provisions hereby relating to the payment of the obligations set forth in this Section 17.5 and the foregoing obligations of the Association shall not be amended without the prior written consent of the CITY. In the event of a default under this Lease not cured within the applicable Cure Period, then subject to the provisions of this Section 17.5 and subject to LESSOR not having the right to terminate this Lease, the CITY shall have all other remedies available against the Association, Branded Residential Units, and Commercial Units, including:

(a) seeking compensatory damages from the Association;

(b) seeking a decree of specific performance requiring the Association to impose the assessments and reassessments required by this Lease in an amount sufficient to pay all Rent required by this Lease in the manner so required, enforce same by foreclosure of the lien securing payment of same and judicial sale (i) collect such assessments against the Units who have not paid its applicable Annual Rent attributable to such Unit, and (ii) collect special assessments (which shall be a common law lien and not a lien for common expenses) against any Branded Residential Unit that has failed to pay Sales Consideration Fee to the extent due upon the conveyance of such Branded Residential Unit, and pay same to LESSOR;

(c) the right to foreclose the annual assessment and special assessment lien rights under the collateral assignment referred to above, and such right shall also be set forth in the Regime Documents.

17.5.6 Lien Rights. The Association shall act as the collection agent for the CITY to collect the Residential Annual Rent from each Branded Residential Unit Owner (other than the Original Unit Owner) and Commercial Annual Rent from each Commercial Unit Owner. The Regime Documents shall provide for (i) a special assessment being payable by each Branded Residential Unit Owner for the Residential Annual Rent for its Branded Residential Unit and by each Commercial Unit Owner for the Commercial Annual Rent for its Commercial Unit, and (ii) a lien against each such Unit for failure to pay its Annual Rent attributable to such Unit, which lien shall be enforced by the Association and the CITY shall be a third party beneficiary entitled to enforce the lien on the Unit(s) which do not timely pay their Annual Rent.

Section 17.6 Additional Remedies.

17.6.1 In addition to the remedies set forth above, if an Event of Default exists, then the CITY shall be entitled to all other remedies available at law or at equity which are available to the CITY in enforcing leases, as such remedies may exist from time to time, but LESSOR shall not have the right to terminate this Lease, other than pursuant to Sections 17.3 and 17.4 and may not accelerate the payment of Rent. Notwithstanding the foregoing, to the extent LESSOR seeks damages, the CITY shall only be able to seek from the LESSEE compensatory damages, and the CITY shall not be entitled to punitive or consequential damages.

17.6.2 Notwithstanding the existence or adequacy of any remedy provided by law for compensatory damages, the LESSEE agrees that the CITY shall have the right of specific performance to compel the LESSEE to cure any non-monetary defaults not cured within the applicable Cure Period.

17.6.3 The CITY may elect to cure any non-monetary default of the LESSEE (which is not cured within the applicable Cure Period of the LESSEE and/or its Leasehold Mortgagee) and, upon such cure taking place, all of the CITY's reasonably incurred costs in connection with such cure shall become Additional Rent which shall be due and payable within thirty (30) days of written notice from the CITY to the LESSEE of such costs incurred by the CITY (together with providing reasonable supporting documentation of such expense). If the CITY elects to cure a non-monetary default of LESSEE, then the LESSEE shall be required to reimburse the CITY for such reasonable costs incurred by the CITY in connection with such acts to cure

within thirty (30) days of written demand, together with reasonable supporting documentation of such expense.

Section 17.7 Right to Cure. In the event the Property and Improvements (outside the Units) are not maintained in accordance with the standards set forth in this Lease, the CITY shall notify the LESSEE and give LESSEE a reasonable opportunity to maintain such elements as are required herein. If the LESSEE shall refuse or fail to maintain same after written notice and a reasonable opportunity to cure of at least the applicable Cure Period set forth in this Article 17, then the CITY shall have the right, but not the obligation, to repair or maintain same to the standard required by this Lease and the reasonable costs of such maintenance shall be payable as Additional Rent within thirty (30) days of written notice from the CITY to the LESSEE of the costs incurred by the CITY (together with reasonable supporting documentation of such expense). The fact that the CITY undertakes any repair or maintenance of the Improvements shall impose no continuing duty on the part of the CITY to continue such repair or maintenance. This remedy shall be supplemental and cumulative to all other remedies of the CITY as provided in this Section 17.

Section 17.8 CDD and Rahn. Neither Rahn and/or CDD shall have the right to enforce any terms or provisions of this Lease as (i) the CDD and/or Rahn are not entitled to any Rent under this Lease as all Rent is payable to the CITY and (ii) Rahn and the CDD shall only have the rights of LESSOR as to its portion of the Premises only to the extent the CITY terminates this Lease.

## ARTICLE 18
## REPAIRS AND MAINTENANCE

Section 18.1 Maintenance. LESSEE agrees at its expense to keep and maintain the Property, including but not limited to, grounds, roads, common areas, docks, buildings, furnishings, fixtures and personal property located thereon, in good state of repair and condition.

18.1.1 Exterior walls, roofs and windows on the Improvements of the Property shall be maintained in good repair, reasonable wear, tear, casualty and condemnation excepted. All appurtenances and decorative elements to such structure, such as for example, awnings, shutters, light fixtures, screens, or mailboxes, shall be securely attached, in working order, and not broken, hanging loose, torn, or falling away from the structure, or falling down. All freestanding or attached privacy or decorative walls and fences on the Property shall be maintained upright and in good repair and in an upright condition and shall be free from significant graffiti.

18.1.2 A regular and on-going, commercially reasonable janitorial program shall be maintained so that the interior areas of buildings and structures on the Property will be kept clean and maintained in a manner and to a degree appropriate to the intended use and function of such areas. A regular and on-going commercially reasonable program of pest control for rodents and insects shall be maintained so that buildings and structures do not become infested. Additionally, a regular and on-going commercially reasonable program of garbage, trash, and litter control shall be maintained so that buildings, structures and grounds are reasonably clean and free of accumulations of these items outside of proper receptacles for same.

18.1.3 All parking facilities, access drives and loading areas on the Property shall be paved and properly graded to assure proper drainage in accordance with the permits for such areas. All

sidewalks, roads, streets, driveways, parking areas, and other paved or hard surfaced areas located on the Property and intended for use by vehicular or pedestrian traffic shall be maintained. Materially uneven settlement at expansion or control joints, potholes, and damaged or eroding areas shall be repaired, and such areas shall be replaced or resurfaced as reasonably necessary or as reasonably requested by the City Manager to comply with applicable law. Lighting shall be maintained such that light fixtures will not be broken, hanging, or loose, and pole supports, if any, remain suitably anchored and maintained consistent with their original designated purpose. All curbing and bumper stops shall be replaced if damaged in any material respect. All striping, including but not limited to parking space, traffic lane and directional markings within any road, street, or parking area located within the Property shall be repainted as reasonably necessary, so that same will be clearly visible.

18.1.4 All swales on the Property shall be maintained to accommodate their intended drainage function and shall, as reasonably required by the City Manager, be re-graded or re-cut from time to time as may be necessary to comply with applicable legal requirements. Surface grates for catch basins shall remain free of obstructions and shall be open to the air as designed. Sediment and debris which may collect at the bottom of a catch basis shall be periodically suctioned out or dug out so as to prevent such material from being introduced into a storm sewer pipe or other connective facility.

18.1.5 Stormwater pipes on the Property shall be maintained so that they do not have material obstructions to flow, and shall be maintained and periodically inspected to ensure that the pipes remain reasonably free of material root intrusions, sediment build-up, garbage, refuse, plant material, or other debris. Furthermore, any collapsed, cracked, or dislocated pipe or connective fixtures shall be repaired, re-lined, or replaced. Infiltration trenches shall be maintained to ensure that their design capacity to treat and convey water is not compromised.

18.1.6 All landscaping on the Property shall be regularly maintained with proper horticultural and arboricultural practices, including without limitation such replanting and, as is from time to time necessary, mowing, trimming, fertilization, and weed, insect, and disease control.

18.1.7 From and after the recording of the Regime Documents, the provisions of Sections 18.1 and 18.2 shall only be applicable with respect to the Common Areas of the Regime, which maintenance shall be performed, to the extent applicable, by the Association. Each Unit Owner shall be required to maintain the interior of its Unit in accordance with the Regime Documents, but the failure to do so shall not be a default under this Lease.

Section 18.2 Repairs. LESSEE agrees at its expense to make all repairs to the Property (not including the interior of the Units one conveyed to a third party) including but not limited to, buildings, improvements, including electrical, plumbing, sewer, sewer connections, structural and all other repairs that may be required to be made to such improvements on the Property, and may change or re-locate any roads thereon.

Section 18.3 Delivery on Termination. LESSEE at its expense agrees to deliver to the applicable LESSOR upon the termination of this Lease its portion of the Premises including buildings, improvements (excluding trade fixtures), in good state of repair and in good usable

condition, ordinary wear, tear and casualty excepted and if there is a casualty, subject to the obligations with respect to the casualty provisions of this Lease.

Section 18.4 Conveyance/Dedication to Governmental or Quasi-Governmental Authority. Notwithstanding anything herein to the contrary, the LESSEE shall not be responsible for any item in this Article 18 relating to improvements properly conveyed or dedicated to applicable governmental or quasi-governmental agencies or utility companies from and after the date of such conveyance or dedication, except to the extent of any obligations of the LESSEE to any governmental or quasi-governmental agency or utility agreement under any separate agreement between the LESSEE and such governmental or quasi-governmental authority.

## ARTICLE 19
## PERSONAL PROPERTY

All Improvements and building systems, fixtures (other than trade fixtures and personal property) shall become the property of the applicable LESSOR (as to such property located on its portion of the Premises) at the end of the Term and shall be surrendered to LESSOR simultaneously with the return of possession of the Property. The LESSEE agrees that during the last five (5) years of this Lease, none of the foregoing shall be removed from the Property (located outside of the Units), except in a manner consistent with past practice. Nothing in this Article 19 shall create any interest in favor of LESSOR in any personal property leased by the LESSEE from third parties or otherwise owned by third parties, or any personal property located on the Property.

## ARTICLE 20
## INSURANCE

Section 20.1 Coverage. During the term of this Lease and during any renewal or extension term of this Lease, the LESSEE, at no cost to LESSOR, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the LESSEE. The LESSEE shall provide each LESSOR a certificate of insurance evidencing such coverage (as same may be amended as agreed to in writing by the LESSEE and the CITY. The LESSEE's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the LESSEE shall not be interpreted as limiting the LESSEE's liability and obligations under this Lease. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, or a lower rating subject to the reasonable approval by the LESSOR.

The coverages, limits, and/or endorsements required herein protect the interests of the each LESSOR (as applicable to its interest in the Premises), and these coverages, limits, and/or endorsements shall in no way be relied upon by the LESSEE for assessing the extent or determining appropriate types and limits of coverage to protect the LESSEE against any loss exposures, whether as a result of this Lease or otherwise. The requirements contained herein, as well as the CITY's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the LESSEE under this Lease.

The following insurance policies and coverages are required:

Property Coverage. Coverage must be afforded in an amount not less than 100% of the replacement value of the property with a deductible of no more than $25,000 (other than Flood which coverage and deductible shall be per standard Federal Flood Insurance policy limits and Windstorm which deductible may be as high as 5% of the project cost coverage; each (including the $25,000 deductible minimum) subject to availability at commercially reasonable premium rates and subject to LESSOR's reasonable approval) each claim. Coverage form shall include, but not be limited to:

- All Risk Coverage including Flood and Windstorm with no coinsurance clause.

This policy shall insure the interests of the owner and LESSEE in the property against all risk of physical loss and damage and name each applicable LESSOR (as to its interest in the Premises) as a loss payee.

The LESSEE shall, at the LESSEE's own expense, take all reasonable precautions to protect the Premises from damage or destruction.

Collection of Insurance. In the event of destruction of or damage to over fifty percent (50%) of any of the Property or the buildings, other structures and Improvements covered by insurance and LESSEE's election to rebuild the Property or the buildings, other structures and Improvements pursuant to LESSEE's option provided in this Lease, the funds payable pursuant to such insurance policies shall, except as otherwise agreed to in writing by LESSOR and LESSEE, be payable to, and deposited in, a commercial national bank as trustee, located in Fort Lauderdale, Florida, selected by the CITY, as a trust fund, and the funds shall be used for the purpose of reconstruction or repair, as the case may be, of any of the buildings, other structures or Improvements so damaged or destroyed. Such reconstruction and repair work shall be done in strict conformity with the ordinances and charter of the CITY. Should the cost of reconstruction or repair exceed the amount of funds available from the proceeds of such insurance policy, then in such event, such funds shall be used as far as the same will permit in paying the cost of the reconstruction or repair. If the cost of such reconstruction or repair work shall be less than the proceeds derived from such insurance policies, the surplus shall be payable to LESSEE.

Commercial General Liability. Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $5,000,000 each occurrence and $5,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury

- $5,000,000 each occurrence and $5,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 Additional Insured –

Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the applicable LESSOR, its officials, employees, and volunteers.

Insurance Certificate Requirements.

(a) The LESSEE shall provide the LESSORS with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Lease.

(b) The LESSEE shall provide to each LESSOR a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the LESSEE to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to such LESSOR.

(c) In the event the Lease term or any surviving obligation of the LESSEE following expiration or early termination of each Lease goes beyond the expiration date of the insurance policy, the LESSEE shall provide the LESSOR with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect.

(d) The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

(e) Each LESSOR shall be named as an Additional Insured on the general liability policy.

(f) The title of the Lease, Contract number, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

| | | |
|---|---|---|
| City of Fort Lauderdale | Rahn Bahia Mar L.L.C. | Bahia Mar Community Development |
| | 1175 NE 125th Street | 5385 N. Nob Hill Road |
| Fort Lauderdale, FL 33301 | Suite 102 | Sunrise, Florida 33351 |
| Attn: City Manager | North Miami, FL 33161 | Attn: District Manager |
| | Attn: James D. Tate | |

The LESSEE has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding each LESSOR as an Additional Insured shall be at the LESSEE's expense.

If the LESSEE's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Lease, the LESSEE may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The LESSEE's insurance coverage shall be primary insurance as respects to the City, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the LESSEE that excludes coverage required in this Lease shall be deemed unacceptable and shall be considered breach of contract unless accepted by each LESSOR.

All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Lease is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract unless accepted by each LESSOR. In addition, LESSEE must provide to each LESSOR confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Lease. Each LESSOR reserves the right to review, at any time, coverage forms and limits of LESSEE's insurance policies.

For claims which are (1) fatalities, (2) loss of limb, (3) serious brain or spinal injury, (4) incidents that result in injury of two or more persons, (5) serious bodily burns to 25% or more of the body, and/or (6) claims in excess of $200,000 in damages, the LESSEE shall provide notice to the LESSEE's insurance company or companies and each LESSOR, as soon as practical.

It is LESSEE's responsibility to ensure that any and all of the LESSEE's independent contractors and subcontractors comply with the insurance requirements set forth in Section 11.13 to the extent applicable. Any and all deficiencies are the responsibility of the LESSEE.

Section 20.2 Insurance After Recording Regime Documents. After recording the Regime Documents, the insurance required under this Article 20 shall be provided by the Association with respect to the Common Areas of the Regime. Units within the Regime shall only be required to maintain the insurance required under the Regime Documents, if applicable, but the failure to do so shall not be a default under this Lease.

## ARTICLE 21
## USE OF PROPERTY

Section 21.1 Permitted Use. Except as stated below, LESSEE agrees, and the CITY consents, that the Property shall include buildings which contain mixed use consistent with zoning applicable to the Property, from time to time, including retail, office, hotel room, residential dwelling units (whether or not any of such hotel room or residential dwelling uses are submitted to Regime form of ownership), and other lawful uses under applicable zoning and which are not either a prohibited use under such zoning or a Prohibited Use under this Lease (collectively "**Permitted Use**") provided however the LESSEE agrees that without the consent of the City Manager: (i) any Branded Apartment Units hereinafter developed on the Property will be Branded and any Branded Hotel Units shall be Branded and LESSEE will not modify the uses of the Property in a manner which would result in there being; (i) Branded Apartment Units in excess of _____ (___) Branded Apartment Units; or (ii) Branded Hotel Units in excess of _____ (___) Branded Hotel Units. The Permitted Uses also includes uses such as restaurant(s), cocktail lounge(s), liquor package store, food stores, yacht brokerage offices, convention hall, retail stores, marine stores, marine service station, offices, the Boat Show and other kindred and similar businesses, and also includes all uses for the operation of the Boat Show. Except for the Prohibited Uses as set forth in this Section 21 (unless the CITY consents to LESSEE conducting the Prohibited Uses on the Property, such consent being subject to the CITY'S exclusive and sole discretion, and upon such approval, such uses shall be deemed Permitted Uses), and uses which are prohibited under applicable zoning, it is not the intention of the parties that LESSEE shall be unduly restricted in the use of the Property other than LESSEE is required to conduct legal business or businesses on the Property in conformance with the terms of this Lease (excluding the Prohibited Uses without the consent of the CITY as aforesaid) in keeping with the purpose for which the improvements thereon were constructed.

Section 21.2 No Illegal Activity. LESSEE agrees that it will not knowingly permit the Property or any portion thereof to be used for any illegal purpose.

Section 21.3 Gambling. Without the consent of the CITY, which may be granted or withheld in the CITY's absolute discretion, this Lease is issued to LESSEE with the explicit condition that any type of illegal gambling at the Property is prohibited unless future zoning allows such use.

Section 21.4 Live Adult Entertainment. Without the consent of LESSOR, which may be granted or withheld in LESSOR's absolute discretion, no illegal live adult entertainment establishments (as defined in Section 15-156(a) of the City of Fort Lauderdale Code of Ordinances in effect as of the Commencement Date) shall be allowed at the Property unless future zoning allows such use.

## ARTICLE 22
## ASSIGNMENT AND SUBLEASING

Section 22.1 Assignment. Except as otherwise provided in this Lease, LESSEE shall not assign, convey or transfer (all of the foregoing, an "**Assignment**") its interest in this Lease to any Person, without the express written consent of the CITY, provided Unit Owners may transfer and/or encumber their Units without the consent of the CITY. The CITY shall have thirty (30) days from the date of written request from LESSEE to the CITY requesting the CITY to consent to a proposed Assignment. In the event that the CITY fails to provide such consent or denial within such 30-day period, LESSEE shall deliver written notice to the CITY advising the CITY that the CITY has not responded to LESSEE within the required 30-day period and the CITY shall have an additional ten (10) days thereafter to respond to LESSEE with such approval or disapproval. In the event that the CITY fails to respond after the expiration of the additional 10-day period, the CITY shall be deemed to have approved LESSEE's request. Any Assignment set forth above shall not be valid until LESSOR has consented or is deemed to have consented to such Assignment and there shall have been delivered to the CITY a true copy of the instrument effecting such Assignment, and an original counterpart of an agreement in which each such assignee assumes and agrees to perform all the terms, covenants and conditions of this Lease on LESSEE's part to be performed for matters that arise after the effective date of the Assignment. After the aforesaid instruments have been delivered to the CITY and the CITY has consented (or deemed to have consented) to such Assignment, then from and after the effective date of the Assignment, the assigning party shall be released of all obligations under this Lease for matters arising after the effective date of the Assignment, but shall remain liable to the CITY for all obligations under this Lease for matters that arose or became due prior to the effective date of the Assignment. The factors upon which the CITY shall base its decision on whether to grant consent under this Section 22.1 (to the extent consent is required) will be limited to whether (i) the proposed assignee and/or any of the direct or indirect principals of such proposed assignee (as may be set forth in the certification to the CITY by a certified public accountant) meets standards of creditworthiness and financial resource of at least an aggregate minimum net worth of $10,000,000 upon such proposed assignee acquiring the rights to this Lease which may include the consideration (exclusive of third party financing) being paid by such assignee for such assignment; (ii) the proposed assignee has the reasonable ability to perform the obligations of LESSEE, but as to financial matters, only for reasonably current financial obligations under this Lease, provided none of the monetary obligations under this Lease are delinquent; and (iii) the proposed assignee has prior related business experience for operating property with uses similar to those contemplated in this Lease or as existing at the time of proposed Assignment (or has retained a manager who has such business experience for a length of time of at least five (5) years). Notwithstanding anything in Section 22.1 to the contrary, upon the creation of the Regime, the transfer provisions of this Lease shall not apply to the transfer or sublet of any Unit.

Notwithstanding anything contained herein to the contrary, simultaneous with or after the recording of the Regime Documents and creation of the Regime, LESSEE (i.e., Original Branded Residential Unit Owner) may assign this Lease to the Association without the CITY's consent, provided simultaneous therewith, the Association assumes the obligations of LESSEE set forth in this Lease ("**Association Assignment**") and thereafter, a copy of such Association Assignment shall be delivered to the CITY, whereupon the assigning party

shall be released of all obligations under this Lease for matters arising after the effective date of the Assignment, but shall remain liable to the CITY for all obligations under this Lease for matters that arose or became due prior to the effective date of the Assignment, except the Original Branded Residential Unit Owner shall remain liable to the CITY and to the Association for the payment of the Sales Consideration Fee payable pursuant to this Lease for transactions that occur after the effective date of the Assignment as to Branded Residential Units which are owned and sold by such Original Branded Residential Unit Owner.

The Parties recognize that LESSEE is a limited liability company as of the Commencement Date and the CITY agrees that any restructuring or change of the direct or indirect membership interests pursuant to the operating agreement of the members of LESSEE shall not be considered an Assignment and, therefore, shall not be a matter requiring the approval of the CITY or the City Manager.

The foregoing restrictions on Assignment shall not apply to any assignment as collateral of (i) a leasehold, subleasehold, or sub-subleasehold interest pursuant to the granting of a mortgage held by a Leasehold Mortgagee, Subleasehold Mortgagee or Sub-Subleasehold Mortgagee as permitted hereunder on any such interest or the foreclosure of a mortgage encumbering said interest or assignment in lieu thereof, which Assignment shall not require the consent of the CITY; and (ii) the pledge and/or transfer of the interests in LESSEE or its members, shareholders or partners to the lender providing financing with respect to the Improvements.

Additionally, except for Permitted Transfers, the CITY shall have the right to review and approve any assignment of this Lease and LESSOR shall be entitled to be reimbursed for the bona fide third-party costs of the CITY in connection with a review of each such applicable request for assignment in an amount which shall be not less than One Thousand Five Hundred Dollars ($1,500) nor more than Twenty Thousand Dollars ($20,000) in connection with each such assignment request.

Any Assignment or transfer authorized in this Section 22, including, but not limited to, transfers to the Association and transfers of Units or interests in LESSEE shall be deemed a "**Permitted Transfer**."

Section 22.2 Subletting. LESSEE may sublet portions of the Property and/or the Improvements, or grant licenses or concessions thereupon without the written consent of LESSOR; provided however, that subleases to Affiliates of LESSEE, subject to same complying with subsection (c) of the definition of Gross Revenue (and food and beverage lease/concession agreement/management agreements with Affiliates of LESSEE) will require the review and reasonable approval of the CITY as to whether rent is Fair Market Value Rent, and that (i) in connection with the sale of a Branded Residential Unit, the CITY will execute and deliver to the Branded Residential Unit Owner a Partial Release in exchange for the payment of the Sales Consideration Fee for such Branded Residential Unit, and (ii) when a Sublessee requests the LESSOR to provide a Non-Disturbance Agreement in connection with such Sublease (provided such Sublease is in compliance with Section 22.3), and the CITY has received the consent of the applicable Commercial Unit Owner (to the extent required by such Sublease), then the CITY shall

have the right to approve such Sublessee and the Sublease in connection with giving such Non-Disturbance Agreement, which approval shall be given in LESSOR's discretion acting reasonably or disapproved specifying in reasonable detail the basis for such disapproval within thirty (30) days of request for such approval. The CITY shall have no right or duty to review or approve sublessees of Apartment Units or tenants of Branded Residential Units. In determining whether to approve or not approve a proposed Sublessee and Sublease pursuant to the preceding sentence, the CITY may consider the specific business experience of the Sublessee (or its managers, if applicable, who, if relying on the business experience of the manager versus the Sublessee, then such management agreement with such manager must have a minimum term of one year), the ability of such Sublessee to carry out the purpose or activity of the Sublease, and as to financial obligations, the ability to perform only the reasonably current financial obligations under the Sublease, the reputation of the Sublessee, the rent payable pursuant to the Sublease, the Sublease complies with the requirements of a Sublease in Section 22.3 and other reasonable factors. Any (i) sublease, sub-license or sub-concession, is throughout this Lease referred to as a "**Sublease**" (ii) sub-sublease, sub-sub-license or sub-sub-concession is throughout this Lease referred to as a "**Sub-Sublease**"; (ii) Sublessee leasing pursuant to a Sublease is referred to as a "**Sublessee**", and (iv) any Sub-Sublessee leasing pursuant to a Sub-Sublease is referred to as "**Sub-Sublessee**". Each such Sublease or Sub-Sublease shall contain a self-operative provision that it is subject and subordinate to this Lease and any amendments, modifications and extensions thereof, including, but not limited to, all use restrictions and shall be subject to the terms of any non-disturbance agreement between LESSOR and such Sublessee or Sub-Sublessee (as applicable).

No Sublease or Sub-Sublease shall relieve LESSEE from liability for any of its obligations hereunder, and in the event of any such Sublease or Sub-Sublease, LESSEE shall continue to remain primarily liable for all financial obligations pursuant to this Lease and for the performance and observance of the other agreements on its part herein contained; provided, however, that from and after the creation of the Regime, the Association shall only be responsible for imposing assessments against the applicable Branded Residential Units and/or Commercial Units and maintaining the Common Areas of the Regime. The Branded Residential Unit Owners and Commercial Unit Owners shall only be obligated to timely pay their respective Annual Rent for their Unit to the Association and to perform obligations with respect to their Unit in accordance with the provisions of the Regime Documents, the failure to do so shall be enforceable by the Association pursuant to the Regime Documents, and by LESSOR as may be provided therein pursuant to the provisions of this Lease with respect to collection of Annual Rent owed by such Unit Owner which relate thereto, but shall not be a default under this Lease.

Notwithstanding anything contained herein to the contrary, Branded Residential Units may be conveyed or sublet by LESSEE or Unit Owner without the consent of LESSOR; provided, however, that (i) in connection with the initial conveyance of title of any Branded Residential Unit by Original Branded Residential Unit Owner to a third party, the Original Branded Residential Unit Owner shall be required to pay to the CITY the Sales Consideration Fee in connection with the transfer of such Conveyed Branded Residential Unit.

Notwithstanding anything contained herein to the contrary, the transfer (including Sublease(s)) or encumbrance of Branded Residential Units or Commercial Units may

be made without the LESSOR's consent and such transfers or encumbrance shall not be subject to restriction pursuant to this Section 22, but shall always be subject and subordinate to this Lease.

Section 22.3 Recognition of Sublease. As to any Sublease on any portion of the Property owned fee simple by the CITY, upon LESSEE's written request (or Sublessee's written request if provided with the written consent of LESSEE), the CITY (if required), within thirty (30) days of the request, will execute and deliver, substantially in the form attached hereto as **Exhibit D-1**, and suitable for recording, a separate Non-Disturbance Agreement with each Sublessee named in such request, which Sublease (i) provides for an annual rental equal to or in excess of at least one hundred percent (100%) of the Fair Market Value Rent; (ii) such Sublease is in the form substantially consistent with **Exhibit J-1** attached hereto and made a part hereof or such other form as may be requested by LESSEE and reasonably acceptable to the CITY; and (iii) has a term not in excess of the remainder of the Term of this Lease, which Non-Disturbance Agreement will provide that the CITY will not terminate such Sublease or the leasehold estate created thereunder nor disturb such Sublessee's possession and rights thereunder upon any termination of this Lease prior to the expiration of the Term. Upon any termination of this Lease, then as to each such Sublease, the CITY shall thereafter recognize the Sublease as a direct lease between the CITY and Sublessee as to the Sublease unless such Sublease provides for such termination or such Sublessee shall then be in default under its Sublease and the time to cure such default available to said Sublessee and any Subleasehold Mortgagee of said Sublessee (who has a Non-Disturbance Agreement) shall have expired; provided that in such Non-Disturbance Agreement the Sublessee (and the Sub-Leasehold Mortgagee to the extent it becomes the Sublessee) shall agree, except as provided in such Sublease, to attorn to the CITY and its successors and assigns, in case of any termination of this Lease, and, if applicable, the termination of the Sublease. The Sublessee under any Sublease which does not meet the foregoing criteria may also request a Non-Disturbance Agreement, provided that said Sublessee submits the written consent of LESSEE (if required) and receives the written approval of the CITY. Also upon any termination of this Lease (other than as a termination pursuant to Section 4.4), the recognition of the Sublessee (and the Sub-Leasehold Mortgagee to the extent it becomes the Sublessee) in its Sublease as a direct lease between LESSOR and such Sublessee (or the Sub-Leasehold Mortgagee, as applicable, to the extent it becomes the Sublessee) shall, at the sole exclusive option of the CITY, either remain as a direct lease between LESSOR and such Sublessee or, at the option of the CITY (which may be exercised at any time thereafter), the CITY may enter into a new lease for the Subleased Premises and/or other premises as a primary lease between the CITY and a third party ("**Third Party Sublessor**") and the CITY will assign its interest in the Sublease to the Third Party Sublessor, whereupon the Sublease shall again be deemed to be a Sublease between Sublessee and the Third Party Sublessor of the primary lease between the CITY and such Third Party Sublessor and a new Non-Disturbance Agreement shall be executed by the CITY, Third Party Sublessor and Sublessee. In the event that a Sublease is submitted to the CITY for which LESSEE and/or the Sublessee is requesting a Non-Disturbance Agreement, then prior to the CITY being required to execute such Non-Disturbance Agreement, LESSEE shall provide a certification to the CITY certifying that the provisions of Section 22.3(i) through (iii), inclusive, have been satisfied.

Notwithstanding anything contained herein to the contrary (i) the provisions of Section 22.3 shall not apply to the transfer or encumbrance of any Branded Residential Unit or Commercial Unit, (ii) a Branded Residential Unit may be transferred or

encumbered without consent or approval of the CITY and without any other restriction, other than (x) in connection with the initial transfer of title to a Branded Residential Unit that is not a Conveyed Branded Residential Unit from Original Branded Residential Unit Owner to a third party, the Original Branded Residential Unit Owner shall pay the CITY the Sales Consideration Fee for such Conveyed Branded Residential Unit; whereupon the CITY shall execute and deliver a Partial Release for such Conveyed Branded Residential Unit, and (iii) a Unit Owner's right to its Unit during the Term shall not be disturbed by any LESSOR, other than with the CITY's enforcement of its collateral lien right against such Unit as provided in Section 17.5 and subject to all applicable provisions of this Lease.

Section 22.4 Recognition of Sub-Sublease. As to any Sub-Sublease on any portion of the Property owned in fee simple by the CITY, at Sublessee's or Sub-Sublessee's written request (provided LESSEE's written consent has been provided) and provided the Sublessee has consented (to the extent required by such Sublease and the request is made by the Sub-Sublessee), the CITY, within 30 days after receiving the request, will execute and deliver, substantially in form attached hereto as **Exhibit D-2** and suitable for recording, a separate Non-Disturbance Agreement with each Sub-Sublessee named in such request whose Sub-Sublease (i) provides for an annual rent equal to or in excess of at least one hundred percent (100%) of the Fair Market Value Rent for that Sub-Sublease; (ii) such Sub-Sublease is in a form request by Sub-Sublessee consistent with **Exhibit J-2** or such other form reasonably acceptable to the CITY and LESSEE; and (iii) has a term not in excess of the remainder of the Term of this Lease, which Non-Disturbance Agreement will provide that the CITY will not terminate such Sub-Sublease or the leasehold estate created thereunder nor disturb such Sub-Sublessee's (and its Sub-Subleasehold Mortgagee who has a Non-Disturbance Agreement) possession and rights thereunder upon any termination of this Lease and upon any such termination as to a Sub-Sublessee (and its Sub-Subleasehold Mortgagee who has a Non-Disturbance Agreement) when both the Sublessee and LESSEE are in default beyond all applicable Cure Periods, and the CITY shall thereafter recognize the Sub-Sublease as a direct lease between the CITY and the Sub-Sublessee as to the Sub-Sublease unless such Sub-Sublease provides for such termination or such Sub-Sublessee shall then be in default under its Sub-Sublease and the time to cure such default available to such Sub-Sublessee and the Cure Period provided any Sub-Subleasehold Mortgagee of said Sub-Sublease shall have expired or any Sub-Subleasehold Mortgagee of such Sub-Sublease with whom the CITY has signed a Non-Disturbance Agreement has expired; provided that in such Non-Disturbance Agreement the Sub-Sublessee and Sub-Subleasehold Mortgagee who has a Non-Disturbance Agreement shall agree, except as provided in such Sub-Sublease to attorn to the CITY and its successors and assigns in case of any termination of this Lease and any applicable Sublease. The Sub-Sublessee under any Sub-Sublease which does not meet the foregoing criteria in Section 22.4(i)-(iii) above may also receive a Non-Disturbance Agreement, provided that LESSEE, Sublessee, Sub-Sublessee and the CITY have consented to same. Also upon any termination of this Lease and the Sublease (other than a termination of the Lease pursuant to Section 4.4), the recognition of the Sub-Sublessee in its Sub-Sublease as a direct lease between the CITY and such Sub-Sublessee (or the Sub-Subleasehold Mortgagee, as applicable, to the extent it becomes the Sub-Sublessee), shall remain as a direct lease between the CITY and such Sub-Sublessee (on the same terms as the Sub-Sublease) or, at the option of the CITY (which may be exercised at any time thereafter) the CITY may enter into a new lease for the Sub-Subleased Premises as a primary lease between the CITY and a third party ("**Third Party Sub-Sublessor**") and the CITY will assign its interest in the Sub-

Sublease to the Third Party Sub-Sublessor, whereupon the Sub-Sublease shall again be deemed to be a Sub-Sublease between the Sub-Sublessee and Third Party Sub-Sublessor and such Third Party Sub-Sublessor shall execute a Sub-Sublease on the same terms as the existing Sub-Sublease, whereupon the Sub-Sublease between Third Party Sub-Sublessor and the Sub-Sublessee shall be deemed a Sub-Sublease and a new Non-Disturbance Agreements shall be executed by the CITY, Third Party Sub-Sublessor (if applicable) and Sub-Sublessee. Notwithstanding the provisions of the immediately preceding sentence, in the event that the Sublease was terminated (unless the Lease is terminated pursuant to Section 4.4) and the CITY determines that it would like the Sub-Sublease to be a Sublease rather than a Sub-Sublease as provided in the immediately preceding sentence, then the immediately preceding sentence shall be deemed amended to provide that the Third Party Sub-Sublessor will enter into a Sublease with the Sub-Sublessee, whereupon such Sublease will be on the same terms and provisions as the Sub-Sublease and there will be no requirement for the Third Party Sub-Sublessor to enter into a lease with a Third Party Sub-Sublessor and such Third Party Sublessor to enter into a Sub-Sublease with the Sub-Sublessee and the CITY, Third Party Sublessor and Sub-Sublessee will execute a new Non-Disturbance Agreement reflecting the foregoing. In the event that a Sub-Sublease is submitted to the CITY for which LESSEE, Sublessee and/or the Sub-Sublessee is requesting a Non-Disturbance Agreement, then prior to the CITY being required to execute such Non-Disturbance Agreement, LESSEE shall provide a certification to the CITY certifying that the provisions of Section 22.4(i) through (iii) have been satisfied.

Section 22.5 Provisions Applicable to Non-Disturbance Agreements for Subleases and Sub-Subleases. Whenever the CITY's consent is required, the LESSOR shall either consent or specify the basis for the CITY's disapproval within thirty (30) days of request for such approval or such consent shall be deemed given. All reasonable costs and expenses incurred by the CITY to review and approve or decline a request for a Non-Disturbance Agreement in connection with a Sublease and/or Sub-Sublease as requested by LESSEE shall be paid by the requesting Sublessee or Sub-Sublessee to the LESSOR prior to delivery of the requested Non-Disturbance Agreement, provided that the costs of such reimbursement shall not exceed $1,500.

## ARTICLE 23
## SUBORDINATION

No LESSOR shall ever be obligated to encumber, pledge or subordinate its fee simple title interest in the Property to the lien, encumbrance or interest in LESSEE or any party claiming by or through or under LESSEE, other than with respect to the provisions of the Master Declaration which may be an encumbrance of LESSOR's fee simple title in the Property subject to terms and conditions thereof.

## ARTICLE 24
## ALTERATIONS AND ADDITIONS

LESSEE shall be permitted to renovate, develop and construct Improvements on the Property during the Term of this Lease in conformance with this Lease, the Site Plan, applicable zoning requirements and other governmental requirements. The LESSEE agrees to make no other material alterations, changes or additions to the Property, without first obtaining the written

consent of the City Manager. The CITY agrees that it will approve or deny such material changes, material alterations, or material additions in its reasonable discretion, in the same manner as set forth in Sections 11.2 and 11.3 hereof.

Notwithstanding anything contained in this Lease to the contrary, Unit Owners may make improvements and alterations to their Units in accordance with the provisions of the Regime Documents without the consent of any LESSOR (as landlord) or City Manager, provided same is performed in accordance with applicable governmental requirements.

## ARTICLE 25
## TITLE TO PROPERTY

Each LESSOR hereby covenants and agrees that provided the LESSEE complies with the material terms of this Lease and is not in material default of any of its obligations hereunder beyond any applicable Cure Period, that the LESSEE shall quietly and peaceably hold, possess and enjoy the Property for the full term of this Lease without any let, hindrance or molestation from such LESSOR, or any persons claiming by, through or under it, and each LESSOR hereby covenants and agrees that, as of the Commencement Date, such LESSOR is seized of the its portion of the Property in fee simple free and clear of all exceptions and encumbrances except for the Permitted Exceptions. Each LESSOR represents that it will not take action after the Commencement Date of this Lease that would change the status of the LESSOR's title as of the Commencement Date without the LESSEE's written consent in its sole discretion. Rahn may transfer its interest in any portion of the Property without consent of the CITY and/or the CDD. After the Commencement Date, any asserted possessory rights of Sublessees or operators under the Original Lease, the Boat Show Lease, or disputes concerning LESSEE's decisions with respect to whether to continue same under this Lease, shall be LESSEE's exclusive responsibility as provided in Section 5.1. Each LESSOR will defend its title to its portion of the Property and occupancy of same by LESSEE during the term of this Lease against all claims arising by, through, or under such LESSOR and which fall within the covenants of this Article 26, and will, at its own cost, perfect or defend any and all legal proceedings or suits which may be instituted by any Person or Persons whomsoever, directly or indirectly falling within the covenants of this Article 26, except for the Permitted Exceptions.

## ARTICLE 26
## RENT, SALES CONSIDERATION FEE, AND TRANSFER FEE

Section 26.1 Rent. LESSEE shall pay to the CITY the Rent (to the extent due); however, (i) the Sales Consideration Fee shall be paid within five (5) business days after the closing of the initial conveyance of title of each Branded Residential Unit which is not a Conveyed Branded Residential Unit to a third party purchaser, and (ii) the Residential Annual Rent for each Branded Residential Unit shall be payable by the Branded Residential Unit Owner (other than the Original Branded Unit Owner) to the Association and Commercial Annual Rent for each Commercial Unit shall be payable by each Commercial Unit Owner to the Association, and promptly upon the Association's receipt of such Annual Rent, the Association shall pay the Annual Rent received by the Association to the CITY on the applicable Annual Payment Date (prorated for any portion of a calendar year applicable to the Annual Payment Date), and promptly after the

Association's later receipt of Annual Rent owed by a Unit Owner, it shall promptly remit same to the CITY. Transfer and/or assignment of this Lease to the Association shall not relieve the Original Branded Residential Unit Owner of its obligation to pay the Sales Consideration Fee.

Section 26.2 Commercial Annual Rent Computation. Within one-hundred twenty (120) days after the end of each calendar year, LESSEE (until the creation of the Regime) and the Commercial Unit Owner (after the creation of the Regime) shall pay to the CITY (prior to the creation of the Regime) and each Commercial Unit Owner shall pay to the Association (after the creation of the Regime) as collection agent, to remit to the CITY, a sum equal to the Commercial Annual Rent from each Commercial Unit Owner for its Commercial Unit for the preceding calendar year. Additionally, the LESSEE (prior to the creation of the Regime) and each Commercial Unit Owner shall further deliver to the CITY (prior to the creation of the Regime) and to the Association (after the creation of the Regime) for delivery to the CITY at said time a detailed statement duly signed by a CPA Firm selected by LESSEE (prior to creation of the Regime) and each such Commercial Unit Owner (after creation of such Regime) certified to the CITY and the Association (after creation of the Regime) setting forth an itemization of all Gross Revenue for the preceding calendar year, which statement shall further show and indicate the Gross Revenue, if any, for each of the classifications set forth in the definition of Gross Revenue. Such detailed statement shall be similar in format with the detailed statements provided by the Master Lessee in the lease year under the Master Lease prior to the Commencement Date of this Lease.

Section 26.3 Records. LESSEE (until the creation of the Regime) and the Owner of a Commercial Unit (after the creation of the Regime) shall keep and maintain accurate records and complete books and records of account indicating all of LESSEE's (until the creation of the Regime) and the Commercial Unit Owner's (after the creation of the Regime) Gross Revenue. Said records and statements of Gross Revenue shall be kept and maintained by LESSEE (until the creation of the Regime) and the Commercial Unit Owner (after the creation of the Regime) in accordance with generally accepted accounting principles and shall be available to be examined by the CITY or its agents, employees or representatives, and said records shall be kept and maintained, or a true and accurate copy thereof shall be kept and maintained in Miami-Dade County or Broward County for a period of at least five (5) years. In the event that LESSEE (until the creation of the Regime) and the Commercial Unit Owner (after the creation of the Regime) has intentionally, willfully and with the intent to defraud made any reports to the CITY showing less Gross Revenue than actually received, such conduct and action on the part of LESSEE (until the creation of the Regime) and the Commercial Unit Owner (after the creation of the Regime) shall constitute a material breach of the covenants of this Lease by LESSEE (until the creation of the Regime) and the Commercial Unit Owner (after the creation of the Regime), subject to the cure provisions set forth in Section 17 of this Lease. In the event that litigation has been timely instituted, the applicable records shall be maintained until all legal proceedings have been resolved.

Section 26.4 Licenses, Fees and Taxes. LESSEE shall pay, on or before their respective due dates, to the appropriate collecting authority, all federal, state, county, and local taxes, assessments and fees, which are now or may hereafter be levied upon the Property or the estate hereby granted, or upon LESSEE, or upon any of LESSEE's property used in connection therewith, or upon any rentals or other sums payable hereunder, including, but not limited to any applicable ad valorem, sales or excise taxes, and shall maintain in current status all federal, state,

county and local licenses and permits, now or hereafter required for the operation of the business conducted by LESSEE. To the extent permitted by law, LESSEE shall be permitted to pay any assessments in annual installments and to the extent such assessments may be payable in installments then LESSEE shall only be required to pay those installments which shall become due and payable during the Term. LESSEE shall have the right, at its sole expense, to contest the amount or validity, in whole or in part, of any taxes, assessments or fees by appropriate proceedings and by complying with all applicable requirements of the appropriate taxing authority. No LESSOR shall be required by LESSEE to join in any contest or proceedings unless the provisions of any law or regulations then in effect require that the proceedings be brought by or in the name of such LESSOR, in which case such LESSOR shall reasonably cooperate with LESSEE in such protest; provided, however, LESSEE shall pay all reasonable costs or expenses (including reasonable attorneys' fees and costs) incurred by such LESSOR in conjunction therewith. As a condition to any such contest, LESSEE shall be required to institute appropriate proceedings on a timely basis and to have set aside the amount of money as required by applicable law for the payment of any contested taxes, assessments and fees including amounts necessary for the payment of interest and penalties, if applicable.

Notwithstanding the foregoing, LESSEE shall be responsible for the payment of taxes and assessments for the Property prorated through the Initial Rent Payment Date and after the creation of the Regime, the Unit Owners shall be responsible for paying taxes and assessments on its Unit(s) and neither LESSEE nor any LESSOR shall be responsible for the payment of such taxes and assessments nor for such Unit Owner's failure to pay same, and the failure of such Unit Owner to pay same shall not be a default under this Lease.

Section 26.5 Proration. Taxes, assessments and other expenses in connection with the Property shall be prorated as of the first and last day of the Term (or such earlier date as provided in this Lease) with LESSEE being responsible for its obligations for taxes, assessments and other expenses for the portion of the Property owned by LESSEE pursuant to this Lease for the period between the Commencement Date and the expiration of the Term. To the extent that there are real estate and/or personal property ad valorem taxes (or payment in lieu of real estate taxes, special or non-ad valorem assessments or a municipal service charge) of general applicability imposed upon the Property or the estate hereby granted, or upon LESSEE, or upon any of LESSEE's property used in connection therewith during the Term, then LESSEE shall be obligated to pay any and all such taxes (or payment in lieu of taxes, special or non-ad valorem assessments and municipal service charge) of general applicability imposed during the Term prior to same becoming delinquent.

Section 26.6 Utilities. During the Term, LESSEE shall pay when due, all water, stormwater, utility and other expenses and fees which are now or hereafter charged or assessed with respect to the Property, but is not responsible for expenses of any LESSOR for utilities consumed by such LESSOR pursuant to this Lease or for Sublessee's utilities (provided LESSEE shall require its Sublessees to pay such utilities to the extent LESSEE is not required to pay same pursuant to such Sublease). Subject to the foregoing, all such water, sewer, stormwater, garbage, utility and other public fees or charges shall be paid by LESSEE promptly prior to delinquency. Notwithstanding anything contained herein to the contrary, from and after the creation of the Regime, it shall be (i) the obligation of the Association to pay for the utilities in this Section 26.6

for or assessed against the Common Areas of the Regime (except the Units therein) and LESSEE's interest in the Property (other than the Units) (i.e. where such utilities are not charged, assessed, or imposed by the provider thereof upon the Units, but are properly billed to the Association), and (ii) each Unit Owner shall be obligated to pay for the utilities charged, assessed, or imposed by the provider thereof on its Unit and the failure of the Unit Owner to do so shall not be a default under this Lease.

Section 26.7 Additional Rent. If the CITY is required or elects to pay any sum or sums or incur any obligations or expense by reason of the failure, neglect or refusal of LESSEE to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Lease which breach is not cured by LESSEE within the applicable Cure Period, LESSEE agrees to pay the reasonable sums so paid or the reasonable expense so incurred by the CITY, including all interest, costs, damages and penalties, and reasonable attorneys' fees and costs, and each and every part of the same shall be and become Additional Rent payable within thirty (30) calendar days after written demand therefor (together with reasonable supporting documentation of such sums expended) together with interest thereon at the Default Rate after said thirty (30) day period if not paid within such thirty (30) days period.

Section 26.8 Late Payments - Interest. The CITY shall be entitled to collect interest at the Default Rate from the date any sum is due to the CITY until the date paid on any amounts that are not paid within ten (10) business days of their due date under this Lease. The right of the CITY to require payment of such interest and the obligation of LESSEE to pay same shall be in addition to and not in lieu of the right of the CITY to enforce other provisions herein and to pursue other remedies provided by law.

Section 26.9 Place of Payments. All payments of Rent required to be made by LESSEE (prior to the creation of the Regime Documents) and by the Association (after the creation of the Regime Documents) to the CITY under this Lease shall be made payable to the CITY at Office of City Manager, _____, Fort Lauderdale, Florida 33301, or to such other office or address as may be substituted therefor pursuant to Section 29.1. All Rent (together with all applicable sales tax thereon) shall be payable without demand, offset or deduction, other than as set forth in this Lease.

Section 26.10 Proration. The CITY and LESSEE agree that the Rent payable under the Original Lease shall be prorated with the Rent payable under this Lease as of the Commencement Date.

Section 26.11 Sales Consideration Fee. The Original Branded Residential Unit Owner agrees that the Association has a lien right on each Branded Residential Unit to secure the payment of the Sales Consideration Fee applicable thereto and a lien may be filed if such Sales Consideration Fee is not paid within thirty (30) days after written notice from the City or Community Trust Entity (as applicable) to the Original Branded Residential Unit Owner and the Association. While the Original Branded Residential Unit Owner (and the Association as LESSEE to the extent not paid by the Original Branded Residential Unit Owner) is responsible for payment of the Sales Consideration Fee, it is the intent of the Parties that at each initial closing, the closing agent handling such closing would collect the Sales Consideration Fee payable for such Branded

Residential Unit and remit same to the CITY, together with a copy of an executed closing statement for such Branded Residential Unit, and that in connection with such closing, the Association, LESSOR and Community Trust Entity (as applicable) would provide a partial release (in a form to be prepared by LESSEE or Original Branded Residential Unit Owner and such form reasonably approved by the City Manager) for such Branded Residential Unit indicating that such Sales Consideration Fee for such Branded Residential Unit has been paid ("**Partial Release**"), which Partial Release would be recorded (at the Original Branded Residential Unit Owner's or its grantee's expense) at such closing simultaneous with the closing agent disbursing such Sales Consideration Fee to the CITY and the Community Trust Entity (as applicable). Upon payment of the Sales Consideration Fee for any Branded Residential Unit that is not a Conveyed Branded Residential Unit, such Branded Residential Unit becomes a Conveyed Branded Residential Unit, it shall no longer be obligated to pay the Sales Consideration Fee, and the Association shall not impose any assessment on such Conveyed Branded Residential Unit for the Sales Consideration Fee. If, however, the Sales Consideration Fee for any Branded Residential Unit that is not a Conveyed Branded Residential Unit was not paid when due, thereafter the Original Branded Residential Unit remains obligated to pay the Sales Consideration Fee but with interest at the Default Rate, and the Association shall impose a special assessment on such Branded Residential Unit for such Sales Consideration Fee and interest, collect same, and pay same to the CITY and Community Trust Entity (as applicable). The Sales Consideration Fee is a separate and different obligation than the Residential Annual Rent and the Transfer Fee. The CITY and Community Trust Entity (as applicable) shall be a third-party beneficiary of such lien rights and shall be entitled to enforce same to the extent the Association shall fail to do so.

Section 26.12 Transfer Fee. Each Subsequent Branded Residential Unit Owner agrees that the Association has a lien right on such Conveyed Branded Residential Unit to secure the payment of any Transfer Fee applicable thereto and a lien may be filed if such Transfer Fee is not paid within thirty (30) days after written notice from the City or Community Trust Entity (as applicable) to the Subsequent Branded Residential Unit Owner and the Association. While such Subsequent Branded Residential Unit Owner (and the Association as LESSEE to the extent not paid by the applicable Subsequent Branded Residential Unit Owner) is responsible for payment of the Transfer Fee, it is the intent of the Parties that at each closing of a Subsequent Sale the closing agent handling such closing would collect the Transfer Fee payable for such Conveyed Branded Residential Unit and remit same to the CITY and Community Trust Entity (as applicable), together with a copy of an executed closing statement for such Conveyed Branded Residential Unit, and that in connection with such closing, the Association, LESSOR and Community Trust Entity (as applicable) would provide a partial release (in a form to be prepared by the Subsequent Branded Residential Unit Owner and such form reasonably approved by the City Manager) for such Conveyed Branded Residential Unit indicating that such Transfer Fee for such Conveyed Branded Residential Unit has been paid ("**Partial Release**"), which Partial Release would be recorded (at Subsequent Branded Residential Unit Owner or the grantee's expense) at such closing simultaneous with the closing agent disbursing such Transfer Fee to LESSOR and Community Trust Entity (as applicable). If, however, the Transfer Fee for any Conveyed Branded Residential Unit payable at each Subsequent Sale was not paid when due, such Subsequent Branded Residential Unit Owner remains obligated to pay the Transfer Fee but with interest at the Default Rate, and the Association shall impose a special assessment on such Conveyed Branded Residential Unit for such Transfer Fee for and interest for such Subsequent Sale, collect same, and

pay same to the CITY and Community Trust Entity (as applicable). The Transfer Fee is a separate and different obligation than the Residential Annual Rent and the Sales Consideration Fee. The LESSOR and Community Trust Entity (as applicable) shall be a third-party beneficiary of such lien rights and shall be entitled to enforce same to the extent the Association shall fail to do so.

## ARTICLE 27
## BONDS FOR IMPROVEMENTS

The LESSEE shall furnish to the CITY and the CDD, as joint beneficiaries, statutory required payment and performance bonds pursuant to Chapter 713 and Chapter 255, Florida Statutes (from itself, a Sublessee or their respective contractor(s)) for work on publicly owned property written by a Corporate Surety company on the U.S. Department of Treasury current approved list of acceptable sureties on Federal Bonds, as found in the U.S. Department of Treasury Circular No. 570, as same may be updated from time to time, in the full amount of any contract entered into by LESSEE or any Sublessee for any major capital improvement valued in excess of $10,000,000, with said bonds being executed and issued by a resident agent licensed by and having offices in the State of Florida representing such Corporate Surety at the time such capital improvements are to be constructed, conditioned upon full and faithful performance by the LESSEE or any contractor, if applicable, of such contract, and full payment to all laborers and materialmen supplying labor or materials for such improvements. Such bonds shall identify the CITY as additional obligee. If the bonds are provided by the contractor, then to the extent commercially obtainable, the bond shall provide that a default by the LESSEE or Sublessee as the case may be, in the performance of the contractor's contract, shall not be raised as a defense to the CITY as one of the obligee's requiring performance of such construction contract by the surety.

## ARTICLE 28
## NOTICES

Section 28.1 Notices. All notices required by law or by this Lease to be given by one Party to the other shall be in writing, and the same shall only be deemed given if forwarded as follows:

By certified mail, return receipt requested, overnight courier delivery service such as Federal Express or hand delivery to the following addressees:

| | |
|---|---|
| CITY: | City of Fort Lauderdale<br>City Manager<br>_____<br>Fort Lauderdale, Florida 33301 |
| with a copy to: | City Attorney<br>City of Fort Lauderdale<br>_____<br>Fort Lauderdale, Florida 33301 |
| RAHN | Rahn Bahia L.L.C. |

| | |
|---|---|
| | 1175 N.E. 125th Street, Suite 102<br>North Miami, Florida 33166<br>Attn: James D. Tate, President |
| with a copy to: | Greenspoon Marder LLP<br>City of Fort Lauderdale<br>200 East Broward Boulevard, Suite 1800<br>Fort Lauderdale, FL 33301<br>Attn: Barry E. Somerstein, Esq. |
| LESSEE: | _____<br>1175 N.E. 125th Street, Suite 102<br>North Miami, Florida 33161<br>Attn: James D. Tate, President |
| with a copy to: | Greenspoon Marder LLP<br>200 East Broward Boulevard, Suite 1800<br>Fort Lauderdale, FL 33301<br>Attn: Barry E. Somerstein, Esq. |
| CDD: | Bahia Mar Community Development District<br>5385 N. Nob Hill Road<br>Sunrise, Florida 33351<br>Attn: District Manager |
| with a copy to: | Billing Cochran, PA<br>515 E. Las Olas Blvd., Suite 600<br>Fort Lauderdale, FL 33301<br>Attn: District Counsel |

or to such other addressees as the parties may by writing designate to the other party and to such Leasehold Mortgagee as the LESSEE may designate in writing to the CITY.

Section 28.2 Personal Delivery. The notice may also be served by personal delivery (including e-mail with confirmation of receipt) to each LESSOR, as applicable, or LESSEE.

Section 28.3 Notice to Leasehold Mortgagee. The notice to any Leasehold Mortgagee, as provided in Article 16 (entitled *Leasehold Mortgagee)* will only be provided if such Leasehold Mortgagee has provided its contact information to LESSOR.

Section 28.4 Delivery. Notices delivered by personal delivery shall be deemed delivered when received, notices delivered by Certified Mail, returned receipt requested, shall be deemed delivered upon receipt or when receipt is refused, and notices sent by over-night courier delivery service shall be deemed delivered one business day after delivery to such over-night courier service.

## ARTICLE 29
## TAXES AND ASSESSMENTS

From the Commencement Date until the tax year of recording of the Regime Documents, LESSEE will be required to pay all taxes and assessments lawfully imposed or levied against the Property or LESSEE's personalty situated thereon, whether such taxes are levied against the land, improvements located thereon or personalty situated thereon. From and after the recording of the Regime Documents and creation of the Regime: (i) the Unit Owner(s) of each Unit shall be required to pay all taxes and assessments lawfully imposed or levied against such Unit(s), as applicable, and such Unit Owner's personal property situate therein, but the failure of a Unit Owner to pay such tax or assessment shall not be a default under this Lease, and (ii) the LESSEE shall pay all taxes and assessments lawfully and generally imposed on, applicable to, or assessed against the Common Areas of the Regime and any of its obligations set forth in Section 26.4 of this Lease.

Subject to the immediately preceding paragraph, in the event that as a result of legislation or judicial precedent or decree subsequent to the year of the Commencement Date, any tax or assessment lawfully levied or imposed against the Property or personalty situated thereon as aforesaid, ceases to be a lawful levy or in the event the land, improvements, or personalty no longer are subject to such tax or assessment, then for the period of time before a replacement tax or assessment is levied, LESSEE agrees to continue to pay to the CITY until creation of the Regime, a "**Payment In Lieu of Taxes**" in an amount equal to the amount the CITY would have realized from the imposition, levy and payment of such taxes and assessments on the Property, had the continued imposition or levy of such taxes or assessments remained lawful or the such property remained subject to same, but the failure of the Unit Owner (after the creation of the Regime) to pay same shall not result in a default under this Lease.

At the time any such imposition or levy ceases to be lawful or property previously subject to same is no longer subject to same, for purposes of calculation the Payment in Lieu of Taxes, the base assessed value of the object of the tax shall initially be determined in accordance with the assessed value on the tax rolls for the preceding year. Thereafter the assessed value of such object shall be adjusted by the overall change in the City's overall assessment roll, excluding changes due to new construction and annexation. Such Payments In Lieu of Taxes shall be in accordance with the City's net portion of the millage rates adopted by the taxing authorities in each successive year of the Term until taxes and assessments once again become lawful. In the case of non-ad valorem assessments, for the Payment In Lieu of Taxes, each assessment shall be determined as same were determined in the prior year. As to non-ad valorem assessments, thereafter, each assessment shall be adjusted in accordance with how such non-ad valorem assessments may otherwise be adjusted in a manner consistent with adjustments to the non-ad valorem assessment roll in future years for each such assessment in question and subject to any limitation on the amount of ad valorem tax due as generally applicable to such taxes on property not owned by the City which are subject to Payment in Lieu of Taxes. Such calculated contributions for the ad valorem and non-ad valorem assessments for each year shall be summed for such year's Payment In Lieu of Taxes. The Payment in Lieu of Taxes herein shall be payable in the same manner and within the same time frames as ad valorem taxes.

The LESSORS and the LESSEE agree that neither this Lease, nor the provisions of this Lease, shall operate to prevent, bar, or estop the City or CDD in its sovereign or governmental capacity from creating or imposing any generally applicable fees, charges, assessments, special assessments, or taxes, or any other types of generally applicable measures to create municipal or CDD revenue (which are not discriminatorily applied against the LESSEE or the Property) which may become due and payable (i) upon the Property, the Units, or personalty, or (ii) payable by LESSEE, Sublessees, Sub-Sublessees, or their respective visitors and guests, or (iii) payable as a result of activities, or in exchange for municipal or CDD services, or (iv) otherwise payable.

## ARTICLE 30
## PERMITTED EXCEPTIONS

It is understood by and between LESSORS and LESSEE that this Lease is subject to the Permitted Exceptions.

## ARTICLE 31
## ALLOWABLE USES, RESTRICTIONS, AND DISCLOSURES

In connection with the Boat Show, even though portions of the Boat Show may be conducted from portions of the Property, all revenue paid by the operator of the Boat Show for use of any portion of the Premises pursuant to the Boat Show Lease shall be paid to the Master Lessee and included in Gross Revenues pursuant to the Master Lease and not pursuant to this Lease.

LESSEE and all those claiming by, through or under LESSEE and their guests and invitees hereby agree and are put on notice that (subject to the terms of the Boat Show Lease) the Boat Show Tenant has the right of access to and use of the Show Site during the Show Dates during each year during the term of the Boat Show Lease to operate the Boat Show, which shall include, without limitation, the staging, mobilization, restoration, repair, and cleaning activities of the Boat Show during the Show Dates (and thereafter for restoration or repairs, if necessary), including providing access to the Show Site during the Show Dates to their invitees, contractors, agents, employees, etc. (collectively, the "**Boat Show Activities**"). By the acceptance of a license, lease, deed or other conveyance or mortgage, leasehold, license or other interest, and by using any portion of the Property, each such grantee, occupant and user automatically acknowledges, stipulates, and agrees that the Boat Show Activities (during the Show Dates as provided in the Boat Show Lease) and Master Lessee's right to conduct Special Functions and other events and activities including the Boat Show (including providing access to the Property to Master Lessee, its invitees, contractors, agents, employees, etc.) as permitted by applicable law (and not otherwise restricted by restrictive agreements applicable to such portion of the Property) (x) will restrict such Parties' right to use portions of the Shared Facilities during such Special Functions (including, but not limited to, the Boat Show) as determined by Master Lessee (or its assigns), and (y) such uses shall not be deemed nuisances, noxious or offensive activities under any applicable covenants or at law generally. Furthermore, LESSEE and all those claiming by, through, or under the LESSEE including, but not limited to, Unit Owners and their guests, invitees, and occupants are estopped from objecting to and/or restricting such activity (including, but not limited to, hours of operation, noise, congregation of people, and other impact resulting from any allowable and authorized use herein, including the Boat Show to the extent such Boat Show Activities are permitted under the

Boat Show Lease and no Boat Show Event of Default exists). LESSEE acknowledges and agrees that it is taking the Property, subject to the rights of the Boat Show Tenant to operate the Boat Show as provided in the Boat Show Lease to the extent permitted under the Boat Show Lease.

The Regime Documents shall reflect that (i) the Boat Show will be conducted within the Bahia Mar Complex (including portions of the Property), (ii) the operations of the Boat Show will have an impact on the Property, and (iii) a portion of the parking located within the parking spaces made available to Commercial Units and other portions of the Property may be set aside to be utilized in connection with the Boat Show. The disruption caused by the Boat Show includes both the setup period prior to the actual Boat Show, the dates during the Boat Show, and the take-down period after each Boat Show, and the Regime Documents shall reflect that such disruption is consented to by the Association and the Unit Owners and they are estopped from objecting to such use as permitted under the Boat Show Lease.

The provisions of this Article 31 or any other right of the Boat Show Tenant under this Lease shall terminate upon any termination of the Boat Show Lease or any termination of the Boat Show Tenant's rights of possession under the Boat Show Lease.

## ARTICLE 32
## MISCELLANEOUS PROVISIONS

Section 32.1 **Governing Law.** This Lease shall be interpreted and governed by and construed in accordance with the laws of or applicable to the State of Florida. Broward County, Florida is the agreed upon venue.

Section 32.2 **Master Declaration.** MASTER LESSOR and Master Lessee have entered into an Amended and Restated Declaration of Covenants, Restrictions of Bahia Mar Master Association for Bahia Mar Complex recorded on January 30, 2024 in Instrument #119363797 of the Public Records of Broward County, Florida as may be amended from time to time (the "**Master Declaration**") which Master Declaration is a covenant running with the land and a Permitted Exception.

Each LESSOR agrees that it shall timely execute such easements as may be reasonably required by LESSEE. In addition to other easements that will be required, the Parties recognize that various utility companies will require easements to be given to such utility companies in connection with the redevelopment of the Bahia Mar Complex as contemplated under the Site Plan.

Section 32.3 RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the county health department.

Section 32.4 Force Majeure Event. For the purpose of any of the provisions of this Lease, neither LESSORS nor LESSEE, as the case may be, shall be considered in breach of or in default in any of its obligations under this Lease in the event of any Force Majeure Event; it being

the purpose and intent of this provision that in the event of the occurrence of any such Force Majeure Event, the time or times for the performance of the covenants and provisions of LESSEE of this Lease shall be excused and extended for the period of such delay. Except as otherwise set forth in this Lease, this provision shall not apply to payment of Rent, taxes, insurance and other monetary obligations.

Section 32.5 Assignability and Binding Effect. Subject to all provisions respecting the rights of assignment and subleasing, this Lease shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties hereto.

Section 32.6 Amendments. The mutual written agreement of the CITY and LESSEE is required to amend this Lease, which amendment may be made without the consent of the CDD or Master Lessee unless such amendment creates any additional obligation or liability on the CDD and/or Master Lessee whereupon the CDD and/or Master Lessee affected by such additional obligation or liability will need to join in such amendment. Such amendments shall be effective only when signed by the applicable LESSOR and LESSEE, and, unless such amendment may be signed by the City Manager, approved by the City Commission of the City of Fort Lauderdale (as to amendments required to be signed by the City), and shall thereafter be incorporated as a part of this Lease.

Section 32.7 Waiver of Jury Trial. The Parties hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect of any action, proceeding or counterclaim based on this Lease, or arising out of, under or in connection with this Lease or any amendment or modification of this Lease, or any other agreement executed by and between the Parties in connection with this Lease, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party hereto. This waiver of jury trial provision is a material inducement for LESSORS and LESSEE entering into this Lease.

Section 32.8 Severability. If any provision of this Lease, or any paragraph, sentence, clause, phrase, or word, or the application thereof, is held invalid, then, to the extent possible, and provided that none of the substantive rights, obligations or liabilities of any party are altered, the remainder of this Lease shall be construed as if such invalid part were never included herein and this Lease shall be and remain valid and enforceable to the fullest extent permitted by law. If, however, the clause determined to be invalid materially affects the performance of the Parties, or materially impacts the Parties' expectations or positions with respect to this Lease, the Parties will negotiate in good faith and modify this Lease in some fashion so as to, as near as possible, place the Parties in the same position they were in, viz-a-vie, their intent, performance expectations, and economic position.

Section 32.9 Captions; Exhibits. The captions contained in this Lease are inserted only as a matter of convenience and for reference and in no way define, limit or prescribe the scope of this Lease or the intent of any provisions thereof. All exhibits attached to this Lease and referenced herein are incorporated herein as if fully set forth in this Lease.

Section 32.10 Recording. The Memorandum of this Lease shall be recorded in the Public Records of Broward County, Florida, at the expense of LESSEE.

Section 32.11 Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

Section 32.12 Approvals and Consents. Wherever in this Lease the approval or consent of any Party (including the CITY's City Manager or other Authorized Representative) is required, it is understood and agreed that unless specifically stated to the contrary, such approval or consent shall be granted or withheld in the CITY's or City Manager's (as applicable) reasonable discretion, within a reasonable time, and shall not be unreasonably withheld, conditioned or delayed. Except as may be otherwise specifically provided herein, the following actions under this Lease shall be taken or not taken by the City Manager in the discretion of the City Manager acting reasonably:

(i) The exercise of CITY's rights of entry and inspection;

(ii) The exercise of CITY's right or obligation to execute a joinder in applications for land development approvals or other governmental approvals (including permits) which are necessary for LESSEE to obtain from governmental authorities, and where such applications require evidence of the consent of the property owner;

(iii) The exercise of CITY's right to receive and approve or not approve and specify the basis for such disapproval the form of Certificates of Insurance, policies, limits, and coverages of insurance, bonds, and Environmental Assessments;

(iv) The exercise of CITY's right or obligation to approve the Legal Description and Revised Legal Descriptions as contemplated pursuant to the terms of this Lease;

(v) The execution of Estoppel Statements (or any modifications of the terms thereof) to be given by the CITY under this Lease;

(vi) The approval of the Regime Documents;

(vii) The approval, if required, of any Subleases (if such subleased premises is less than 3,000 square feet), Sub-Subleases (if such sub-subleased premises is less than 3,000 square feet), or any material modification of the terms thereof; and

(viii) Other provisions of this Lease where the act, approval or consent of the City Manager is expressly authorized.

Except as may be otherwise specifically provided for in this Lease, including those matters specifically listed above, all other decisions of the CITY not listed above, or as may be identified elsewhere herein as being made by the City Commission, shall be made by the City Commission.

The City Manager or the CITY shall, where the City Manager's or the CITY's approval or consent is to be given on behalf of the CITY, approve, approve with stated conditions, or disapprove (and specify with specificity the basis for such stated conditions or disapproval) within thirty (30) days of the City Manager's or the CITY's receipt of a written request or such consent shall be deemed given. In the event that the CITY or City Manager fail to

provide such consent or denial within such 30-day period, LESSEE shall deliver written notice to the CITY advising the CITY that the CITY or City Manager as applicable has not responded to LESSEE within the required 30-day period and the CITY or City Manager as applicable, shall have an additional ten (10) days thereafter to respond to LESSEE with such approval or disapproval. The CITY's or City Manager's, as applicable, failure to respond after the expiration of the additional 10-day period shall be deemed an approval.

Section 32.13 Exercise of LESSOR or City Manager Acts as Fee Owner. The LESSEE acknowledges that when the CITY or City Manager acts or exercises any rights or obligations under this Lease, including without limitation the specific approval and consent rights of the CITY or City Manager set forth herein, it is doing so in its capacity as the fee owner of its portion of the Property and not in the exercise of its municipal regulatory authority, and that the role of the CITY as a municipality (including its regulatory and sovereign powers) is separate and distinct from the role of the CITY as the fee owner and one of the LESSORS of the Property under this Lease.

Section 32.14 Exculpation. It is the intent and agreement of the Parties hereto that only the Parties as entities shall be responsible in any way for their respective obligations hereunder. In that regard, no officer, director, partner, trustee, representative, investor, official, representative, employee, agent, or attorney of any of the Parties to this Lease shall be personally liable for the performance of any obligation hereunder or for any other claim made hereunder or in any way in connection with this Lease, or any other matters contemplated herein, and any and all such personal liability, either at common law or in equity or by constitution or statute or other applicable law are expressly waived and released as a condition of, and as a consideration for, the execution of this Lease.

Section 32.15 Attorneys' Fees. In the event of any dispute or litigation between the Parties arising under this Lease, the non-prevailing Party shall be responsible for all costs and expenses of the prevailing Party, including reasonable attorneys' fees and court costs, through all trial and appellate levels.

Section 32.16 Construction and Interpretation. Each of the Parties hereto and their counsel have reviewed and revised, or requested revisions to, this Lease, and the usual rule of construction that any ambiguities are to be resolved against the drafting Party shall be inapplicable in the construction and interpretation of this Lease and any amendments or exhibits to this Lease**.**

Section 32.17 Third Party Beneficiaries. Neither LESSEE nor any LESSOR intend to directly or substantially benefit a third-party by this Lease, other than the Unit Owners, Sublessee(s), Sub-Sublessee(s) and Leasehold Mortgagee(s) to the limited extent expressly stated herein or in any Non-Disturbance Agreement executed by any of the LESSORS applicable to the portion of the Property that they hold fee simple title and subject to the conditions stated therein. Therefore, the Parties agree that there are no other third-party beneficiaries to this Lease and that no other third party shall be entitled to assert a claim against either Party based upon this Lease, other than such Sublessee(s), Sub-Sublessee(s) and Leasehold Mortgagee(s) to the limited extent expressly stated herein or in any Non-Disturbance Agreement executed by any of the LESSORS applicable to the portion of the Property that they hold fee simple title and subject to the conditions stated herein.

Section 32.18 Estoppel Statement. The Parties agree that not more than three (3) times a year, upon not less than thirty (30) days prior request by a Party hereto, the other Party will deliver a statement in writing ("**Estoppel Statements**") certifying: (a) whether this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications); (b) the dates to which the Rent and other charges have been paid; (c) to the best of the actual knowledge of the signor, whether any facts are known that either Party is in default and, if none, that no facts are known which would cause a Party to be in default under the provisions of this Lease, or, if in default, the nature thereof in detail; and (d) such other information pertaining to this Lease as either Party may reasonably request.

Additionally, upon the request of any LESSOR or LESSEE to the other, such LESSOR and LESSEE shall execute and deliver to each other a certificate confirming the Commencement Date, the Start Date, the Completion Date, the Term (and any extensions) and the date of Promenade Completion and other operative dates in this Lease.

Section 32.19 Prior Agreements. This Lease incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Lease that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document in accordance with the provisions of this Lease.

Section 32.20 Further Assurances. Each Party will promptly cooperate each with the other and will execute and deliver any and all written further assurances and/or documents that are reasonably necessary, convenient, or desirable to evidence, complete or perfect (or any combination thereof) the transactions contemplated by this Lease, so long as no further assurance or document to be executed operates to impose any new or additional obligation or liability upon any party. The Parties will so perform all other acts that are reasonably necessary, convenient, or desirable for any such purpose, so long as no new or additional obligations or liabilities are incurred as a result thereof.

Section 32.21 LESSEE'S Acceptance of Property. LESSEE acknowledges that the Original Lease and the preceding leases for the Property have resulted in the CITY being out of possession and operation of the Property since the initial date of the Original Lease. As of the date of the Original Lease, except as set forth in this Section 32.21, no LESSOR has made any warranty or representation as to the physical condition of the Property or the current improvements thereon, and the LESSEE is accepting such physical condition as of the Commencement Date "AS" and "WITH ALL FAULTS", other than for changes after such date caused by such LESSOR which is not either approved in writing by the LESSEE in its sole discretion or permitted to be made by such LESSOR pursuant to this Lease. The Parties have agreed that no LESSOR has made warranties or representations as to whether or the extent to which Hazardous Substances may exist on the Property (other than such LESSOR has no actual knowledge of any violation of Hazardous Substances Laws except for those matters set forth in that certain Estoppel Letter dated April 30th,

2014), and the LESSEE has assumed all responsibility for Hazardous Substances which exist on the Property as of the Commencement Date (other than the oil spill previously disclosed in writing to both LESSEE and all LESSORS prior to the Commencement Date).

## ARTICLE 33
## CITY GOVERNMENT

Section 33.1 Notwithstanding anything to the contrary in this Lease, the making of this Lease does not constitute an abrogation of the CITY'S governmental police or land development regulatory powers, and the LESSEE's obligations to comply with applicable law include the LESSEE complying with all development approvals required by the CITY in its capacity as a governmental authority.

Section 33.2 Neither this Lease, nor any of its provisions, shall prevent the City from enacting or seeking to enforce any rule, regulation, Ordinance or Charter provision which may affect the Property, its uses, the Proposed Improvements, or the Improvements, regardless of whether such local law is the result of action by the City Commission, or by initiative (petition) and referendum, or by such other means as may be allowed in the future, provided same is of general application to property in the City and is not discriminatorily applied against the LESSEE or the Property.

Section 33.3 Whenever the City seeks to enforce any existing or future local municipal law, neither the provisions of subsections 33.1 or 33.2 shall waive or affect the LESSEE's ability to (i) contest the validity or application of such acts; (ii) seek whatever constitutional, statutory, or equitable remedies as may be available to the LESSEE; (iii) to assert whatever defenses or avoidances as may be available to the LESSEE; or (iv) seek judicial or administrative review as may be available.

## ARTICLE 34
## PROPERTY EXCLUDED FROM THE MASTER LEASE

The Parties agree that the Property is no longer a portion of the Premises demised under the Master Lease.

[SIGNATURE PAGE TO FOLLOW]

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

**WITNESSES:**

Sign: _____
Print Name: _____
Address: _____
_____

Sign: _____
Print Name: _____
Address: _____
_____

**LESSOR:**

**CITY OF FORT LAUDERDALE**

By: _____
_____, Mayor

By: _____
_____, City Manager

**ATTEST:**

_____
_____, City Clerk
Approved as to form:

_____
_____, City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____, 20__, by _____, **Mayor** of the **CITY OF FORT LAUDERDALE**, a municipal corporation of Florida. He is personally known to me or produced _____ as identification.

(SEAL)

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

_____
Name of Notary Typed,
Printed or Stamped

My Commission Expires: _____
Commission Number: _____

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____, 20__, by _____, **City Manager** of the **CITY OF FORT LAUDERDALE**, a municipal corporation of Florida. He is personally known to me or has produced _____ as identification.

(SEAL)

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

_____
Name of Notary Typed,
Printed or Stamped

My Commission Expires: _____
Commission Number: _____

**WITNESSES:**

Sign: _____
Print Name: _____
Address: _____
_____

Sign: _____
Print Name: _____
Address: _____
_____

**LESSOR:**

**RAHN BAHIA MAR L.L.C.**

By: _____
Name: _____
Title: _____

STATE OF _____ )

COUNTY OF_____ )

The foregoing Phased Lease was acknowledged before me this ____ day of _____, 202__, by _____, the _____of **RAHN BAHIA MAR L.L.C.** He/She is personally known to me or has produced _____ as identification.

Given under my hand this _____ day of _____, 2026.

_____
Notary Public

_____
Printed Name

My Commission Expires: _____
My Commission Number:_____

**WITNESSES:**

Sign: _____
Print Name: _____
Address: _____
_____

Sign: _____
Print Name: _____
Address: _____
_____

**LESSOR:**

**BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**

By: _____
Name: _____
Title: _____

STATE OF _____ )

COUNTY OF_____ )

The foregoing Phased Lease was acknowledged before me this ____ day of _____, 202__, by _____, the _____ of **BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**. He/She is personally known to me or has produced _____ as identification.

Given under my hand this _____ day of _____, 2026.

_____
Notary Public

_____
Printed Name

My Commission Expires: _____
My Commission Number: _____

**WITNESSES:**

Sign: _____
Print Name: _____
Address: _____
_____

Sign: _____
Print Name: _____
Address: _____
_____

**LESSEE:**

_____,
a _____

STATE OF FLORIDA
COUNTY OF BROWARD

I HEREBY CERTIFY that on this day, before me by means of ☐ physical presence or ☐ online notarization this _____, 20__, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said company. He/she is personally known to me or who has produced _____ as identification.

(SEAL)

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

_____
Name of Notary Typed,
Printed or Stamped

My Commission Expires: _____
Commission Number: _____

**Joinder**

The undersigned joins in this Lease to agree that the Property is no longer a portion of the Premises demised under the Master Lease.

**WITNESSES:**

Sign: _____
Print Name: _____
Address: _____
_____

Sign: _____
Print Name: _____
Address: _____
_____

**RAHN BAHIA MAR L.L.C.**

_____

By: _____
Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF BROWARD

I HEREBY CERTIFY that on this day, before me by means of ☐ physical presence or ☐ online notarization this _____, 20__, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, by _____, the _____ of **RAHN BAHIA MAR L.L.C.**, a Delaware limited liability company, freely and voluntarily under authority duly vested in him/her by said company. He/she is personally known to me or who has produced _____ as identification.

(SEAL)

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

_____
Name of Notary Typed,
Printed or Stamped

My Commission Expires: _____
Commission Number:

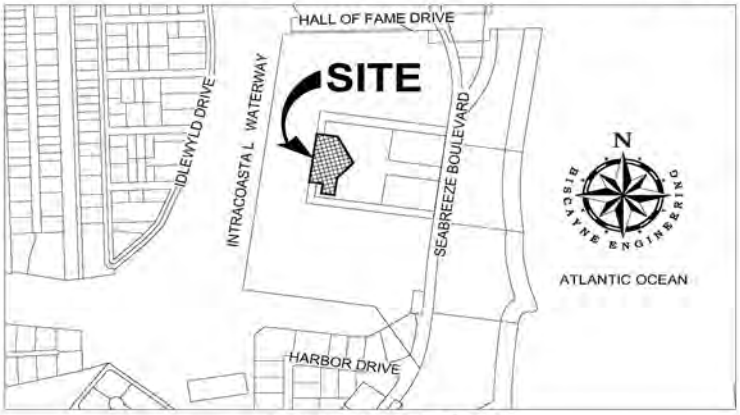
**EXHIBIT A**

**PROPERTY**

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE PARCEL

801 SEABREEZE BOULEVARD, FORT LAUDERDALE, FL 33316
SECTION 12, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA




VICINITY MAP N.T.S.

*SURVEYOR'S CERTIFICATION:*

I HEREBY CERTIFY THAT THE ATTACHED "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND COMPLIES WITH THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING AS SET FORTH BY THE STATE OF FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

BISCAYNE ENGINEERING COMPANY, INC.
529 WEST FLAGLER STREET, MIAMI, FL, 33130
(305) 324-7671
STATE OF FLORIDA DEPARTMENT OF AGRICULTURE
CERTIFICATE OF AUTHORIZATION LB-0000129

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ALBERTO J RABIONET, PSM, FOR THE FIRM
PROFESSIONAL SURVEYOR AND MAPPER NO. 7218
STATE OF FLORIDA

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS • SINCE 1898 • | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 1 OF 5 |
|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

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1. THIS IS NOT A SURVEY.

2. BEARINGS SHOWN HEREON ARE REFERENCED TO THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-152-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014, HAVING A BEARING OF N07°46'00"E.

3. SITE PLAN AND INSTRUCTIONS PROVIDED BY CLIENT.

## SYMBOLS AND ABBREVIATIONS:

B.C.R.= BROWARD COUNTY RECORDS
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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

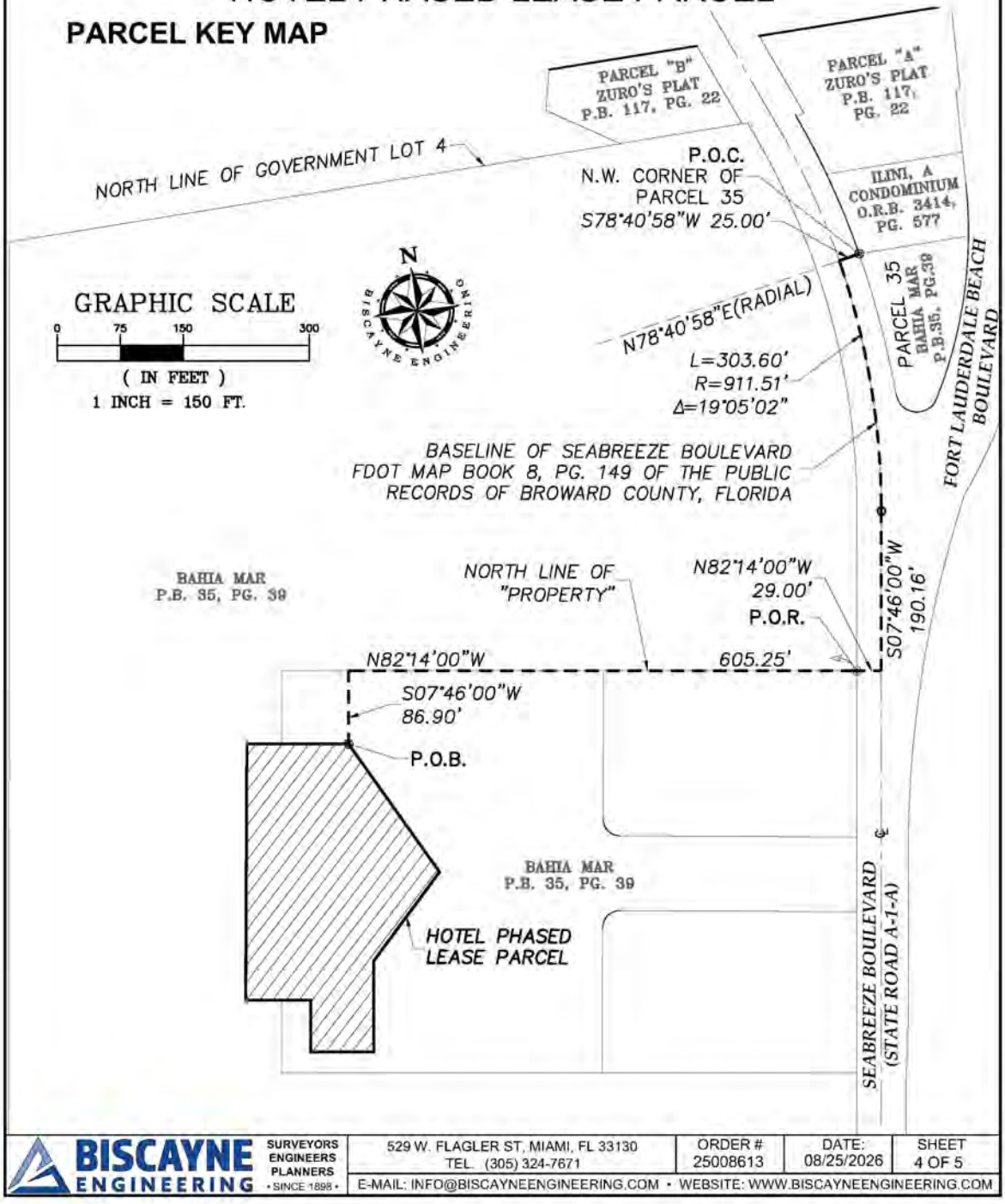
## HOTEL PHASED LEASE LEGAL DESCRIPTION

HOTEL PHASED LEASE PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA; THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 605.25 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 86.90 FEET TO THE POINT OF BEGINNING; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 121.07 FEET; THENCE SOUTH 08°00'23" WEST, A DISTANCE OF 304.77 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 77.35 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 61.67 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 75.00 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 108.18 FEET; THENCE NORTH 44°14'52" EAST, A DISTANCE OF 131.67 FEET; THENCE NORTH 27°37'59" WEST, A DISTANCE OF 186.94 FEET TO THE POINT OF BEGINNING

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE PARCEL

### PARCEL KEY MAP

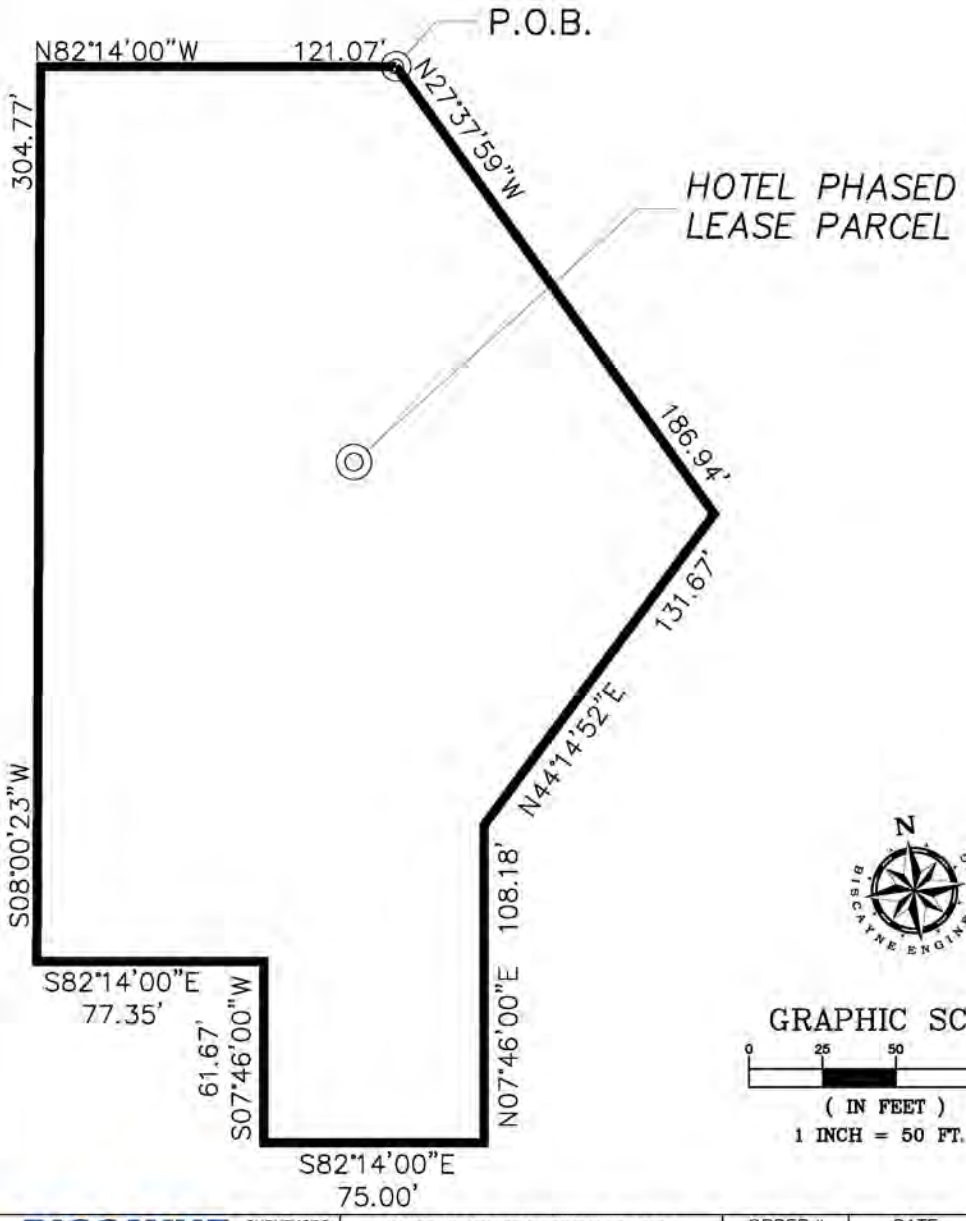



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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE PARCEL

**PARCEL DETAIL**




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# EXHIBIT B

## PREMISES
## BAHIA MAR COMPLEX

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 West right of way line of Seabreeze Boulevard, excepting therefrom Parcel No. 1 and also excepting the North 80 feet of Parcel No. 34.

**EXHIBIT C**

**MEMORANDUM**

**RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:**

Barry E. Somerstein, Esq.
Greenspoon Marder LLP
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, FL 33301

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**AMENDMENT TO MEMORANDUM OF LEASE**

THIS AMENDMENT TO MEMORANDUM OF LEASE ("Amendment"), is made and is effective as of the ____ day of _____, 2026 (by and between RAHN BAHIA MAR, L.L.C. (hereinafter referred to as "**LESSEE**"), and CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida (hereinafter referred to as "**LESSOR**" and Lessee are collectively the "**Parties**" and individually a "**Party**").

WITNESSETH:

WHEREAS, LESSOR and LESSEE have previously entered into the Master Lease dated April 13, 2022 as amended (the "Master Lease") with respect to that certain property located in Broward County, Florida as described on **Exhibit A** attached hereto and made a part hereof ("**Initial Premises**"); and

WHEREAS, LESSOR and LESSEE have executed and recorded a Memorandum of Lease under Instrument #118135051 of the Public Records of Broward County, Florida ("**Memorandum**").

WHEREAS, LESSOR and LESSEE have removed the property described on **Exhibit B** from the Initial Premises, whereby the legal description of the "Premises" demised under the Master Lease is revised to be the property described on **Exhibit C** attached hereto and made a part hereof ("**New Premises**"); and

WHEREAS, the Parties hereto desire to file this Amendment in the Public Records of Broward County, Florida, to provide the record notice of the revision of the Master Lease to change the legal description of the Premises under the Maser Lease from the Initial Premises to the New Premises.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein

and in the Master Lease, LESSOR and LESSEE hereby agree as follows:

**Recitals**. The above Recitals are hereby incorporated herein by reference.

**Amendment of the definition of Premises under the Master Lease**. The LESSOR and LESSEE agree that the Master Lease is amended to change the definition of "Premises" under the Master Lease from the Initial Premises to the New Premises. The Initial Premises is hereby replaced by the New Premises as the Premises under the Master Lease.

**Capitalized Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Master Lease.

**Premises**. The Premises under the Master Lease is hereby the New Premises.

**Incorporation of Master Lease**. The provisions set forth in the Master Lease as amended by this Amendment are hereby incorporated into this Amendment as if set out in full herein.

**Location of Master Lease.** A copy of the Master Lease is held at the offices of the LESSOR and is available based on a public records request under applicable law.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, LESSOR and LESSEE have executed this Memorandum, have affixed their seals hereunto and have delivered same, in duplicate originals, at the above addresses as of the day and year first written above.

LESSEE:

RAHN BAHIA MAR, L.L.C.

_____ By:_____
Print Name:_____ Name:_____
Address:_____ Date:_____
_____

_____
Print Name:_____
Address:_____
_____

STATE OF FLORIDA )
) SS:
COUNTY OF _____ )

I HEREBY CERTIFY that on this day, before me by means of ☐ physical presence or ☐ online notarization, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by _____, the _____ of RAHN BAHIA MAR, L.L.C., a Delaware limited liability company, freely and voluntarily under authority duly vested in him/her by said corporation on behalf of the limited partnership, and that the seal affixed thereto is the true corporate seal of said corporation. He/She is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2026.

_____
Notary Public

_____
Typed, printed or stamped name of Notary Public

My Commission Expires:

LESSOR:

CITY OF FORT LAUDERDALE

_____
Print Name:_____
Address:_____
_____

_____
Print Name:_____
Address:_____
_____

By:_____
Name: Dean J. Trantalis
Title: Mayor

ATTEST:

_____
David R. Soloman, City Clerk

By:_____
Name: Christopher Cooper
Title: City Manager (Acting)

Approved as to form

By:_____
Name: _____
Title: City Attorney

STATE OF FLORIDA )
) SS:
COUNTY OF BROWARD )

I HEREBY CERTIFY that on this day, before me by means of ☐ physical presence or ☐ online notarization, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Dean J. Trantalis, the Mayor of the CITY OF FORT LAUDERDALE, freely and voluntarily under authority duly vested in him/her by said city. He is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2026.

_____
Notary Public

_____
Typed, printed or stamped name of Notary Public

My Commission Expires:

STATE OF FLORIDA )
) SS:
COUNTY OF BROWARD )

I HEREBY CERTIFY that on this day, before me by means of ☐ physical presence or ☐ online notarization, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Christopher Cooper, the City Manager (Acting) of the CITY OF FORT LAUDERDALE, freely and voluntarily under authority duly vested in him/her by said city. He is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2026.

_____
Notary Public

_____
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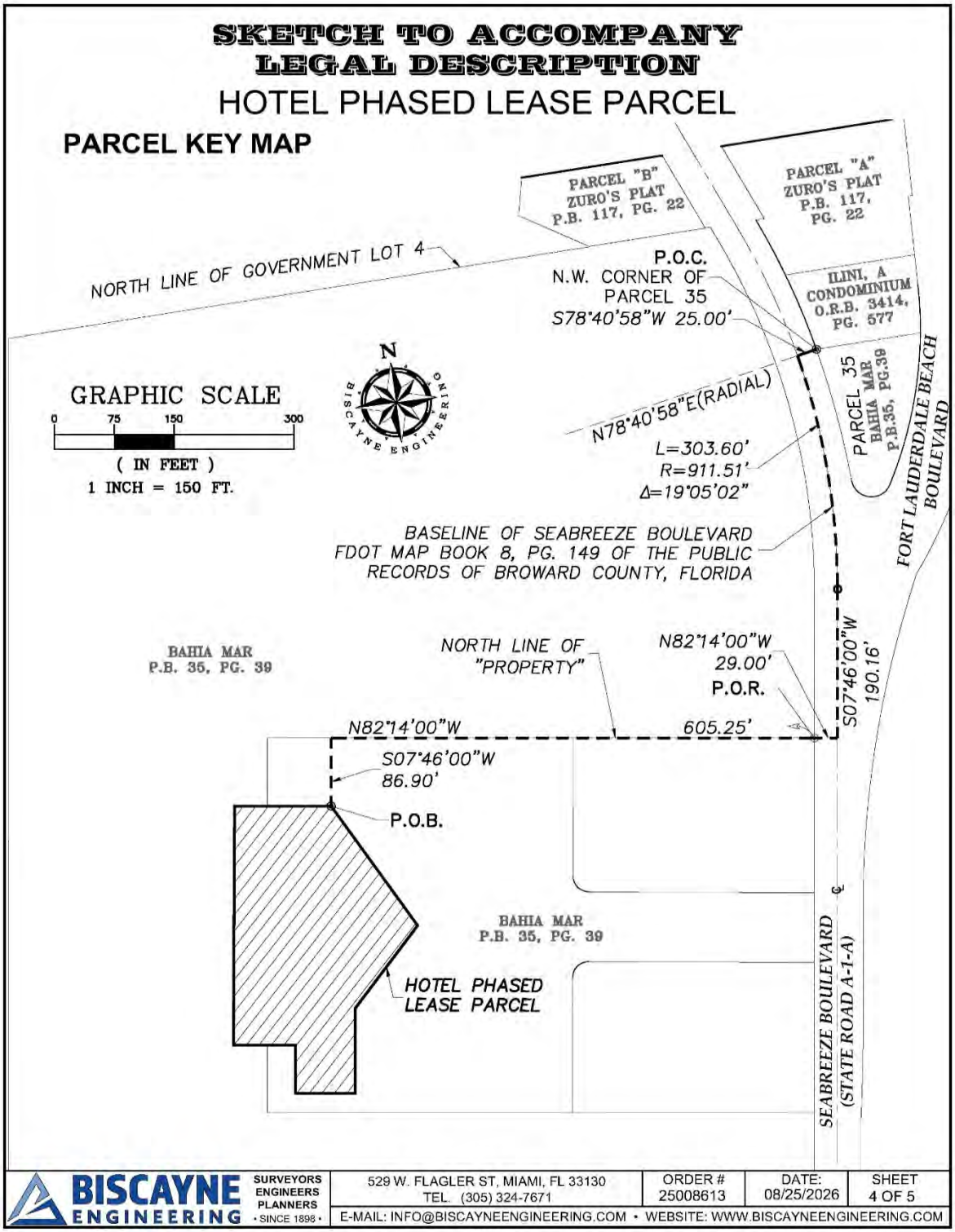
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**EXHIBIT "A" TO AMENDMENT**

LEGAL DESCRIPTION OF INITIAL PREMISES

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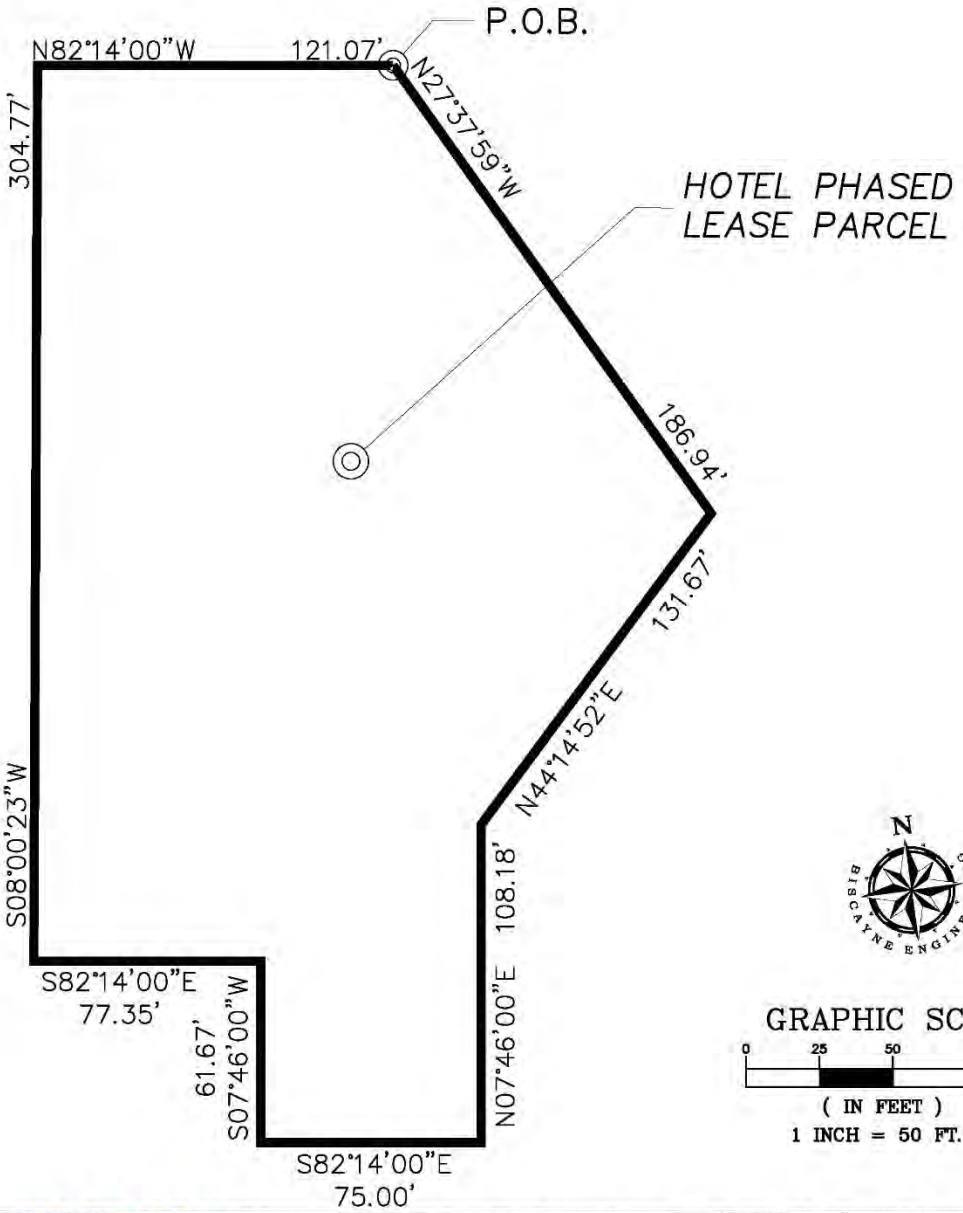
**EXHIBIT "B" TO AMENDMENT**



# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE PARCEL

**PARCEL DETAIL**





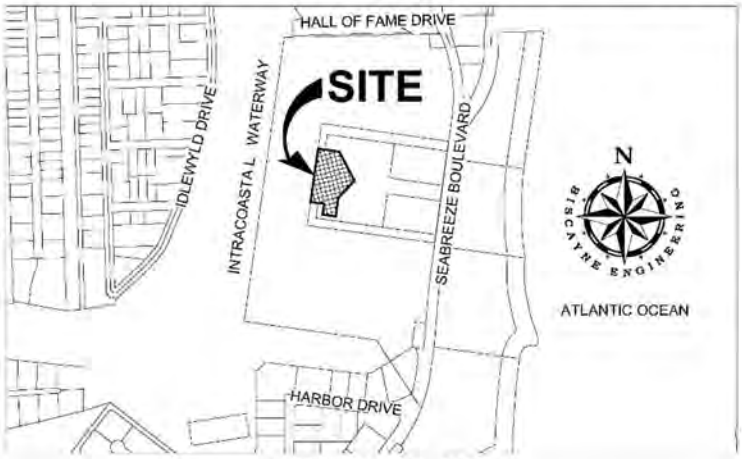
BISCAYNE ENGINEERING
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| ORDER # | DATE: | SHEET |
|---|---|---|
| 25008613 | 08/25/2026 | 5 OF 5 |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE PARCEL

801 SEABREEZE BOULEVARD, FORT LAUDERDALE, FL 33316
SECTION 12, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA




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_____
ALBERTO J. RABIONET, PSM, FOR THE FIRM
PROFESSIONAL SURVEYOR AND MAPPER NO. 7218
STATE OF FLORIDA

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

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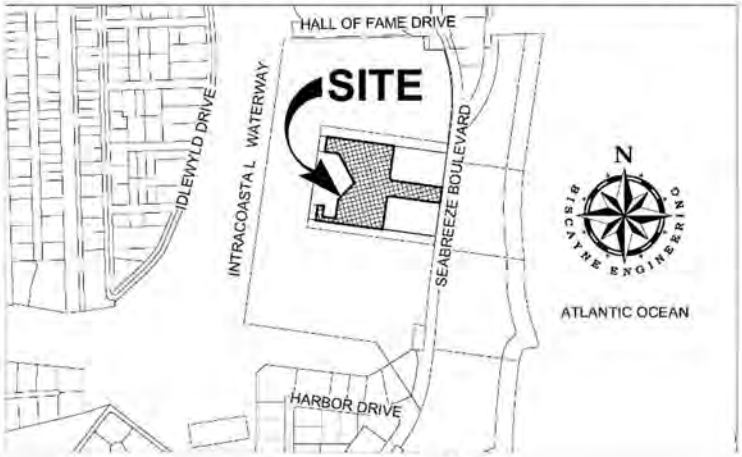
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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

801 SEABREEZE BOULEVARD, FORT LAUDERDALE, FL 33316
SECTION 12, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA




*VICINITY MAP N.T.S.*

***SURVEYOR'S CERTIFICATION:***

I HEREBY CERTIFY THAT THE ATTACHED "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND COMPLIES WITH THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING AS SET FORTH BY THE STATE OF FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.

2. BEARINGS SHOWN HEREON ARE REFERENCED TO THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-152-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014, HAVING A BEARING OF N07°46'00"E.

3. SITE PLAN AND INSTRUCTIONS PROVIDED BY CLIENT.

## SYMBOLS AND ABBREVIATIONS:

B.C.R.= BROWARD COUNTY RECORDS
B.E.C. = BISCAYNE ENGINEERING COMPANY
(C) = CALCULATED
CXX =CURVE NUMBER
FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
FL = FLORIDA
LXX = LINE NUMBER
L.S.F. = LIMITED SHARED FACILITIES
LB = LICENSED BUSINESS
NAVD88 = NORTH AMERICAN VERTICAL DATUM 1988
NO. = NUMBER
O.R.B. = OFFICIAL RECORDS BOOK
(P) = PLAT
PC = POINT OF CURVATURE
PG. = PAGE
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
P.C.C. = POINT OF COMPOUND CURVATURE
PC = POINT OF CURVATURE
P.O.R. = POINT OF REFERENCE
PL = PROPERTY LINE
R/W = RIGHT-OF-WAY
℄ = CENTER LINE
℄ = BASE LINE
℄ = MONUMENT LINE

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE LEGAL DESCRIPTION

RESIDENTIAL PHASED LEASE PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PROPERTY PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 478.34 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 685.25 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 86.67 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 42.35 FEET; THENCE NORTH 08°00'23" EAST, A DISTANCE OF 304.77 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 41.07 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 86.90 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 685.25 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

HOTEL PHASED LEASE PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA; THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 605.25 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 86.90 FEET TO THE POINT OF BEGINNING; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 121.07 FEET; THENCE SOUTH 08°00'23" WEST, A DISTANCE OF 304.77 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 77.35 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 61.67 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 75.00 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 108.18 FEET; THENCE NORTH 44°14'52" EAST, A DISTANCE OF 131.67 FEET; THENCE NORTH 27°37'59" WEST, A DISTANCE OF 186.94 FEET TO THE POINT OF BEGINNING

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE LEGAL DESCRIPTION

FURTHER LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

PHASE 2 PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS UPPER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 197.44 FEET; THENCE NORTH 82°00'22" WEST, A DISTANCE OF 253.12 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 196.44 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 253.12 FEET TO THE POINT OF BEGINNING.
TOGETHER WITH:
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS LOWER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 197.44 FEET; THENCE NORTH 82°00'22" WEST, A DISTANCE OF 282.39 FEET TO THE POINT OF INTERSECTION WITH A NON TANGENT CIRCULAR CURVE, CONCAVE TO THE NORTHEAST, HAVING AS ITS ELEMENTS A RADIUS OF 19.97 FEET AND A CENTRAL ANGLE OF 89°43'18", A RADIAL LINE THROUGH SAID POINT BEARS SOUTH 07°56'21" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 31.28 FEET; THENCE ALONG A LINE NON-TANGENT TO SAID CURVE, NORTH 07°59'11" EAST, A DISTANCE OF 176.39 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 301.62 FEET TO THE POINT OF BEGINNING.

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE LEGAL DESCRIPTION

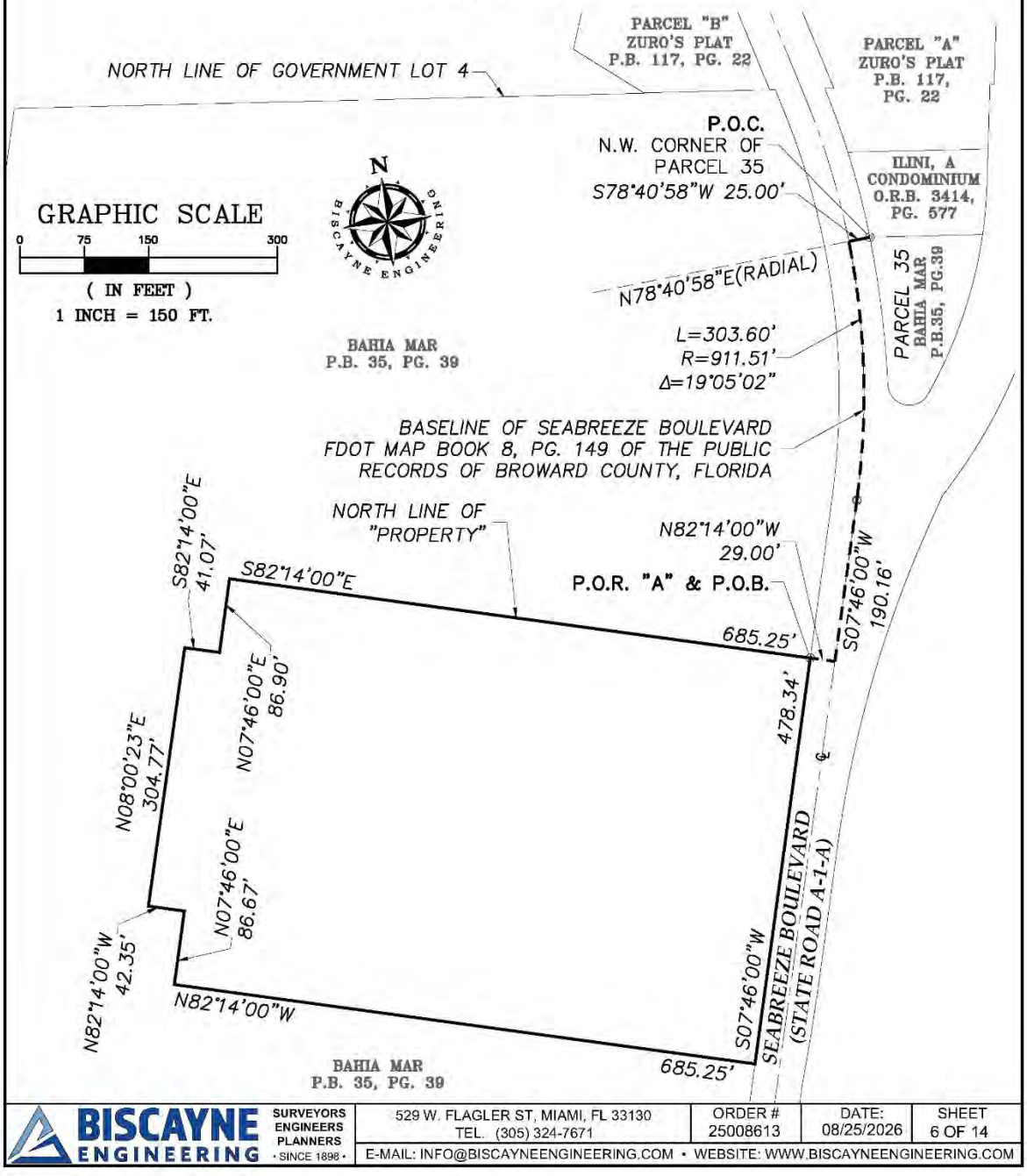
FURTHER LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

PHASE 3 PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS UPPER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 253.12 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 285.43 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 82°00'28" EAST, A DISTANCE OF 253.12 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 191.91 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 253.12 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 192.90 FEET TO THE POINT OF BEGINNING.
TOGETHER WITH:
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS LOWER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

## "PROPERTY"



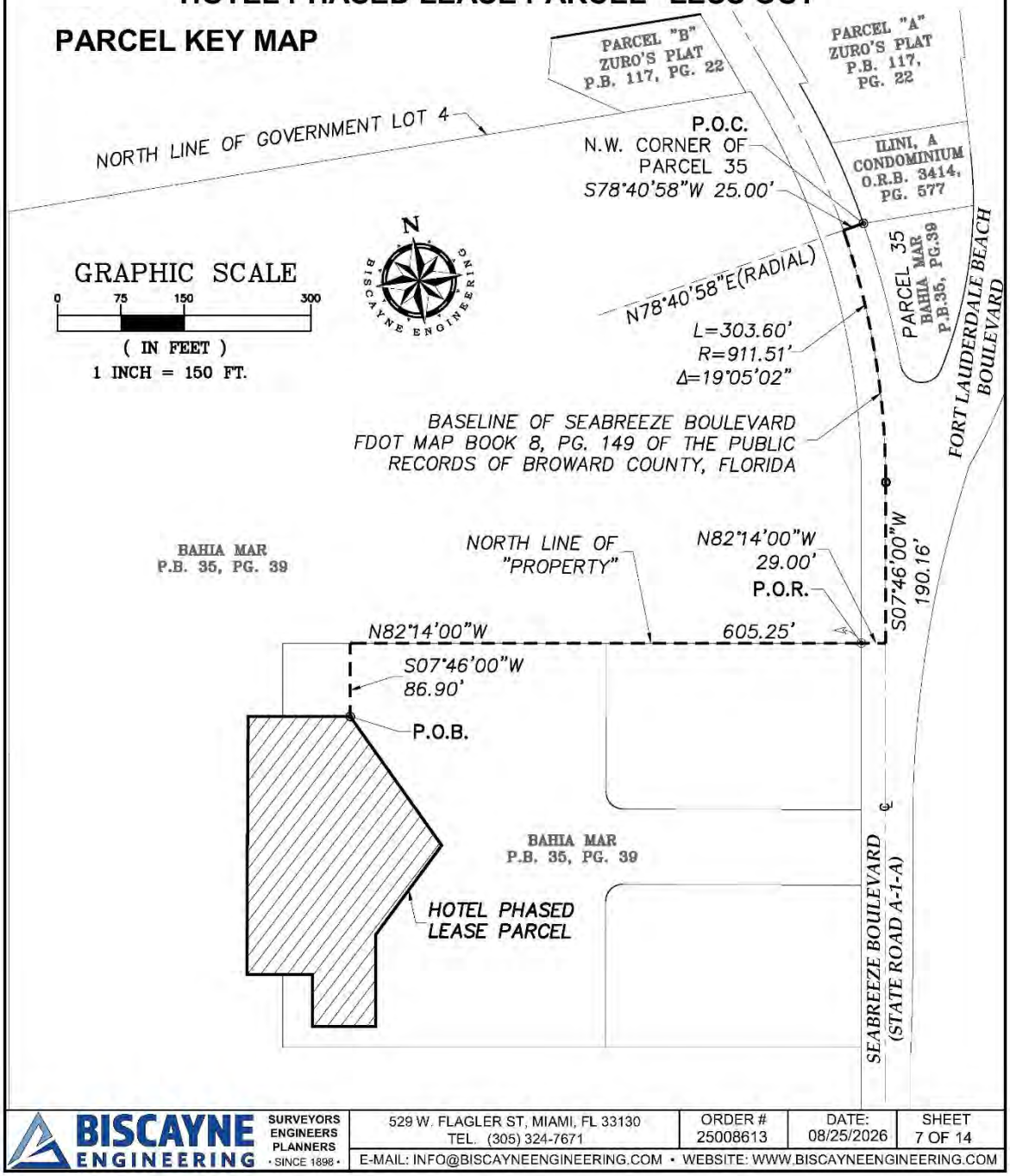

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 6 OF 14 |
|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

## "HOTEL PHASED LEASE PARCEL" LESS OUT

### PARCEL KEY MAP



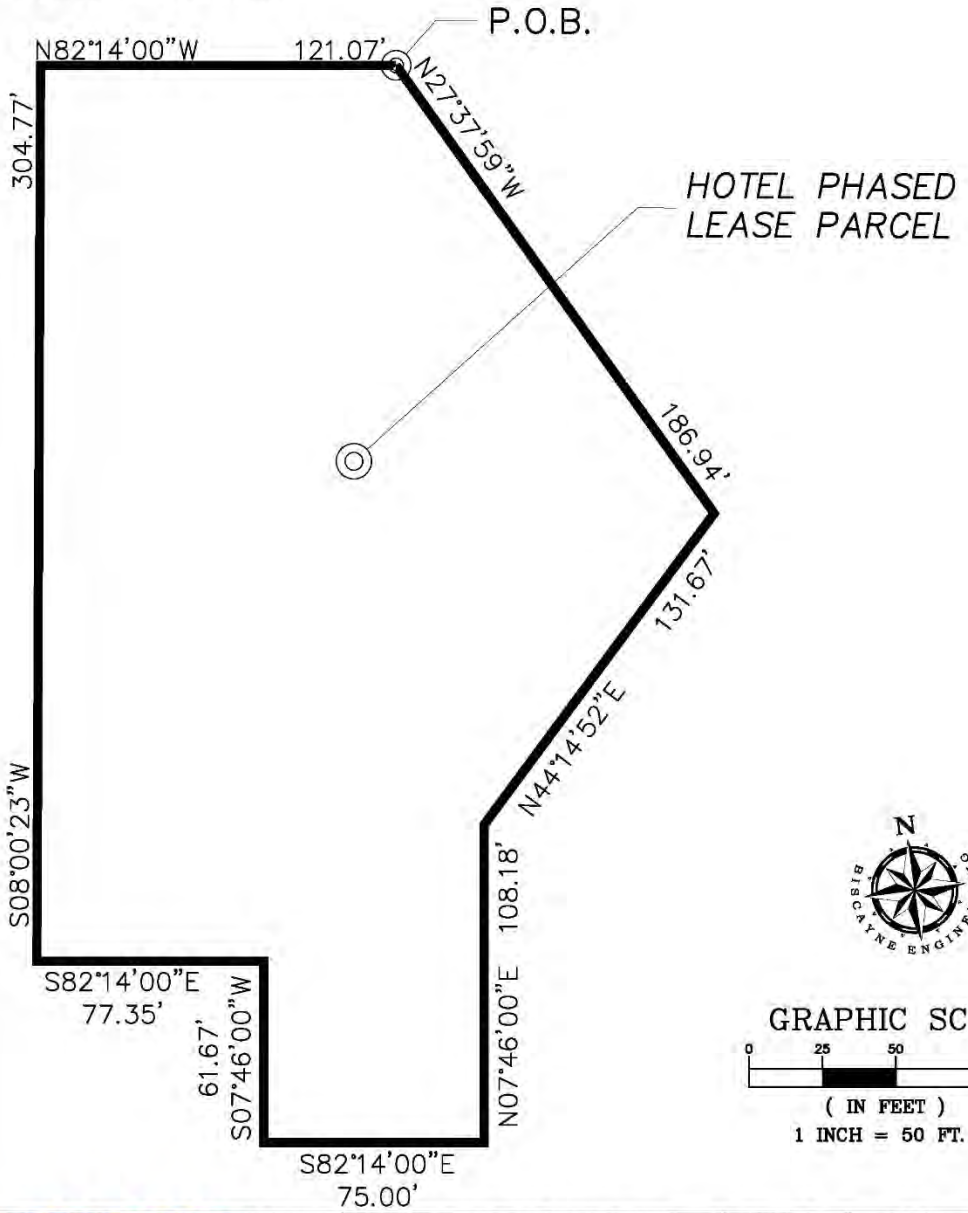

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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

### "HOTEL PHASED LEASE PARCEL" LESS OUT

**PARCEL DETAIL**





BISCAYNE ENGINEERING
SURVEYORS ENGINEERS PLANNERS · SINCE 1898 ·
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| ORDER # | DATE: | SHEET |
|---|---|---|
| 25008613 | 08/25/2026 | 8 OF 14 |

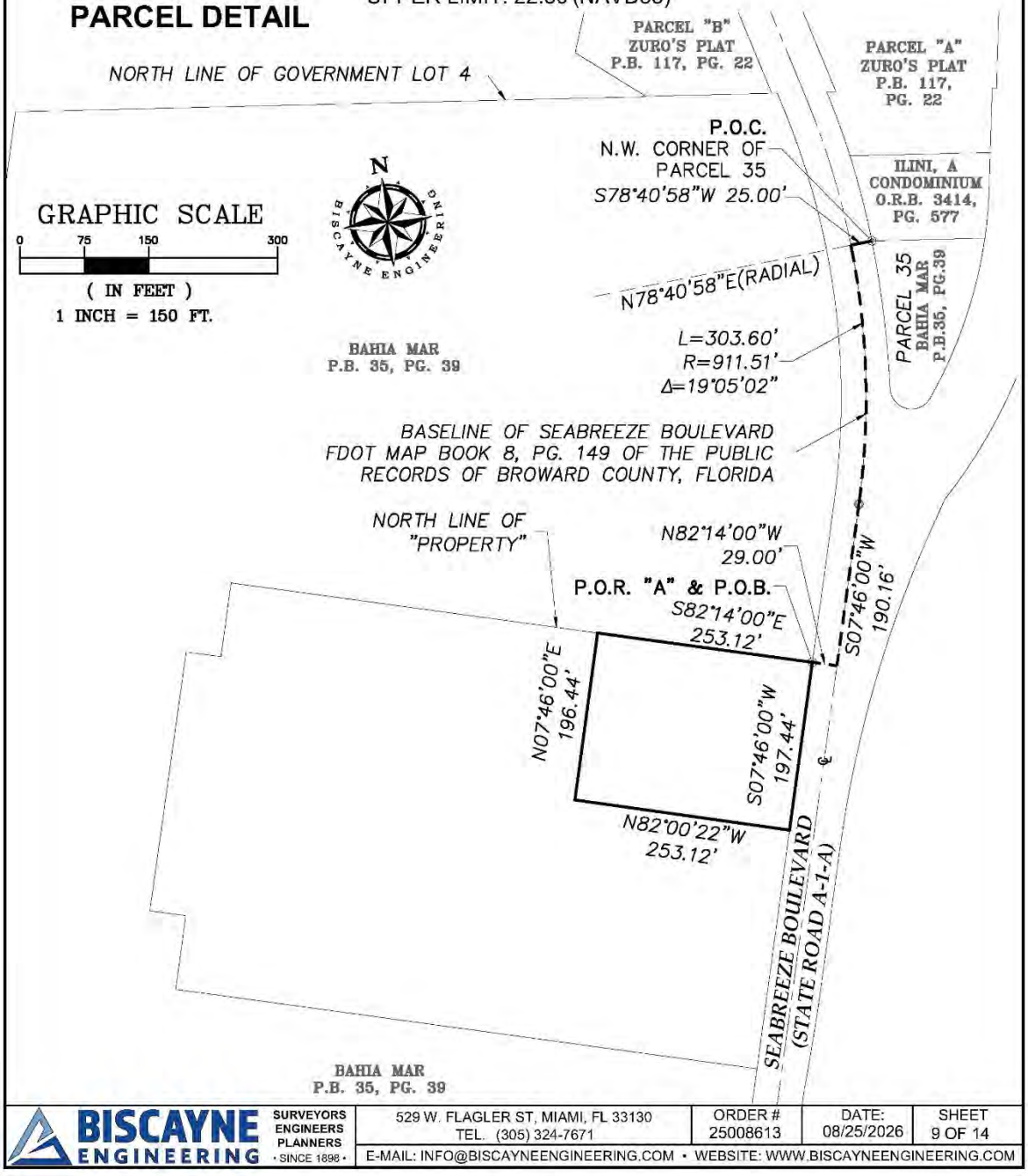
# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

## "PHASE 2 PARCEL" LESS OUT

UPPER LIMIT: 22.50'(NAVD88)

### PARCEL DETAIL




| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130<br>TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 9 OF 14 |
|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

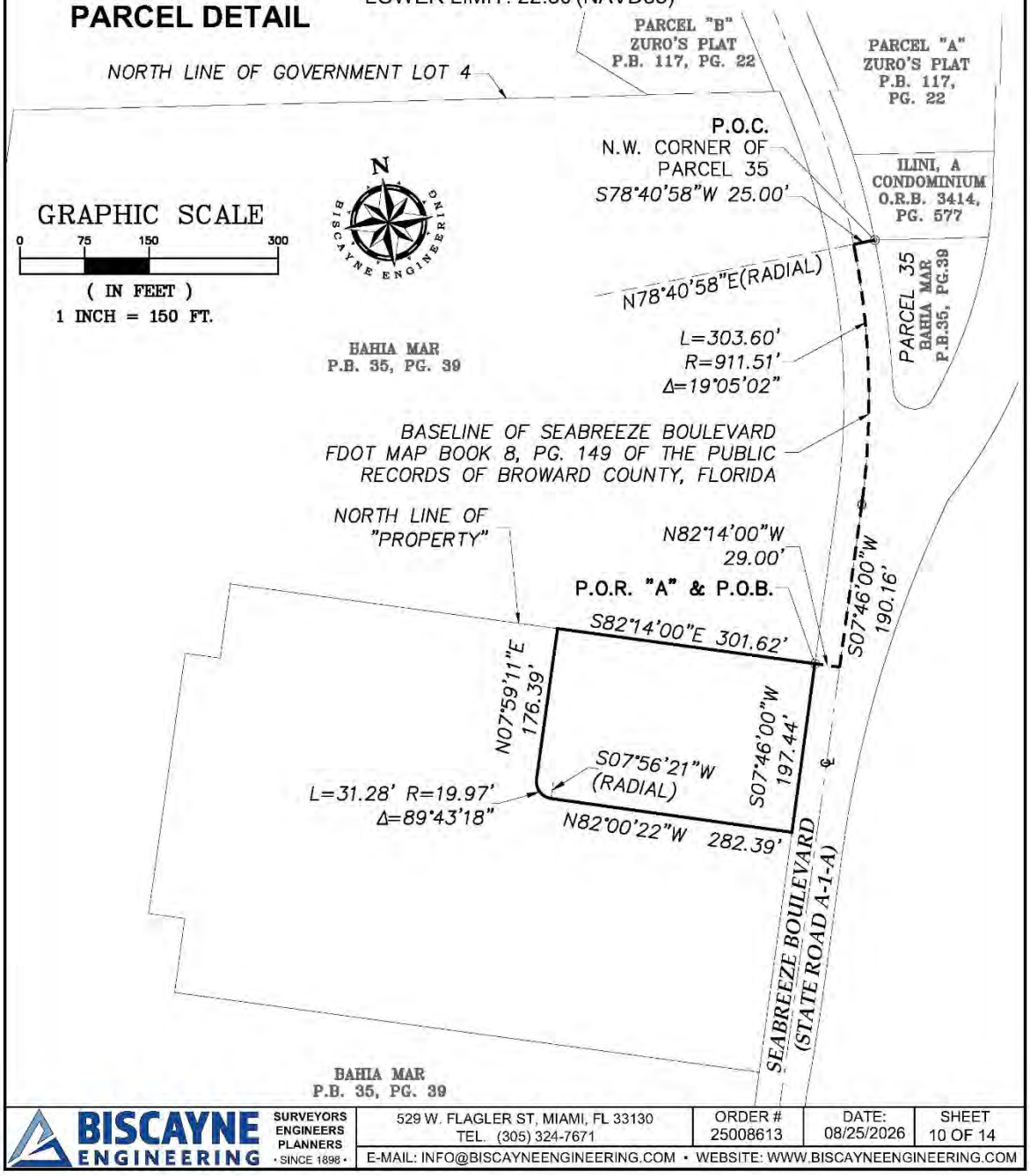
# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

## "PHASE 2 PARCEL" LESS OUT

LOWER LIMIT: 22.50'(NAVD88)

### PARCEL DETAIL




| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS • SINCE 1898 • | 529 W. FLAGLER ST, MIAMI, FL 33130<br>TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 10 OF 14 |
|---|---|---|---|---|---|
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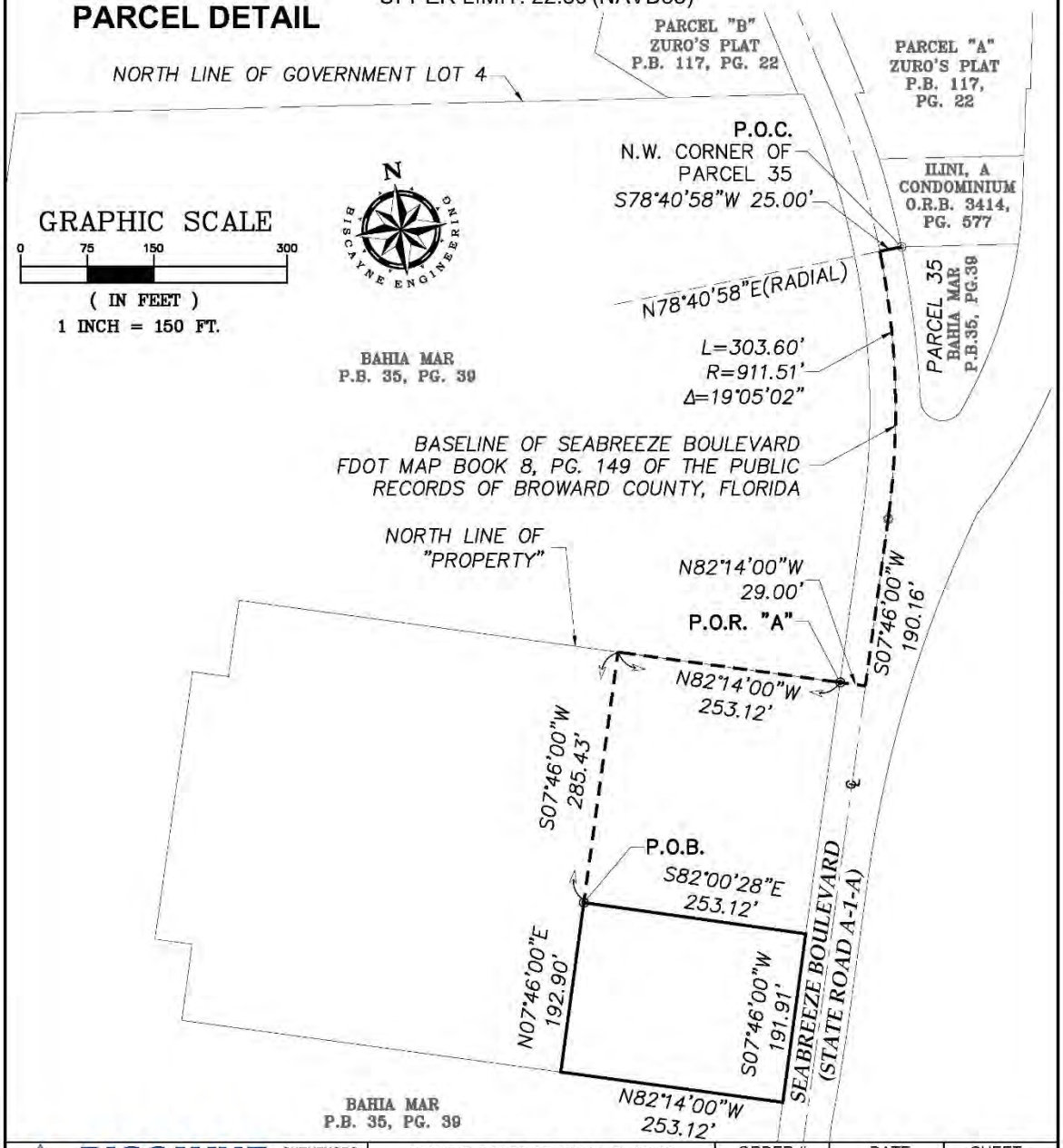
# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

### "PHASE 3 PARCEL" LESS OUT

UPPER LIMIT: 22.50'(NAVD88)

**PARCEL DETAIL**




| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 11 OF 14 |
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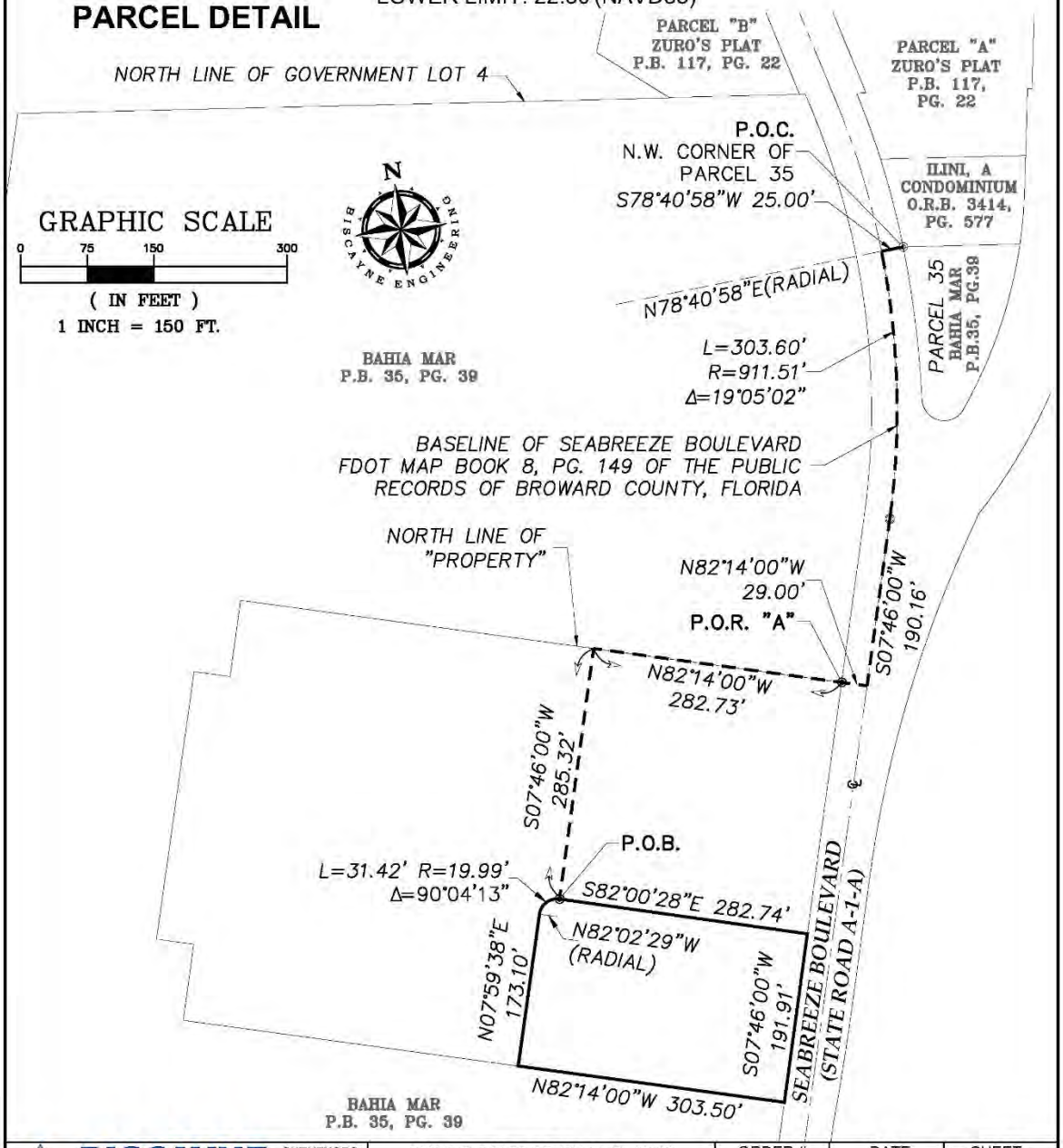
# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

### "PHASE 3 PARCEL" LESS OUT

LOWER LIMIT: 22.50'(NAVD88)

### PARCEL DETAIL



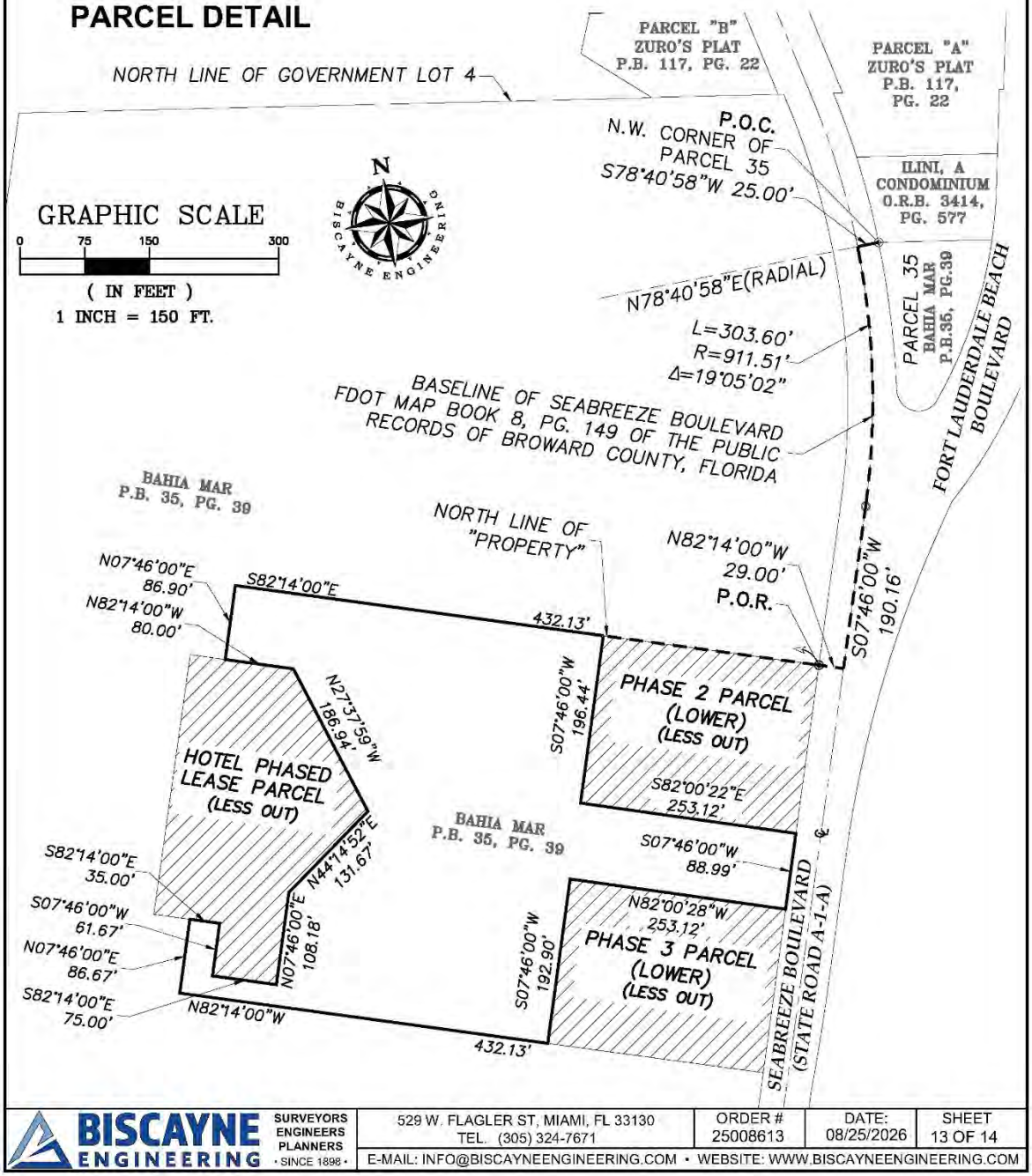

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 12 OF 14 |
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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

**UPPER LIMIT: 22.50' (NAVD88)**

**PARCEL DETAIL**



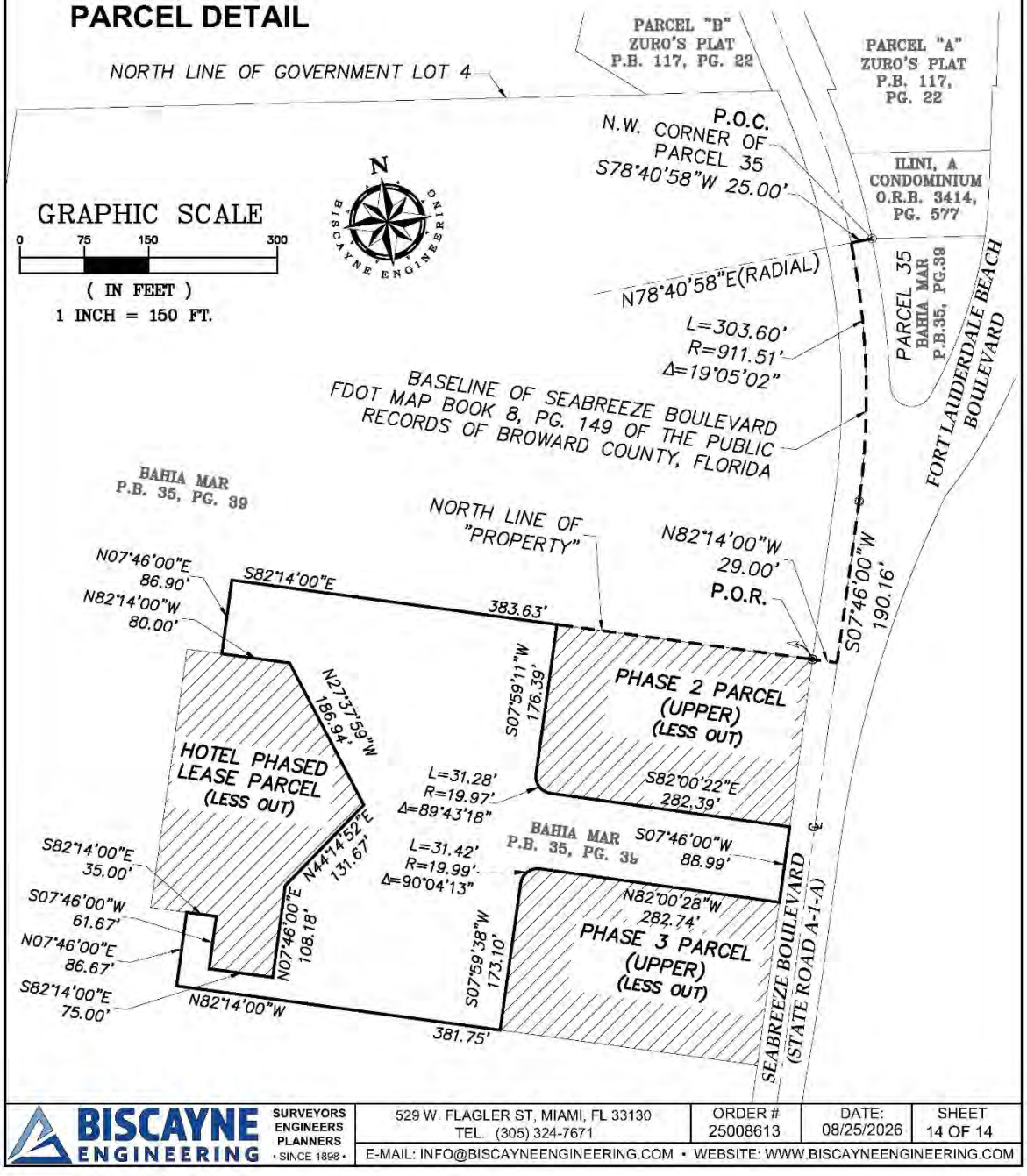

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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

**LOWER LIMIT: 22.50' (NAVD88)**

**PARCEL DETAIL**




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**EXHIBIT "C" TO AMENDMENT**

LEGAL DESCRIPTION OF NEW PREMISES

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 West right of way line of Seabreeze Boulevard, excepting therefrom Parcel No. 1 and also excepting the North 80 feet of Parcel No. 34.

**LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS:**

**[LEGAL DESCRIPTION CONTINUES ON FOLLOWING PAGES]**

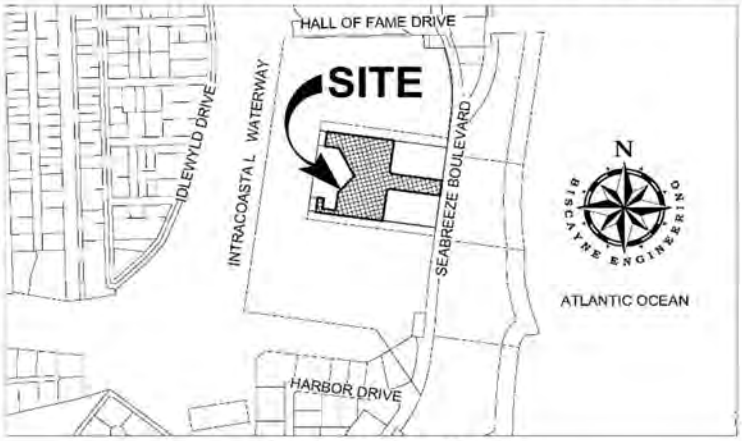
**EXHIBIT C - continued**
**Residential Phase Lease Parcel**

**Less and except the following parcel:**

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

801 SEABREEZE BOULEVARD, FORT LAUDERDALE, FL 33316
SECTION 12, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA




VICINITY MAP N.T.S.

***SURVEYOR'S CERTIFICATION:***

I HEREBY CERTIFY THAT THE ATTACHED "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND COMPLIES WITH THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING AS SET FORTH BY THE STATE OF FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

BISCAYNE ENGINEERING COMPANY, INC.
529 WEST FLAGLER STREET, MIAMI, FL. 33130
(305) 324-7671
STATE OF FLORIDA DEPARTMENT OF AGRICULTURE
CERTIFICATE OF AUTHORIZATION LB-0000129

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 5J-17.062, F.A.C.
THIS ITEM HAS BEEN DIGITALLY SIGNED. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

ALBERTO J. RABIONET, PSM, FOR THE FIRM
PROFESSIONAL SURVEYOR AND MAPPER NO. 7218
STATE OF FLORIDA

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS • SINCE 1896 • | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 1 OF 14 |
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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.

2. BEARINGS SHOWN HEREON ARE REFERENCED TO THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-152-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014, HAVING A BEARING OF N07°46'00"E.

3. SITE PLAN AND INSTRUCTIONS PROVIDED BY CLIENT.

## SYMBOLS AND ABBREVIATIONS:

B.C.R.= BROWARD COUNTY RECORDS
B.E.C. = BISCAYNE ENGINEERING COMPANY
(C) = CALCULATED
CXX =CURVE NUMBER
FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
FL = FLORIDA
LXX = LINE NUMBER
L.S.F. = LIMITED SHARED FACILITIES
LB = LICENSED BUSINESS
NAVD88 = NORTH AMERICAN VERTICAL DATUM 1988
NO. = NUMBER
O.R.B. = OFFICIAL RECORDS BOOK
(P) = PLAT
PC = POINT OF CURVATURE
PG. = PAGE
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
P.C.C. = POINT OF COMPOUND CURVATURE
PC = POINT OF CURVATURE
P.O.R. = POINT OF REFERENCE
PL = PROPERTY LINE
R/W = RIGHT-OF-WAY
℄ = CENTER LINE
℄ = BASE LINE
℄ = MONUMENT LINE

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE LEGAL DESCRIPTION

RESIDENTIAL PHASED LEASE PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PROPERTY PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 478.34 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 685.25 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 86.67 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 42.35 FEET; THENCE NORTH 08°00'23" EAST, A DISTANCE OF 304.77 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 41.07 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 86.90 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 685.25 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

HOTEL PHASED LEASE PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA; THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 605.25 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 86.90 FEET TO THE POINT OF BEGINNING; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 121.07 FEET; THENCE SOUTH 08°00'23" WEST, A DISTANCE OF 304.77 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 77.35 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 61.67 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 75.00 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 108.18 FEET; THENCE NORTH 44°14'52" EAST, A DISTANCE OF 131.67 FEET; THENCE NORTH 27°37'59" WEST, A DISTANCE OF 186.94 FEET TO THE POINT OF BEGINNING

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE LEGAL DESCRIPTION

FURTHER LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

PHASE 2 PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS UPPER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 197.44 FEET; THENCE NORTH 82°00'22" WEST, A DISTANCE OF 253.12 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 196.44 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 253.12 FEET TO THE POINT OF BEGINNING.
TOGETHER WITH:
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS LOWER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 197.44 FEET; THENCE NORTH 82°00'22" WEST, A DISTANCE OF 282.39 FEET TO THE POINT OF INTERSECTION WITH A NON TANGENT CIRCULAR CURVE, CONCAVE TO THE NORTHEAST, HAVING AS ITS ELEMENTS A RADIUS OF 19.97 FEET AND A CENTRAL ANGLE OF 89°43'18", A RADIAL LINE THROUGH SAID POINT BEARS SOUTH 07°56'21" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 31.28 FEET; THENCE ALONG A LINE NON-TANGENT TO SAID CURVE, NORTH 07°59'11" EAST, A DISTANCE OF 176.39 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 301.62 FEET TO THE POINT OF BEGINNING.

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE LEGAL DESCRIPTION

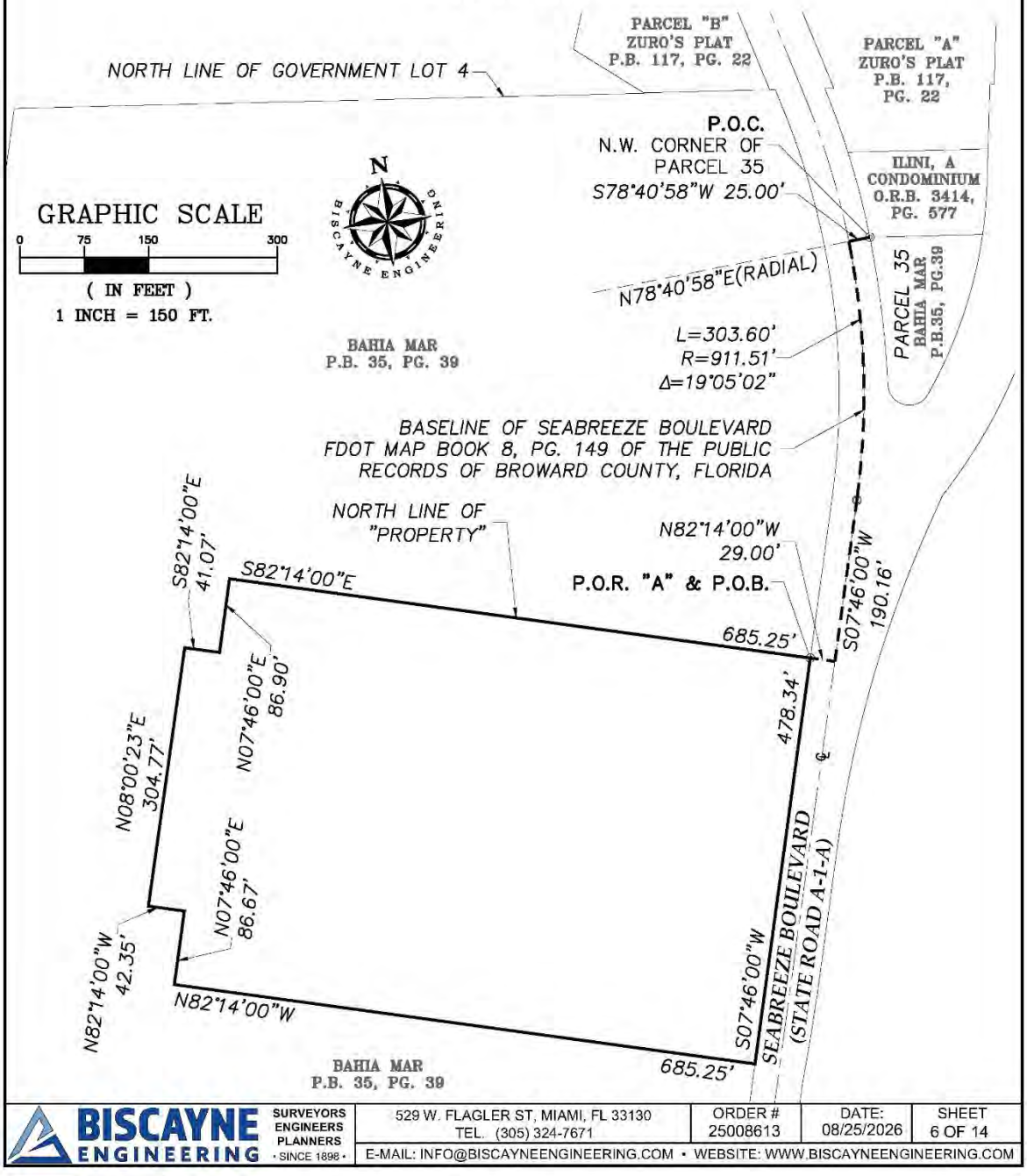
FURTHER LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

PHASE 3 PARCEL
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS UPPER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 253.12 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 285.43 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 82°00'28" EAST, A DISTANCE OF 253.12 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 191.91 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 253.12 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 192.90 FEET TO THE POINT OF BEGINNING.
TOGETHER WITH:
A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS LOWER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 282.73 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 285.32 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 82°00'28" EAST, A DISTANCE OF 282.74 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 191.91 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 303.50 FEET; THENCE NORTH 07°59'38" EAST, A DISTANCE OF 173.10 FEET TO THE POINT OF INTERSECTION WITH A NON TANGENT CIRCULAR CURVE, CONCAVE TO THE SOUTHEAST, HAVING AS ITS ELEMENTS A RADIUS OF 19.99 FEET AND A CENTRAL ANGLE OF 90°04'13", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 82°02'29" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 31.42 FEET TO THE POINT OF BEGINNING.

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

## "PROPERTY"



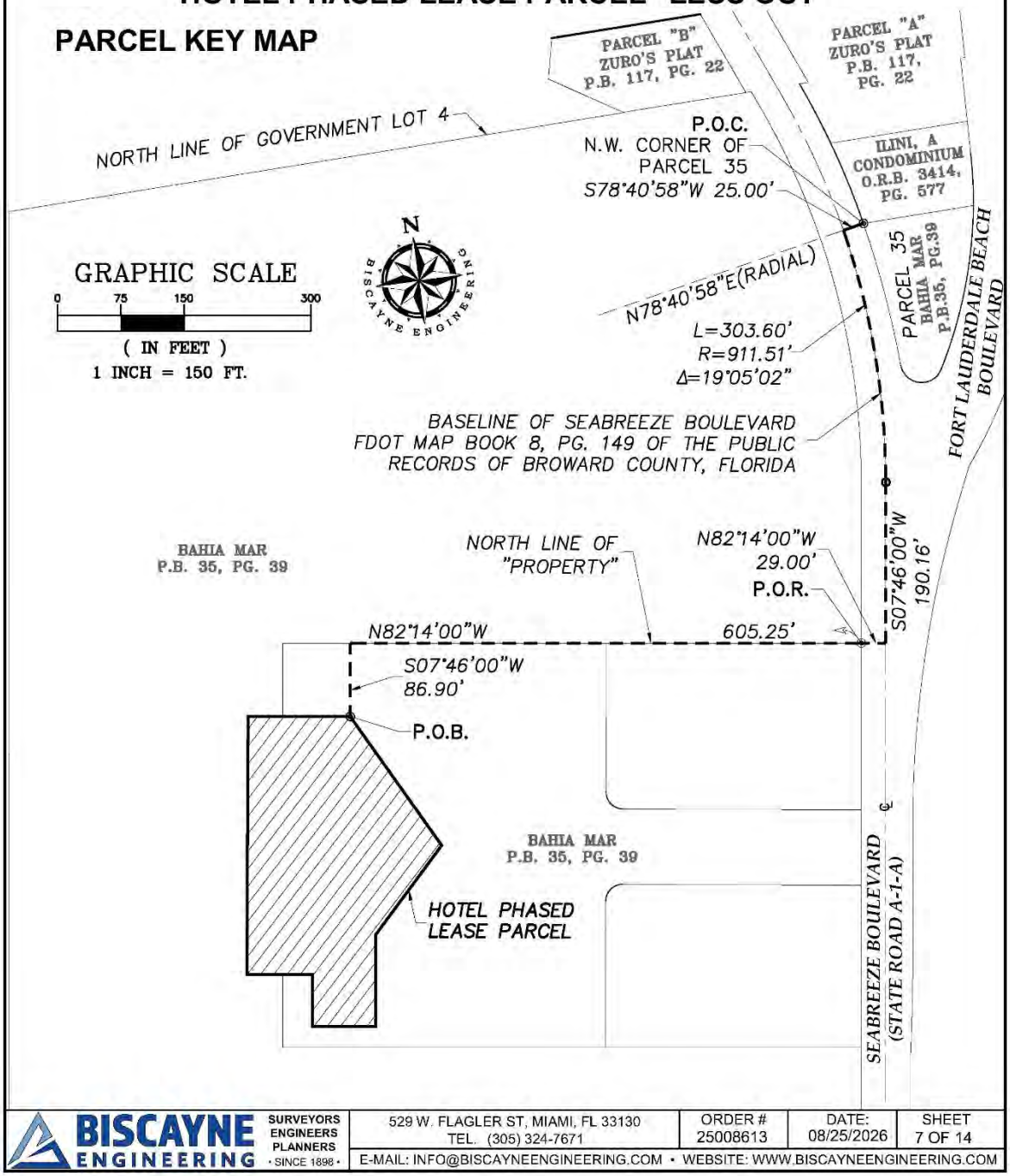

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 6 OF 14 |
|---|---|---|---|---|---|
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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

## "HOTEL PHASED LEASE PARCEL" LESS OUT

### PARCEL KEY MAP



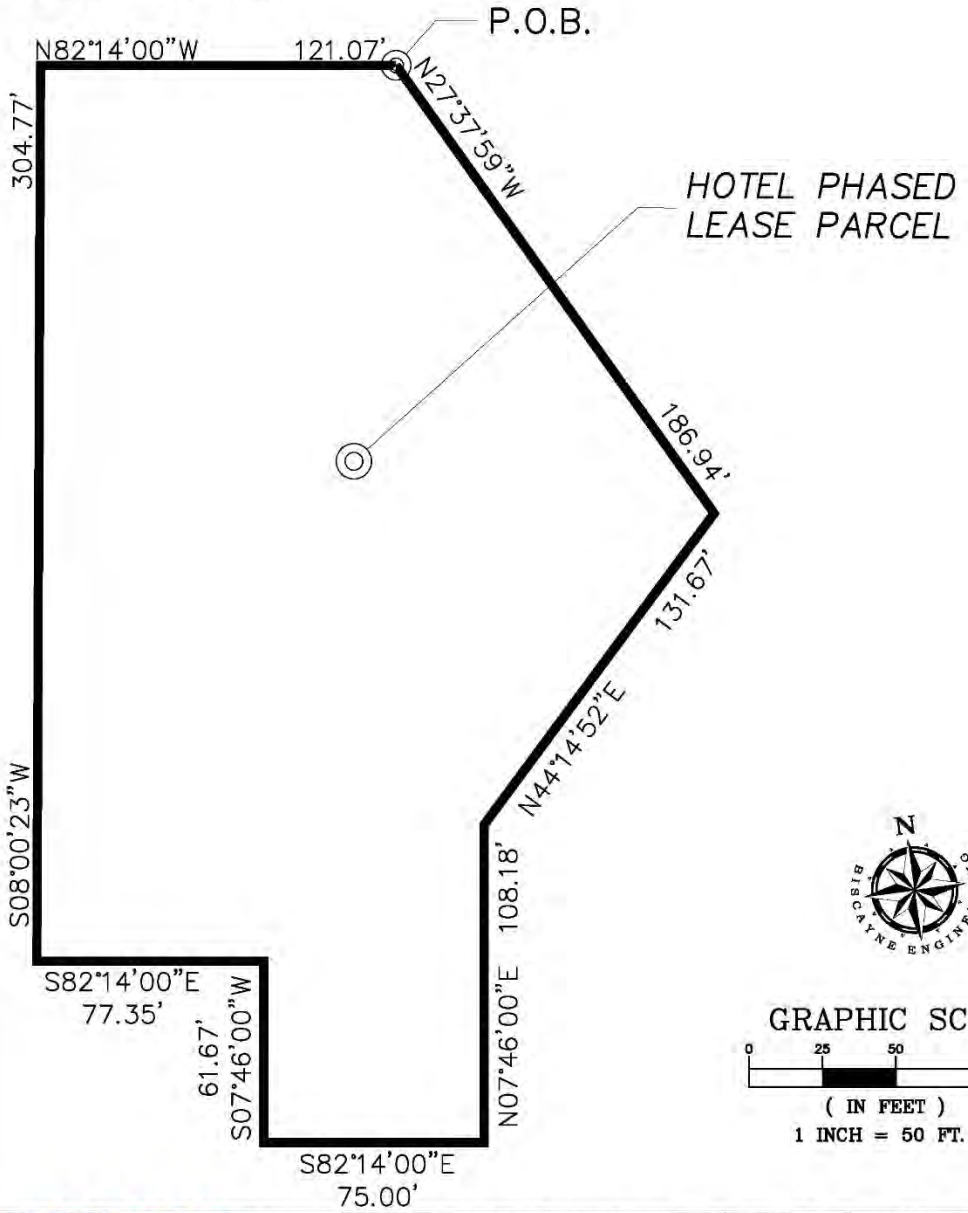

| | | | | |
|---|---|---|---|---|
| BISCAYNE ENGINEERING · SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 7 OF 14 |
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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

### "HOTEL PHASED LEASE PARCEL" LESS OUT

**PARCEL DETAIL**





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| ORDER # | DATE: | SHEET |
|---|---|---|
| 25008613 | 08/25/2026 | 8 OF 14 |

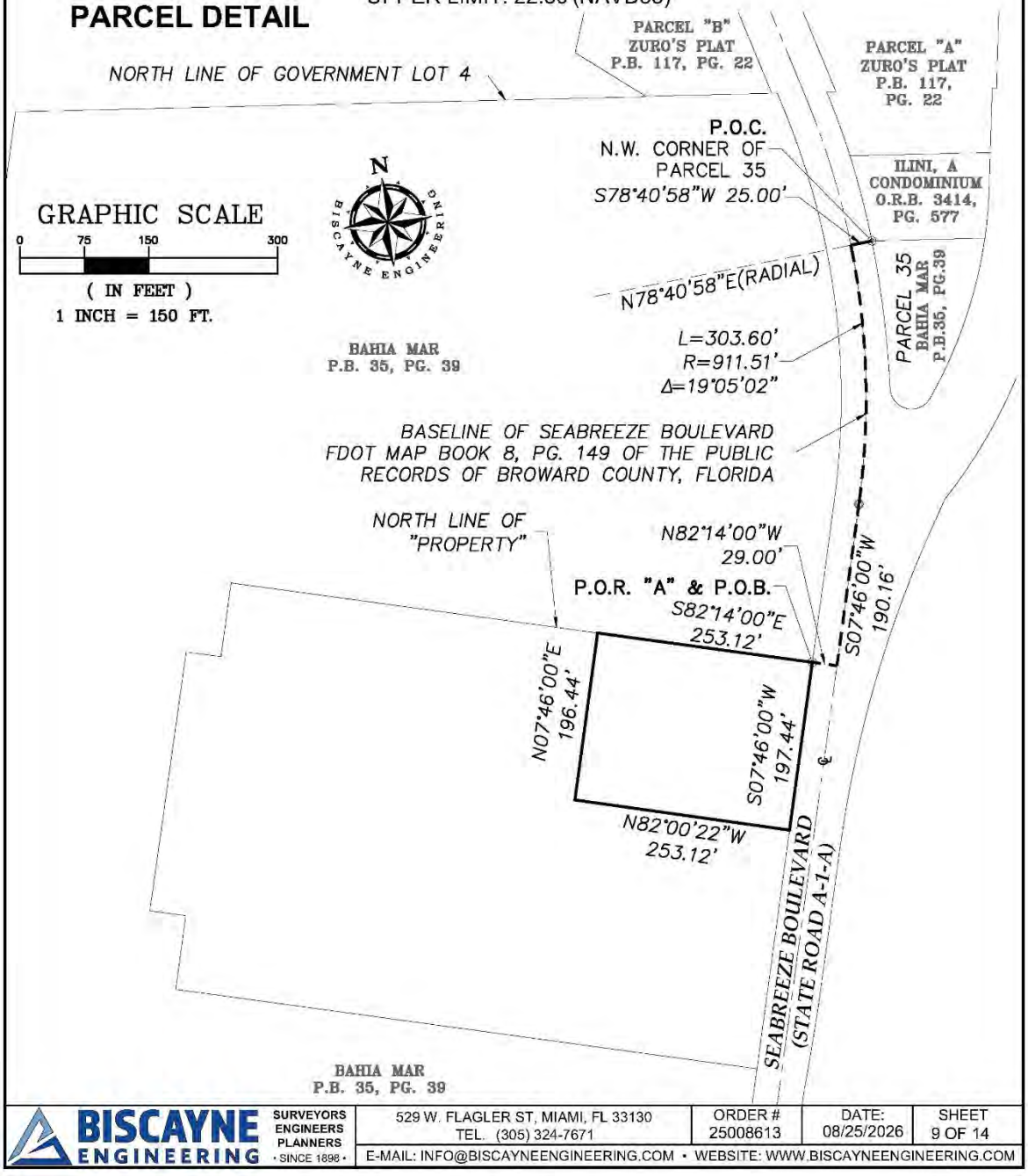
# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

## "PHASE 2 PARCEL" LESS OUT

UPPER LIMIT: 22.50'(NAVD88)

### PARCEL DETAIL




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|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

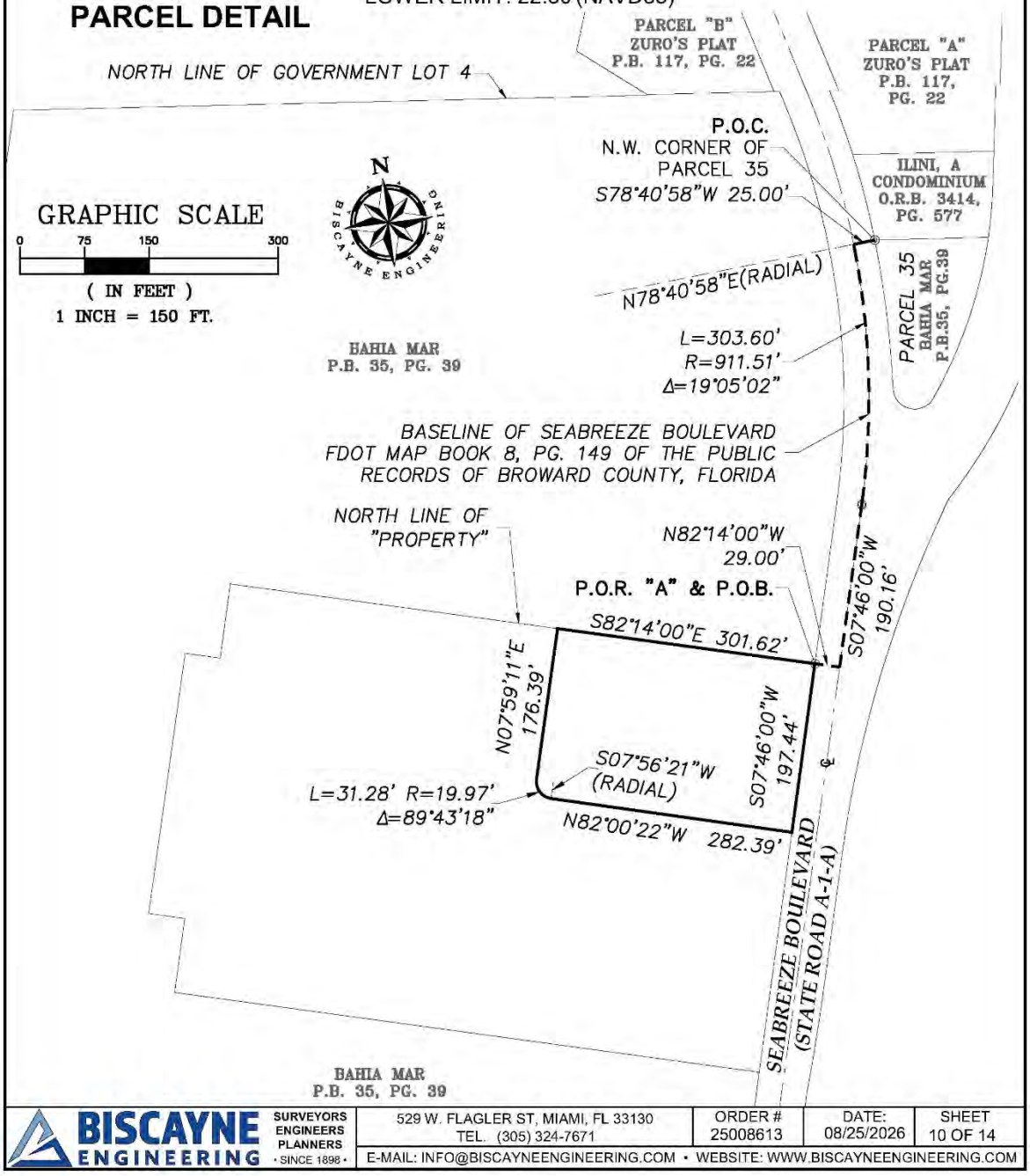
# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

## "PHASE 2 PARCEL" LESS OUT

LOWER LIMIT: 22.50'(NAVD88)

### PARCEL DETAIL




| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS • SINCE 1898 • | 529 W. FLAGLER ST, MIAMI, FL 33130<br>TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 10 OF 14 |
|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

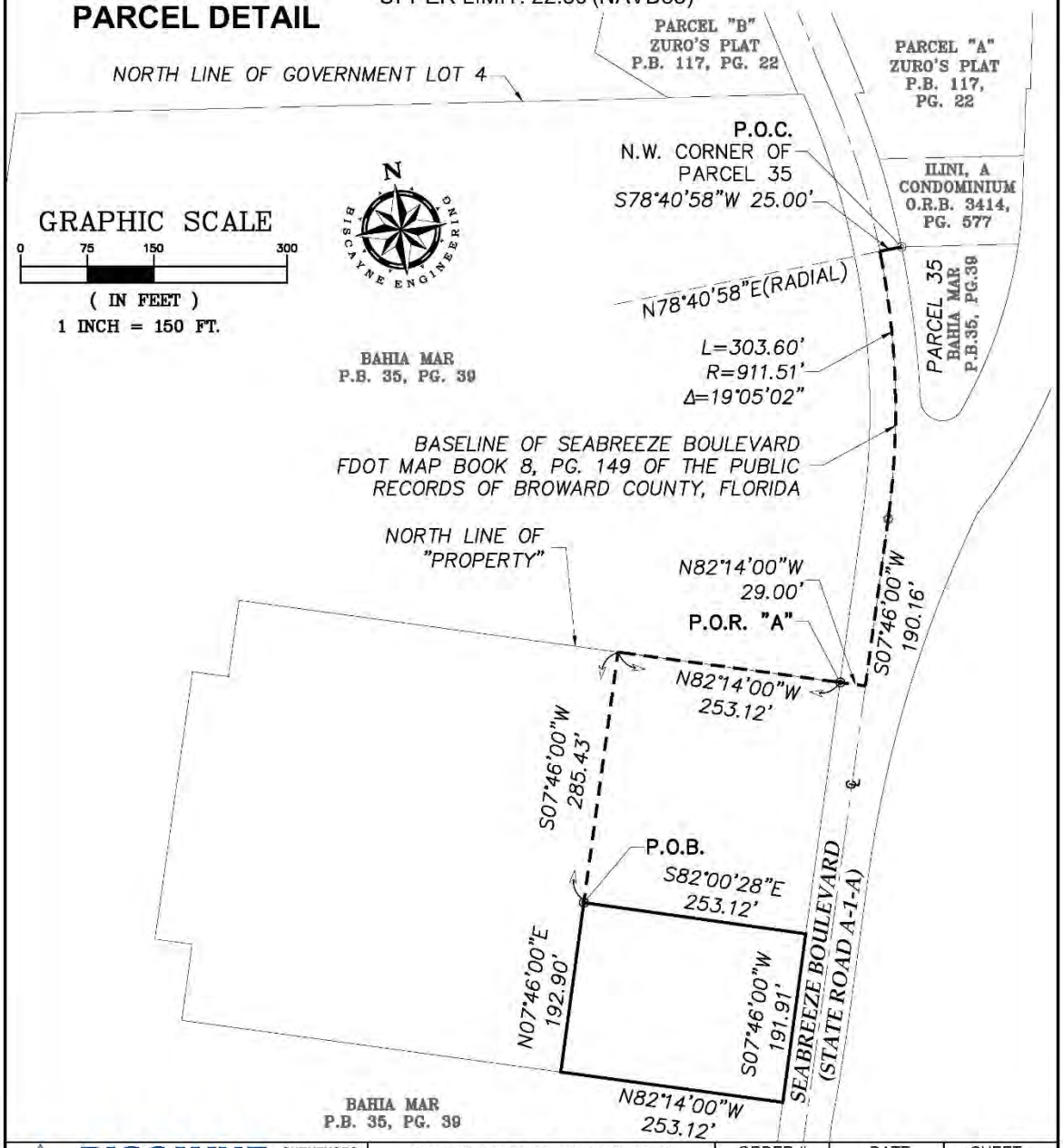
# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

### "PHASE 3 PARCEL" LESS OUT

UPPER LIMIT: 22.50'(NAVD88)

**PARCEL DETAIL**




| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 11 OF 14 |
|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

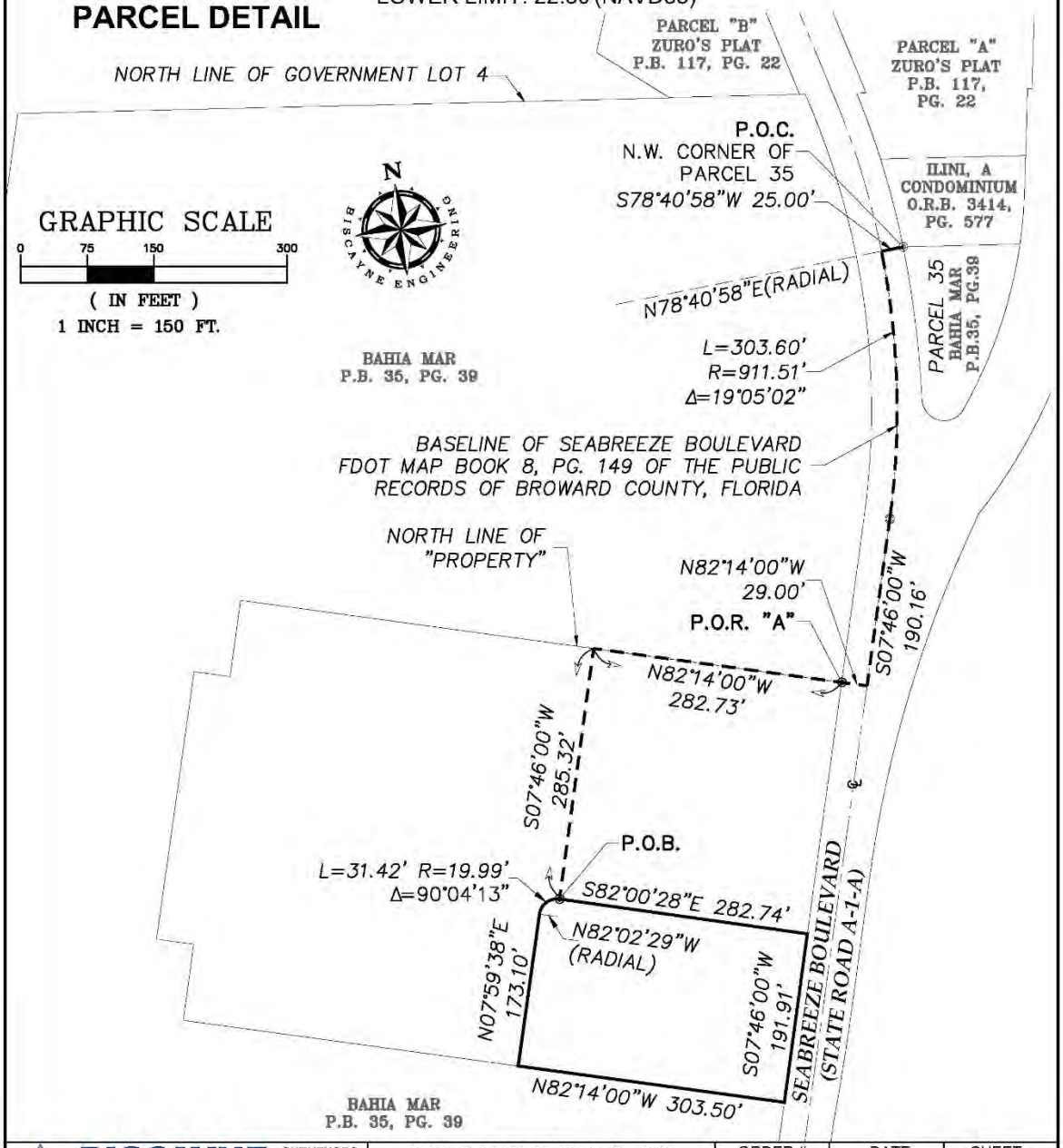
# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

### "PHASE 3 PARCEL" LESS OUT

LOWER LIMIT: 22.50'(NAVD88)

### PARCEL DETAIL



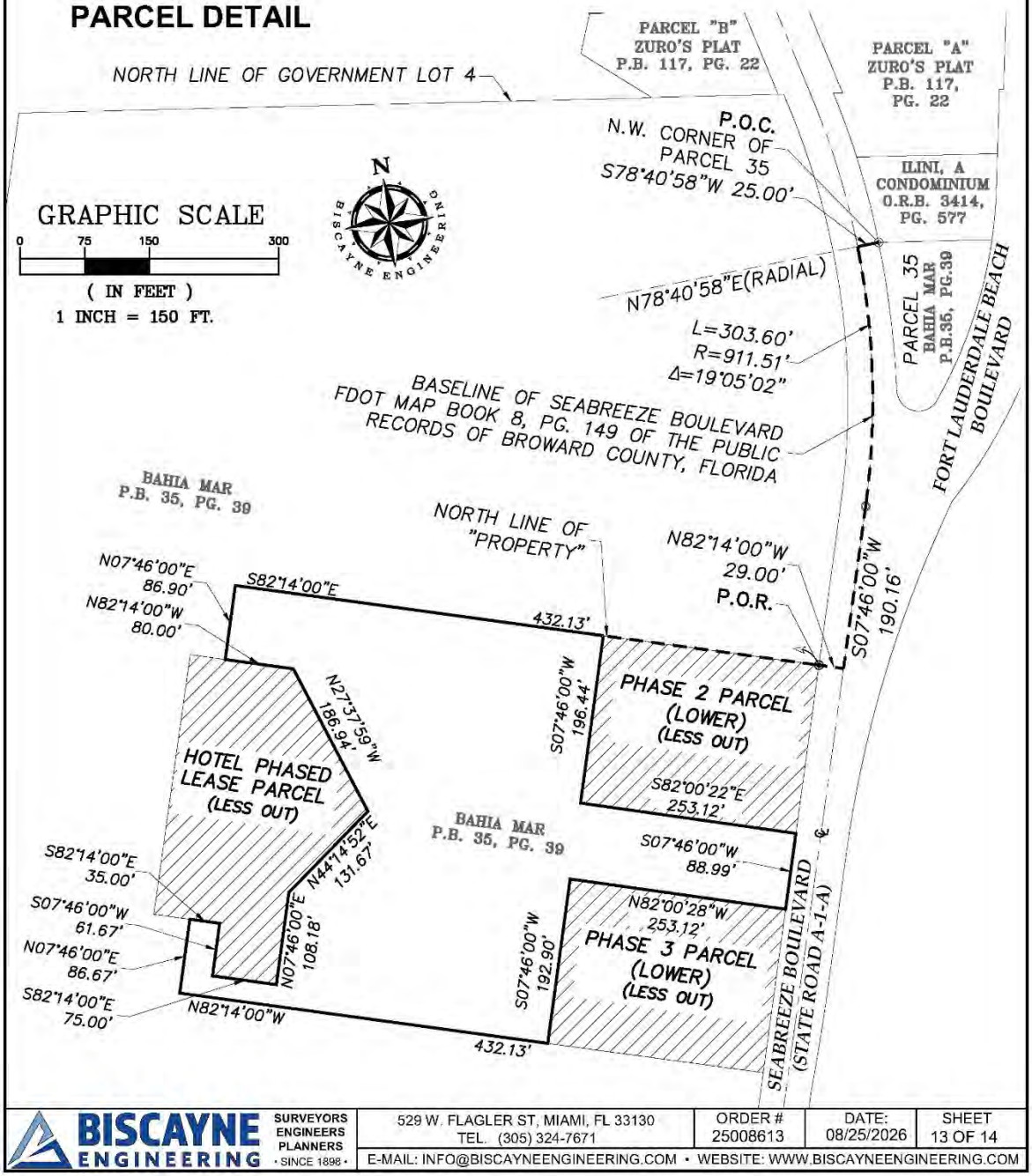

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 12 OF 14 |
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# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

**UPPER LIMIT: 22.50' (NAVD88)**

**PARCEL DETAIL**



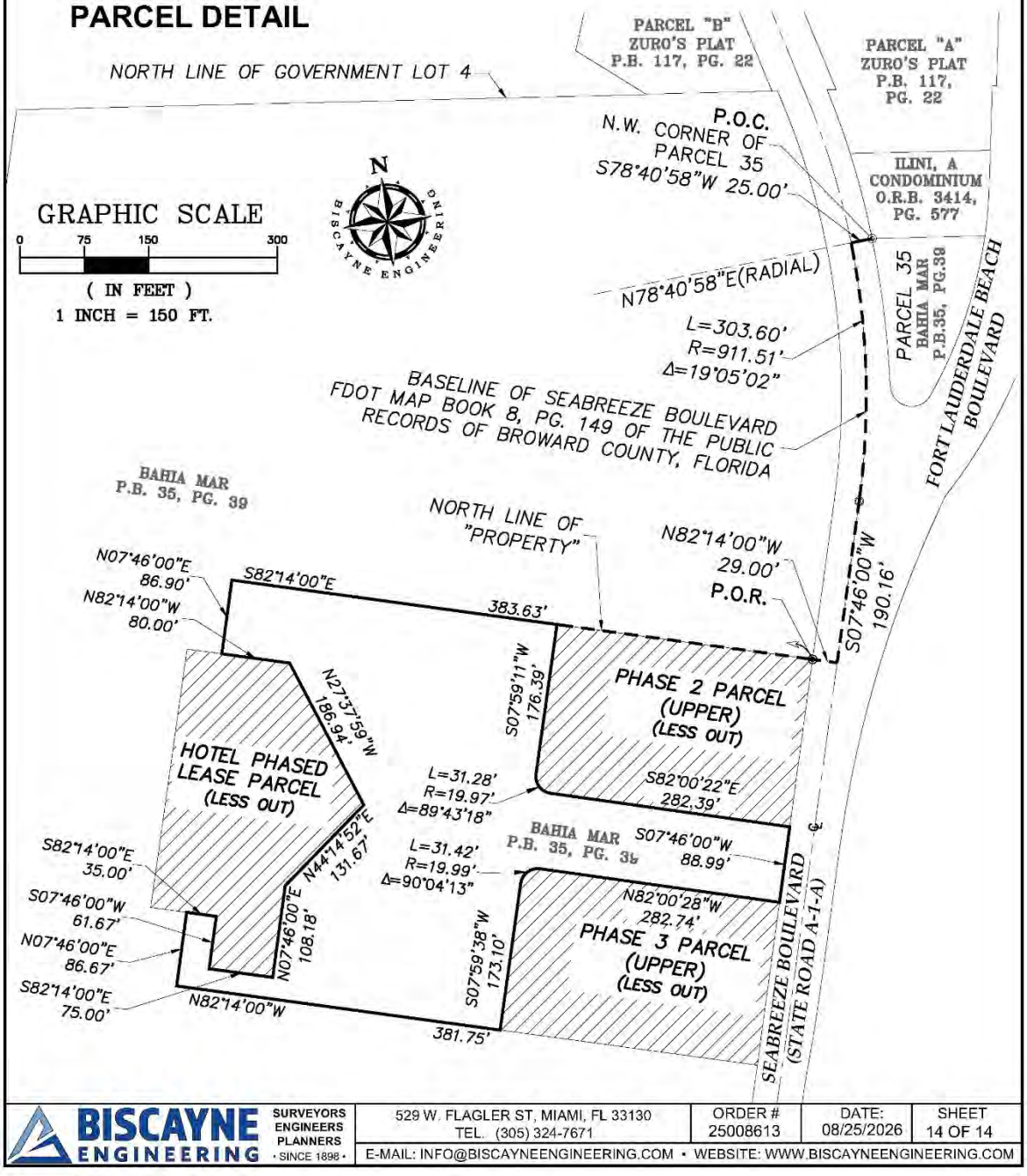

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 13 OF 14 |
|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## RESIDENTIAL PHASED LEASE PARCEL

**LOWER LIMIT: 22.50' (NAVD88)**

**PARCEL DETAIL**




| BISCAYNE ENGINEERING · SINCE 1898 · SURVEYORS ENGINEERS PLANNERS | 529 W. FLAGLER ST, MIAMI, FL 33130<br>TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 14 OF 14 |
|---|---|---|---|---|
| | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

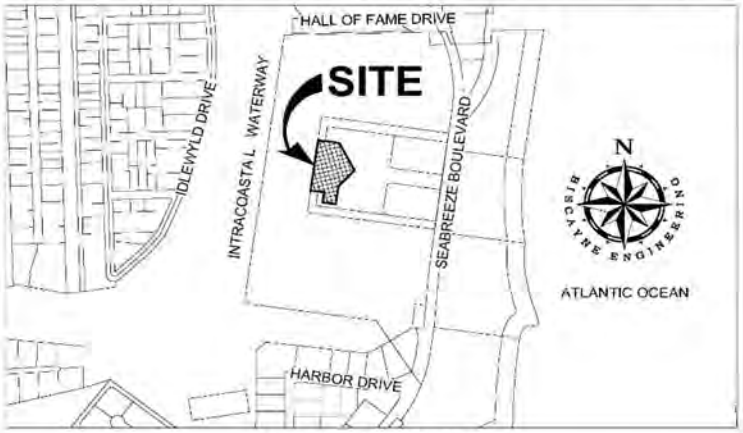
**AND LESS AND EXCEPT THE FOLLOWING PARCEL:**

**Hotel Phased Lease Parcel**

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE PARCEL

801 SEABREEZE BOULEVARD, FORT LAUDERDALE, FL 33316
SECTION 12, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA




*VICINITY MAP N.T.S.*

***SURVEYOR'S CERTIFICATION:***

I HEREBY CERTIFY THAT THE ATTACHED "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND COMPLIES WITH THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING AS SET FORTH BY THE STATE OF FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

BISCAYNE ENGINEERING COMPANY, INC.
529 WEST FLAGLER STREET, MIAMI, FL. 33130
(305) 324-7671
STATE OF FLORIDA DEPARTMENT OF AGRICULTURE
CERTIFICATE OF AUTHORIZATION LB-0000129

*THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 5J-17-062, F.A.C.*
*THIS ITEM HAS BEEN DIGITALLY SIGNED. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.*

ALBERTO J RABIONET, PSM, FOR THE FIRM
PROFESSIONAL SURVEYOR AND MAPPER NO. 7218
STATE OF FLORIDA

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS • SINCE 1898 • | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 1 OF 5 |
|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.

2. BEARINGS SHOWN HEREON ARE REFERENCED TO THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-152-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014, HAVING A BEARING OF N07°46'00"E.

3. SITE PLAN AND INSTRUCTIONS PROVIDED BY CLIENT.

## SYMBOLS AND ABBREVIATIONS:

B.C.R.= BROWARD COUNTY RECORDS
B.E.C. = BISCAYNE ENGINEERING COMPANY
(C) = CALCULATED
CXX =CURVE NUMBER
FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
FL = FLORIDA
LXX = LINE NUMBER
L.S.F. = LIMITED SHARED FACILITIES
LB = LICENSED BUSINESS
NAVD88 = NORTH AMERICAN VERTICAL DATUM 1988
NO. = NUMBER
O.R.B. = OFFICIAL RECORDS BOOK
(P) = PLAT
PC = POINT OF CURVATURE
PG. = PAGE
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
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P.O.R. = POINT OF REFERENCE
PL = PROPERTY LINE
R/W = RIGHT-OF-WAY
℄ = CENTER LINE
℄ = BASE LINE
℄ = MONUMENT LINE

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE LEGAL DESCRIPTION

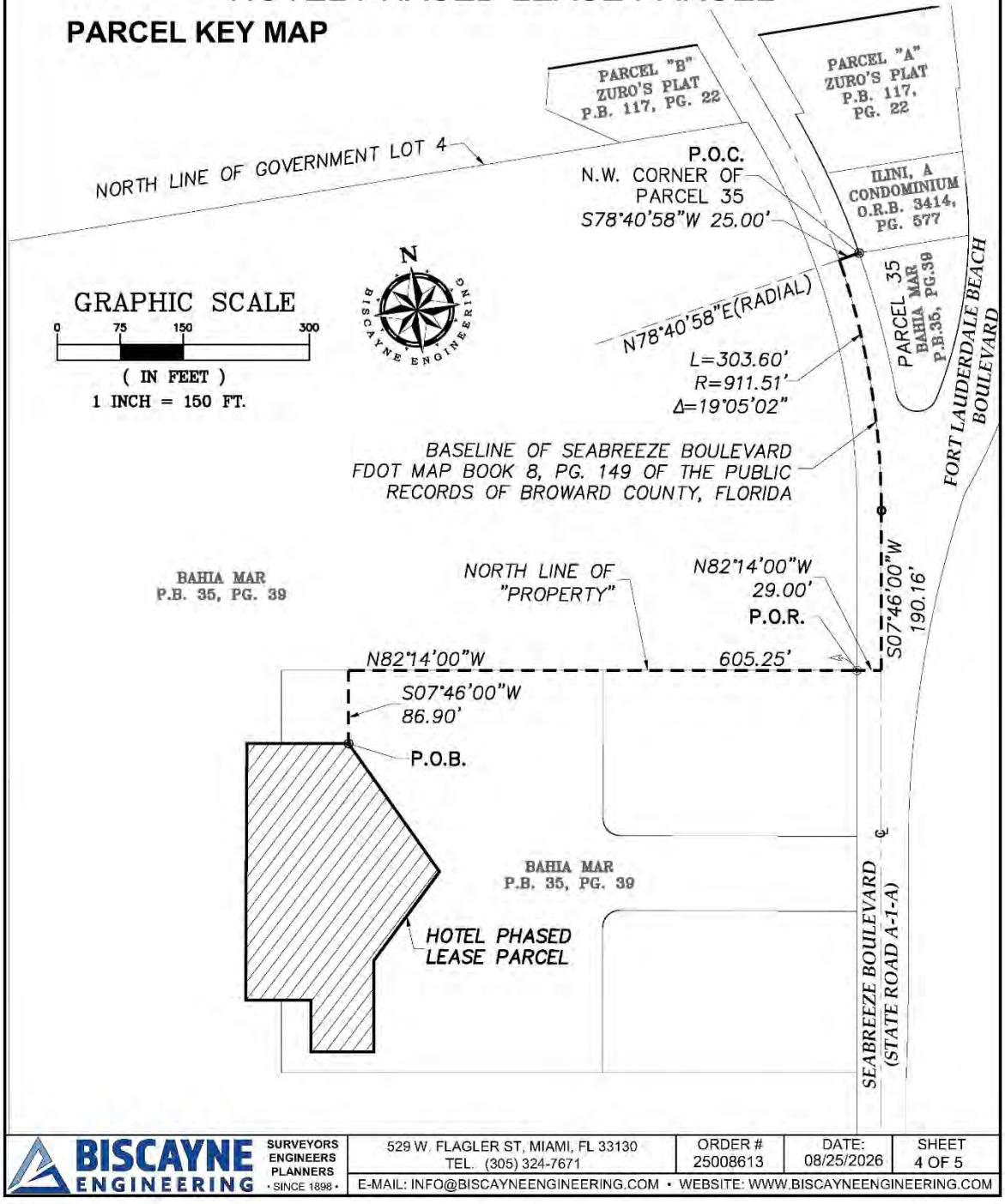
HOTEL PHASED LEASE PARCEL

A PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTH-WEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA; THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 605.25 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 86.90 FEET TO THE POINT OF BEGINNING; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 121.07 FEET; THENCE SOUTH 08°00'23" WEST, A DISTANCE OF 304.77 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 77.35 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 61.67 FEET; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 75.00 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 108.18 FEET; THENCE NORTH 44°14'52" EAST, A DISTANCE OF 131.67 FEET; THENCE NORTH 27°37'59" WEST, A DISTANCE OF 186.94 FEET TO THE POINT OF BEGINNING

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE PARCEL

### PARCEL KEY MAP



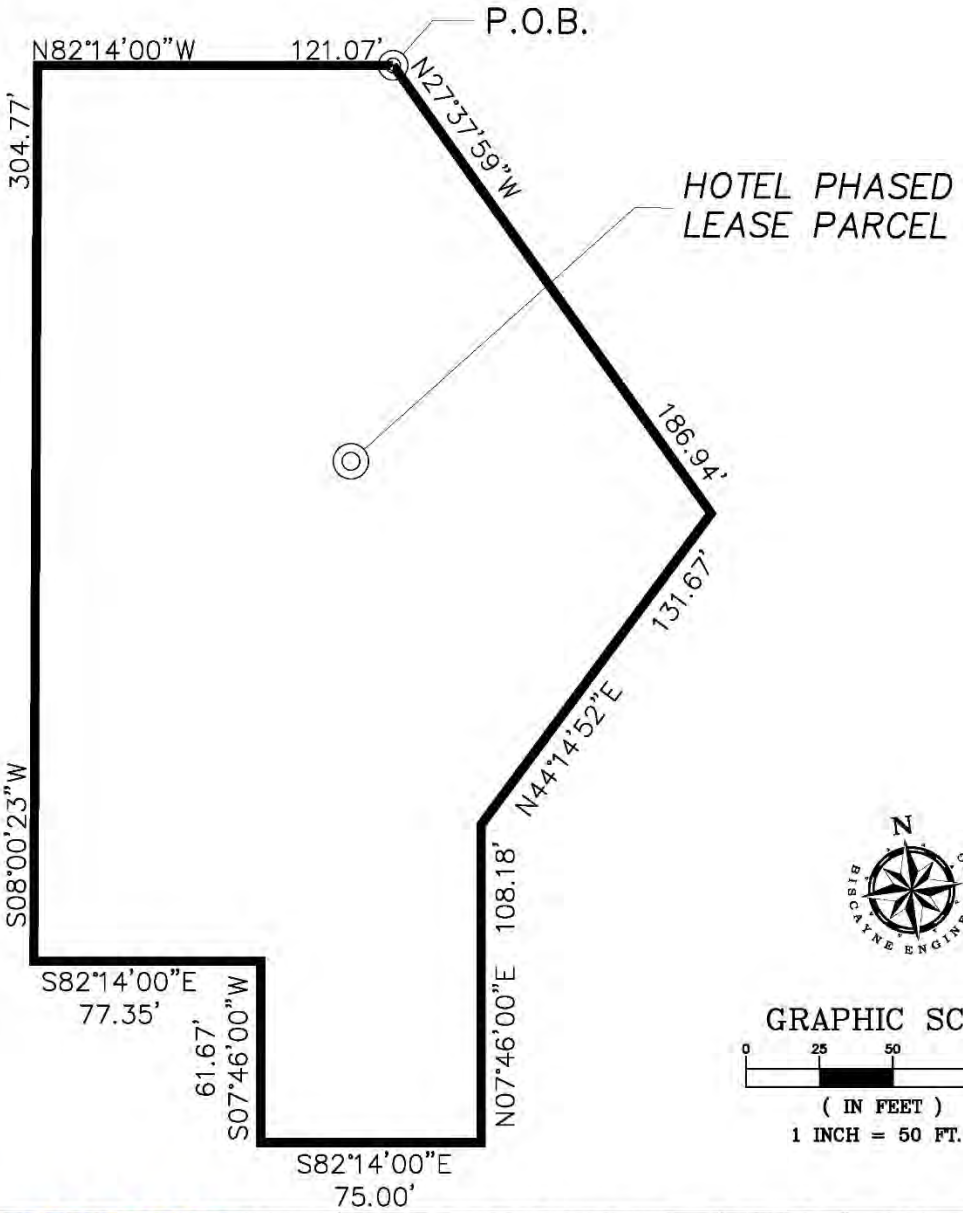

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS · SINCE 1898 · | 529 W. FLAGLER ST, MIAMI, FL 33130<br>TEL. (305) 324-7671 | ORDER # 25008613 | DATE: 08/25/2026 | SHEET 4 OF 5 |
|---|---|---|---|---|---|
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37958.0031
66087572v13

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## HOTEL PHASED LEASE PARCEL

**PARCEL DETAIL**





BISCAYNE ENGINEERING
SURVEYORS ENGINEERS PLANNERS · SINCE 1898 ·
529 W. FLAGLER ST, MIAMI, FL 33130
TEL. (305) 324-7671
E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM


| ORDER # | DATE: | SHEET |
|---|---|---|
| 25008613 | 08/25/2026 | 5 OF 5 |

# EXHIBIT D-1

## SUBLEASEHOLD NON-DISTURBANCE AGREEMENT

The LESSEE shall provide this Exhibit to each applicable LESSOR for its review and approval, which approval shall not be unreasonably withheld, delayed or conditioned.

## EXHIBIT D-2

## SUB-SUBLEASEHOLD NON-DISTURBANCE AGREEMENT

The LESSEE shall provide this Exhibit to each applicable LESSOR for its review and approval, which approval shall not be unreasonably withheld, delayed or conditioned.

# EXHIBIT E-1

## LEASEHOLD MORTGAGE NON-DISTURBANCE AGREEMENT

The LESSEE shall provide this Exhibit to each applicable LESSOR for its review and approval, which approval shall not be unreasonably withheld, delayed or conditioned.

# EXHIBIT E-2

## SUBLEASEHOLD MORTGAGE NON-DISTURBANCE AGREEMENT

The LESSEE shall provide this Exhibit to each applicable LESSOR for its review and approval, which approval shall not be unreasonably withheld, delayed or conditioned.

# EXHIBIT E-3

## SUB-SUBLEASEHOLD MORTGAGE NON-DISTURBANCE AGREEMENT

The LESSEE shall provide this Exhibit to each applicable LESSOR for its review and approval, which approval shall not be unreasonably withheld, delayed or conditioned.

# EXHIBIT F

# PROMENADE

**EXHIBIT G**

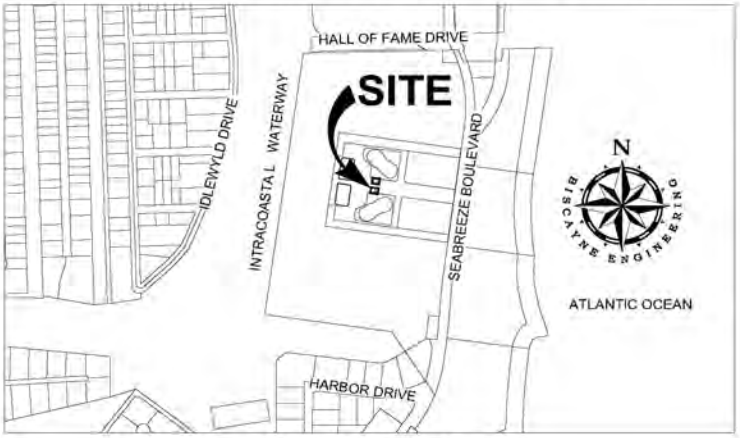
**PODIUM AREA**

# EXHIBIT "B"

## SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## THE CDD PARCEL

801 SEABREEZE BOULEVARD, FORT LAUDERDALE, FL 33316
SECTION 12, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA




*VICINITY MAP N.T.S.*

### *SURVEYOR'S CERTIFICATION:*

I HEREBY CERTIFY THAT THE ATTACHED "SKETCH TO ACCOMPANY LEGAL DESCRIPTION" WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND COMPLIES WITH THE STANDARDS OF PRACTICE FOR SURVEYING AND MAPPING AS SET FORTH BY THE STATE OF FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

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BISCAYNE ENGINEERING COMPANY, INC.
529 WEST FLAGLER STREET, MIAMI, FL. 33130
(305) 324-7871
STATE OF FLORIDA DEPARTMENT OF AGRICULTURE
CERTIFICATE OF AUTHORIZATION LB-0000129

*THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 5J-17-062, F.A.C.*
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ALBERTO J. RABIONET, PSM, FOR THE FIRM
PROFESSIONAL SURVEYOR AND MAPPER NO. 7218
STATE OF FLORIDA

| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS • SINCE 1898 • | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 03-87995 | DATE: | SHEET |
|---|---|---|---|---|---|
| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.

2. BEARINGS SHOWN HEREON ARE REFERENCED TO THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-152-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014, HAVING A BEARING OF N07°46'00"E.

3. SITE PLAN AND INSTRUCTIONS PROVIDED BY CLIENT.

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BISCAYNE ENGINEERING
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| ORDER # | DATE: | SHEET |
|---|---|---|
| 03-87995 | | |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## LEGAL DESCRIPTION

PARCEL CDD-1 (LEVEL BASEMENT 1)
AN AIRSPACE PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS LOWER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 9.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), HAVING AS ITS UPPER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA; THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 492.86 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 191.54 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 43.65 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 36.00 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 43.65 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 36.00 FEET TO THE POINT OF BEGINNING.

AND

PARCEL CDD-2 (LEVEL BASEMENT 1)
AN AIRSPACE PARCEL, BEING A PORTION OF BAHIA MAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, HAVING AS ITS LOWER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 9.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), HAVING AS ITS UPPER BOUNDARY A HORIZONTAL PLANE AT ELEVATION 22.50 FEET (NORTH AMERICAN VERTICAL DATUM OF 1988), THE PERIMETER BOUNDARIES OF WHICH ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF PARCEL 35, OF SAID BAHIA MAR, MARKED BY A 3/4 INCH IRON PIPE IN CONCRETE; THENCE SOUTH 78°40'58" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 911.51 FEET AND A CENTRAL ANGLE OF 19°05'02", A RADIAL LINE THROUGH SAID POINT BEARS NORTH 78°40'58" EAST, SAID CURVE ALSO BEING A PORTION OF THE BASELINE OF SURVEY OF STATE ROAD A1A / SEABREEZE BOULEVARD, AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION MAINTENANCE MAP FOR STATE ROAD A1A, STATE PROJECT NO. 86180-MAINT(3), RECORDED FEBRUARY 19, 2015, IN MAP BOOK 8, AT PAGE 149, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND FURTHER DESCRIBED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION SPECIFIC PURPOSE SURVEY / PROJECT CONTROL SHEET FOR STATE ROAD A1A FROM S.E. 17TH STREET TO E. SUNRISE BOULEVARD, FINANCIAL PROJECT ID 430601-1-52-01, BEARING A SIGNATURE DATE OF SEPTEMBER 6, 2014; THENCE RUN SOUTHEASTERLY AND SOUTHWESTERLY ALONG THE CURVE OF SAID BASELINE FOR AN ARC DISTANCE OF 303.60 FEET; THENCE SOUTH 07°46'00" WEST ALONG SAID BASELINE, A DISTANCE OF 190.16 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 29.00 FEET TO A REFERENCE POINT "A", ALSO BEING THE NORTHEAST CORNER OF THE "PROPERTY" AS DESCRIBED IN THE CORRECTIVE QUIT CLAIM DEED RECORDED ON DECEMBER 11, 2024, UNDER INSTRUMENT NUMBER 119949230, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA; THENCE CONTINUE NORTH 82°14'00" WEST, ALONG THE NORTH LINE OF SAID "PROPERTY", A DISTANCE OF 492.86 FEET; THENCE SOUTH 07°46'00" WEST, AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 251.54 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 82°14'00" EAST, A DISTANCE OF 43.65 FEET; THENCE SOUTH 07°46'00" WEST, A DISTANCE OF 36.00 FEET; THENCE NORTH 82°14'00" WEST, A DISTANCE OF 43.65 FEET; THENCE NORTH 07°46'00" EAST, A DISTANCE OF 36.00 FEET TO THE POINT OF BEGINNING.

CONTINUED NEXT SHEET

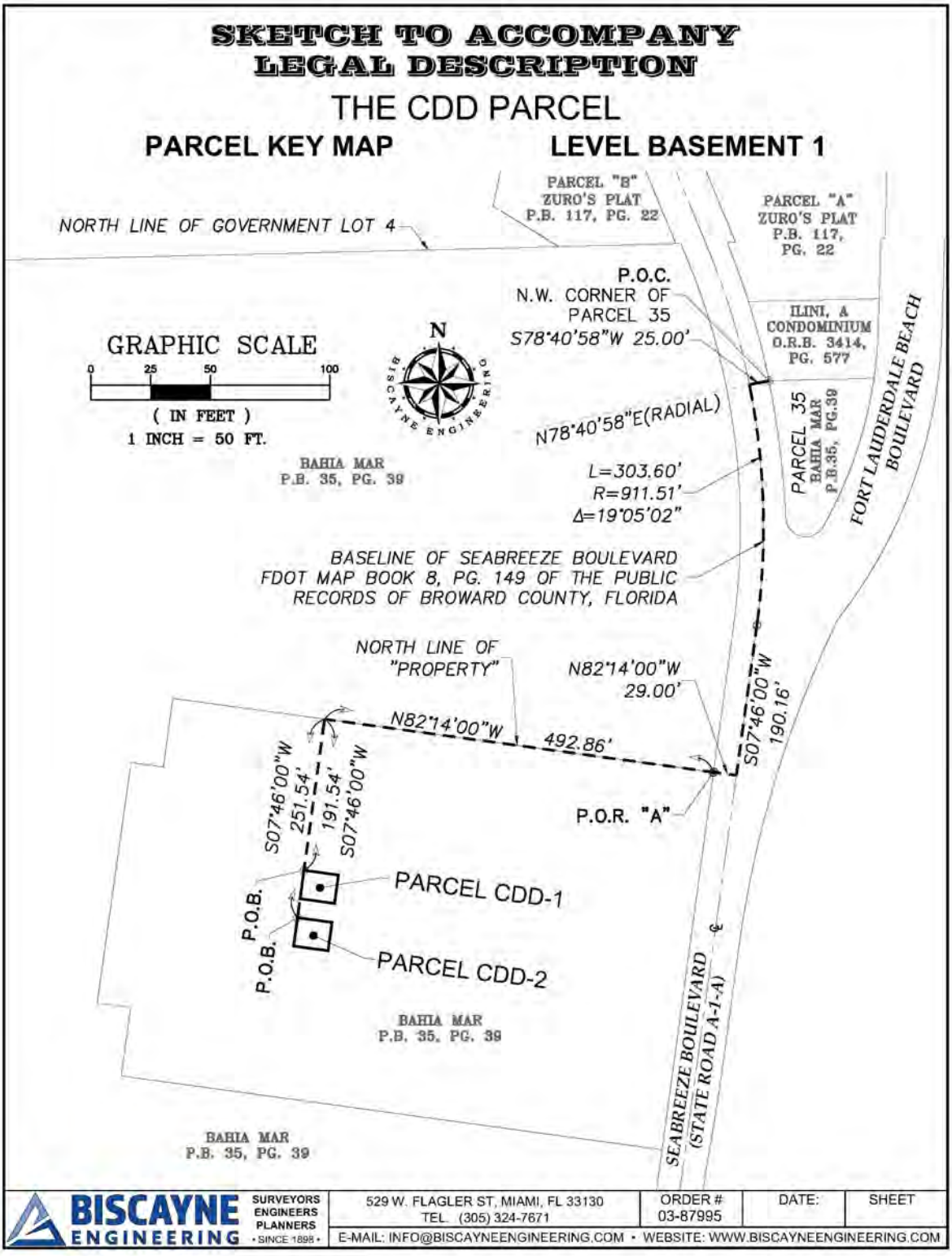
BISCAYNE ENGINEERING SURVEYORS ENGINEERS PLANNERS • SINCE 1898 •
529 W. FLAGLER ST, MIAMI, FL 33130
TEL. (305) 324-7671
E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM

| ORDER # | DATE: | SHEET |
|---|---|---|
| 03-87995 | | |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

## THE CDD PARCEL

### PARCEL KEY MAP — LEVEL BASEMENT 1




| BISCAYNE ENGINEERING | SURVEYORS ENGINEERS PLANNERS • SINCE 1898 • | 529 W. FLAGLER ST, MIAMI, FL 33130 TEL. (305) 324-7671 | ORDER # 03-87995 | DATE: | SHEET |
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| | | E-MAIL: INFO@BISCAYNEENGINEERING.COM • WEBSITE: WWW.BISCAYNEENGINEERING.COM | | | |

# SKETCH TO ACCOMPANY LEGAL DESCRIPTION

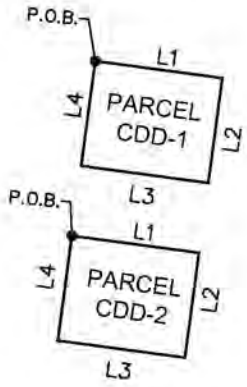
## THE CDD PARCEL

**PARCEL DETAIL**
**LEVEL BASEMENT 1**
VERTICAL LIMITS
9.50' - 22.50' (NAVD88)

N

GRAPHIC SCALE
0 25 50 100
( IN FEET )
1 INCH = 50 FT.

| LINE TABLE PARCEL CDD-1 | | |
|---|---|---|
| NO. | LENGTH | BEARING |
| L1 | 43.65' | S82°14'00"E |
| L2 | 36.00' | S07°46'00"W |
| L3 | 43.65' | N82°14'00"W |
| L4 | 36.00' | N07°46'00"E |




| LINE TABLE PARCEL CDD-2 | | |
|---|---|---|
| NO. | LENGTH | BEARING |
| L1 | 43.65' | S82°14'00"E |
| L2 | 36.00' | S07°46'00"W |
| L3 | 43.65' | N82°14'00"W |
| L4 | 36.00' | N07°46'00"E |


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| ORDER # | DATE: | SHEET |
|---|---|---|
| 03-87995 | | |

**EXHIBIT H**

**SITE PLAN**

[Site Plan in effect at time of signing]

CITY OF FORT LAUDERDALE

# CERTIFICATE OF COMPLIANCE
## AMENDED DEVELOPMENT PERMIT
## ADMINISTRATIVE APPROVAL

This certificate provides confirmation that the development permit application described herein has completed the amendment review process with the City, consistent with the City's Unified Land Development Regulations (ULDR), Section 47-24, Development Permits and Procedures. This certificate shall serve as formal approval documentation from the City.

For questions regarding this certificate, please contact the case planner listed below.

| | | |
|---|---|---|
| **CASE** | UDP-A26038 | |
| **PROJECT NAME** | Bahia Mar Amendment | |
| **APPLICATION TYPE** | Site Plan Level IV Amendment | |
| **APPROVAL LEVEL** | Administrative Review Committee | |
| **REQUEST** | Amendment to Previously Approved Site Plan (UDP-PDD22004) for a Reduction in Residential Units from 410 to 355, Hotel Rooms from 247 to 172, and Commercial Square Footage from 88,000 to 67,987, and changing associated parking requirement from 1,139 Parking Spaces to 963 Parking Spaces. | |
| **APPLICANT** | City of Fort Lauderdale | |
| **AGENT** | Jimmy Tate / Tate Capital / Rahn Bahia Mar, LLC. | |
| **PROPERTY ADDRESS** | 801 Seabreeze Blvd | |
| **ABBREVIATED LEGAL DESCRIPTION** | Bahia Mar 35-39 B All | |
| **ZONING DISTRICT** | Bahia Mar Planned Development District (PDD) | |
| **LAND USE** | Central Beach Regional Activity Center | |
| **COMMISSION DISTRICT** | 2 – Steven Glassman | |
| **NEIGHBORHOOD ASSOCIATION** | Central Beach Alliance | |
| | **DATE** | **DETERMINATION** |
| **SUBMITTAL** | May 29, 2026 | Application Completeness |
| **REVIEW DATE** | June 3, 2026 | Development Review Committee |
| **APPLICATION REVIEW TIMELINE** | November 25, 2026 | Expiration of Application Review per the ULDR |
| **APPROVAL** | **August 24, 2026** | Final DRC Certificate |
| **EXPIRATION** | **Original Expiration Dates for UDP-PDD22004 Apply** | Submittal of a complete building permit for above-ground principal structure |
| | **Original Expiration Dates for UDP-PDD22004 Apply** | Issuance of building permit for above-ground principal structure |
| **CASE PLANNER** | Tyler Laforme, AICP<br>Urban Planner III | **SIGN:** *Tyler Laforme* |

# EXHIBIT I

## HAZARDOUS SUBSTANCES

The LESSEE shall provide this Exhibit to the CITY for its review and approval, which approval shall not be unreasonably withheld, delayed or conditioned.

# EXHIBIT J

# PETROLEUM LIABILITY AND RESTORATION INSURANCE PROGRAM
# COVERAGE FOR THIRD PARTY LIABILITY
# FOR CONTAMINATION



**ALLIED WORLD ASSURANCE COMPANY (U.S.) INC.**
199 Water Street, 24th Floor, New York, NY 10038 · Tel. (646) 794-0500 · Fax (646) 794-0611

**SCHEDULED LOCATION POLLUTION LEGAL LIABILITY POLICY**
**DECLARATIONS**

**Florida Hurricane Catastrophe Fund Surcharge** (1.3% of Total Florida Premium) $1,224.02
(Amount due in addition to Premium shown in Item 6 below)

**Policy Number: 0309-0737** **New/Renewal of: New**

**Item 1. Named Insured and Address:**

**Rahn Bahia Mar L.L.C.**
**1175 NE 125th Street, Suite 102**
**Miami, FL 33161**

**Item 2. Policy Period:** **From June 27, 2014 To June 27, 2021**
**12:01 AM STANDARD TIME AT THE ADDRESS SHOWN IN ITEM 1.**

**Item 3. Coverages and Coverage Section Limits and Deductibles:**

**This Policy covers only those Coverages stated below:**

| Coverage | Deductible Each Incident | Each Incident Limit | Coverage Section Aggregate Limit |
|---|---|---|---|
| 1. Pre-Existing Conditions | $100,000 | $10,000,000 | $10,000,000 |
| 2. New Conditions | $100,000 | $10,000,000 | $10,000,000 |
| 3. Blanket Non-Owned Site | $100,000 | $10,000,000 | $10,000,000 |
| 4. Blanket Transportation | $100,000 | $10,000,000 | $10,000,000 |

| Coverage | Business Interruption-Deductible - Days | Each Incident Limit | Coverage Section Aggregate Limit |
|---|---|---|---|
| 5. Business Interruption | 5 | $10,000,000 | $10,000,000 |

**Item 4. Policy Aggregate Limit:** **$10,000,000**


Includes copyrighted material of Insurance Services Offices, Inc. with its permission.

**Item 5. Insured Locations:**

**801 Seabreeze Boulevard, Fort Lauderdale, FL**

**Item 6. Policy Premium:** **$94,155**

**Item 7. Retroactive Date:** **06/27/2014**

**Item 8. Notice of Pollution Incident or Claim:**

ALLIED WORLD ASSURANCE COMPANY (U.S.) INC.
ATTN: ENVIRONMENTAL CLAIMS DEPT.
199 WATER STREET, 24TH FLOOR
NEW YORK, NY 10038
EnvCasClaims@awac.com

**All Other Notices:**

ALLIED WORLD ASSURANCE COMPANY (U.S.) INC.
ATTN: ENVIRONMENTAL CASUALTY
199 WATER STREET, 24TH FLOOR
NEW YORK, NY 10038

**Item 9. Broker:**

**Lockton Companies LLC**
**3601 SW 160th Ave., Suite 200**
**Miramar, FL 33027**

IN WITNESS WHEREOF, the Insurer has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by one of our duly authorized representatives, where required by law.

President

Asst. Secretary

**AUTHORIZED REPRESENTATIVE**


Includes copyrighted material of Insurance Services Offices, Inc. with its permission.

Policy Number: 0309-0737

**Named Insured: Rahn Bahia Mar L.L.C.**
Effective Date: June 27, 2014
12:01 A.M., Standard Time

**SCHEDULE OF FORMS AND ENDORSEMENT**

The following forms and endorsements are made a part of this policy:

| Endorsement Number | Form #/ Edition | Title |
|---|---|---|
| | ENV-SPL 00001 00 (02/12) | Scheduled Location Pollution Legal Liability Policy Declarations |
| 1 | ENV-IL 00006 09 (04/11) | Florida Hurricane Catastrophe Fund Surcharge |
| 2 | ENV-SPL 00005 00 (12/11) | Strategic Response Coverage Extension |
| 3 | ENV-SPL 00020 00 (05/10) | Disclosed Document(s) Schedule |
| 4 | ENV-SPL 00027 00 (05/10) | Notice of Possible Claim Deletion |
| 5 | ENV-SPL 00044 00 (05/10) | Additional Named Insured(s) |
| 6 | ENV-SPL 00046 00 (10/10) | Amendment of Definition of Bodily Injury to Include Medical Monitoring Costs |
| 7 | ENV-SPL 00047 00 (10/10) | Amendment of Definition of Pollution incident to Include Illicit Abandonment |
| 8 | ENV-SPL 00060 00 (10/10) | Asbestos and Lead Exclusion Amendment Clean-Up Costs Coverage for Inadvertent Disturbances |
| 9 | ENV-SPL 00082 00 (09/12) | Self-Insured Retention |
| 10 | ENV-SPL 00088 00 (10/12) | Amendment of Non-Owned Disposal Site Coverage – Waste Originating From Insured Location |
| 11 | ENV-SPL 00091 00 (10/12) | Amendment of Transportation Coverage – Transportation From an Insured Location |
| 12 | RB Manu A | Amendment of Other Insurance Condition |
| 13 | RB Manu B | Storage Tank Endorsement to Demonstrate Financial Responsibility |
| 14 | RB Manu C | Coverage Territory Amendatory Endorsement |
| 15 | RB Manu D | Amendment of Cancellation Condition – Extended Notice, Attempt to Cure and 100% Earned at Policy Inception |
| 16 | RB Manu E | Mortgagee Insured/ Assignment |
| 17 | RB Manu F | Schedule of Underground Storage Tank(s) With Retroactive Date |
| 18 | RB Manu G | Amendment of Changes Condition |
| 19 | RB Manu H | Mortgagee Insured / Promotion to Named Insured |

| | | |
|---|---|---|
| 20 | RB Manu I | Material Change in Use – Intended Use |
| | ENV-SPL 00003 00 (02/12) | Scheduled Location Pollution Liability Policy |

# EXHIBIT K-1

## SUBLEASE FORM

The LESSEE shall provide this Exhibit to the applicable LESSOR for its review and approval, which approval shall not be unreasonably withheld, delayed or conditioned.

**EXHIBIT K-2**
**SUB-SUBLEASE FORM**

The LESSEE shall provide this Exhibit to the applicable LESSOR for its review and approval, which approval shall not be unreasonably withheld, delayed or conditioned.

**AMENDED AND RESTATED**
**AGREEMENT OF PURCHASE AND SALE**

**BY AND BETWEEN**

**BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT,**
**a local unit of special purpose government organized and existing pursuant to Chapter 190, Florida Statutes.**

**AND**

**RAHN BAHIA MAR L.L.C.**

**AND**

**PRH/TRR BAHIA MAR HOLDINGS, LLC**

# AMENDED AND RESTATED AGREEMENT OF PURCHASE AND SALE

THIS AMENDED AND RESTATED AGREEMENT OF PURCHASE AND SALE ("**Agreement**") is made and entered into as of the Effective Date, between **BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government organized and existing pursuant to Chapter 190, Florida Statutes ("**District**"), **RAHN BAHIA MAR L.L.C.**, its successor and assigns ("**Purchaser**" or "**Rahn**"), and **PRH/TRR BAHIA MAR HOLDINGS, LLC** ("**PRH/TRR**"; together with Purchaser and the District are collectively the "**Parties**" and individually a "**Party**").

W I T N E S S E T H:

WHEREAS, the Parties entered into that Agreement of Purchase and Sale ("**First Phase Surplus and Air Rights Parcel**") dated as of February 29, 2024 ("**Initial Agreement**"); and

WHEREAS, prior to the execution of the Initial Agreement, the City conveyed to the CDD air rights pursuant to Quit Claim Deed recorded January 31, 2024 under Instrument No. 119365858 of the Public Records of Broward County, Florida ("**Initial CDD Parcel**"); and

WHEREAS, subsequent to entering into the Initial Agreement, the CDD conveyed what it had determined to be surplus property to Purchaser pursuant to Quit Claim Deed dated March 1, 2024, recorded under Instrument No. 119425082 of the Public Records of Broward County, Florida ("**Initial Surplus Property**"); and

WHEREAS, subsequent to the conveyance by the City to the CDD of the Initial CDD Parcel and the subsequent conveyance by the CDD to Purchaser of the Initial Surplus Property, the Parties determined that there was a scrivener's error in the legal description of both the Initial CDD Parcel and Initial Surplus Parcel; and

WHEREAS, subsequent to the determination of such scrivener's error, the Parties requested the City to modify and correct such scrivener's error whereby the City conveyed to the CDD a Corrective Quit Claim Deed to correct such scrivener's error by Corrective Quit Claim Deed recorded under Instrument No. 119949230 of the Public Records of Broward County, Florida ("**Corrective CDD Air Rights Parcel**"), and upon the CDD obtaining the Corrective CDD Air Rights Parcel, the Board of Supervisors of the CDD modified the scrivener's error with respect to the Initial Surplus Property and conveyed to Purchaser the First Phase Air Rights Parcel by the Corrective Quit Claim Deed recorded under Instrument No. 119978353 of the Public Records of Broward County, Florida ("**Corrective First Phase Deed**"); and

WHEREAS, Purchaser paid the CDD the First Phase Purchase Price for the First Phase Air Rights Parcel as evidenced by First Purchase Note dated February 29, 2024, executed by Purchaser in favor of the CDD; and

WHEREAS, Purchaser has prepared the Air Rights Declaration and the CDD has approved the terms and provisions of such Air Rights Declaration in substantial final form; and

WHEREAS, the CDD has determined that the Second Phase Air Rights Parcel is not needed by the CDD and that the air rights parcel needed by the CDD in connection with providing public parking spaces within the Podium is only within the CDD Air Rights Parcel and that the CDD desires to sell to Purchaser the Second Phase Air Rights Parcel in accordance with the terms of this Agreement; and

WHEREAS, the Parties desire to amend and reinstate the Initial Agreement in its entirety to set forth the terms and provisions with respect to the sale of the Surplus Air Rights Parcel.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. Amended and Restatement. This Agreement is an amendment and reinstatement of the Initial Agreement and supersedes such Initial Agreement in its entirety. To the extent of any inconsistency between the terms and provisions of this Agreement and the terms of the Initial Agreement, the terms and provisions of this Agreement shall supersede and control to the extent of such inconsistency.

2. Definitions. The following (in their singular and plural forms, as appropriate) as used in this Agreement shall have the meaning set forth below, unless the context requires otherwise:

"**Acceptable Exceptions**" shall mean (i) taxes and assessments applicable to the Surplus Air Rights Parcel(s), (ii) any matters created by or through (a) Purchaser or Developer (as to property to be conveyed to Purchaser) or (b) District (as to property to be conveyed to the District), (iii) the Existing Title Documents, and (iv) matters which the Purchaser (as to property to be conveyed to Purchaser) or District (as to property to be conveyed to the District) consents to in writing.

"**Agreed Cure Items**" shall mean the District shall provide Purchaser prior to Closing with (i) any documents which the District agrees in writing to provide to Purchaser; (ii) the Closing Affidavit; (iii) documents required to satisfy of record any mortgages, mechanics' or other lien created by the District; (iv) copy of a resolution of the Board authorizing the transactions contemplated by this Agreement ("**Resolution(s)**"); and (v) the closing documents to be provided by the District pursuant to the terms of this Agreement.

"**Air Rights Owner**" shall mean each owner of any portion of the CDD Air Rights Parcel and Surplus Air Rights Parcel, as they may change from time to time.

"**Air Rights Declaration**" shall mean that certain Declaration of Air Rights, Covenants, Easements & Restrictions for BM Podium approved by the Board in substantial final form on October 19, 2026, as may be amended from time to time as provided in such Air Rights Declaration.

"**Amended and Restated Quitclaim Deed**" or "**Deed**" shall mean the deed in the form of **Exhibit A** conveying all Surplus Air Rights Parcels.

"**Appraisal**" shall mean that certain appraisal report of the present value of the future air rights (subject to the Master Lease) prepared by The Urban Group as of January 25, 2024 setting a value for the present value of such future air rights of the CDD Air Rights Parcel at Nine Hundred Thousand and 00/100 Dollars ($900,000) of which $699,300 was evidenced by the First Purchase Note provided in connection with the purchase of the Initial Surplus Property which has been corrected to be the First Phase Air Rights Parcel.

"**Approved Site Plan**" shall mean the site plan generally shown on **Exhibit B** attached hereto and made a part hereof.

"**Bill of Sale**" shall have the meaning set forth in Section 5(c) of this Agreement.

"**Board**" shall mean the Board of Supervisors of the District.

"**CDD Air Rights Parcel**" shall mean the fee simple title to the air rights described on **Exhibit C**, attached hereto and made a part hereof. The CDD Air Rights Parcel is necessary for the requirements and use of the District for public improvements, including the Public Parking Spaces, and excludes all the Surplus Air Rights Parcel(s) conveyed, and to be conveyed, to the Purchaser.

"**CDD Costs**" shall mean the District's allocated hard and soft costs to construct their portion of the First Phase of Construction as set forth in the Public Infrastructure Budget.

"**CDD Engineer**" shall mean the engineer for the District.

"**CDD Payment Obligation**" shall have the meaning set forth in Section 5(b) of this Agreement.

"**City**" shall mean the City of Fort Lauderdale, Florida.

"**Closing**" or "**Second Closing**" shall mean the consummation of the transaction contemplated by this Agreement, whereby on the Second Closing Date, the Amended and Restated Quitclaim Deed, Closing Affidavit, Resolution, and other closing documents reasonably requested for the conveyance Surplus Air Rights Parcel to Purchaser are executed and delivered by the District to Purchaser, and the Purchaser shall execute and deliver a Second Purchase Note to the District for the purchase of the Second Phase Air Rights Parcel.

"**Closing Affidavit**" shall mean a closing affidavit in the form on **Exhibit D**, attached hereto and made a part hereof.

"**Closing Agent**" shall mean Greenspoon Marder, LLP.

"**Commitment**" or "**Title Evidence**" shall mean a title insurance commitment #110185037 having an effective date of _____, 2026 at 8:00 a.m.

"**Constructing Party**" shall have the meaning set forth in Section 5 of this Agreement.

"**Corrected CDD Air Rights Parcel**" shall have the meaning set forth in the Recitals.

**"Cost Allocation"** – Please initial "**P**" if it is a Purchaser Cost or "**S**" if it is the District Cost:

| | |
|---|---|
| P | Title Commitment |
| P | Title Policy (excluding endorsements required by Purchaser) |
| P | Transfer tax and any surcharge on Deed |
| P | Recording of Deed(s) |
| S | The costs of obtaining the Agreed Cure Items |
| P | Documentary stamps on the Purchase Note(s) |
| S | Documentary stamps on the District Interlocal Obligation, only if required under applicable law |

Each Party shall be responsible for payment of its own legal fees, except as provided in Paragraph 17(d) hereof.

"**Cost Notice**" shall have the meaning set forth in Section 6(d) of this Agreement.

"**County**" means Broward County, Florida.

"**Declaration**" shall mean that certain Declaration of Restrictive Covenants recorded under Instrument #119363796 of the Public Records of Broward County, Florida, as amended from time to time.

"**Deficiency**" shall have the meaning set forth in Section 5(d) of this Agreement.

"**Developer(s)**" shall mean PRH/TRR Bahia Mar Holdings, LLC and/or, as applicable, any Phased Tenant(s).

"**District**" shall have the meaning set forth in the preamble.

"**District Funding Obligation**" shall have the meaning set forth in Section 4(a) of this Agreement.

"**District Interlocal Obligation**" shall mean the obligation of the District to repay Developer for monies advanced by the Developer to the District, as provided in Section 4 of this Agreement.

"**Effective Date**" shall mean the last date that this Agreement is executed by the District and Purchaser and an executed copy of this Agreement delivered to Purchaser and the District.

"**Existing Title Documents**" means the matters set forth on **Exhibit E**, attached hereto and made a part hereof.

"**Engineer's Report**" shall mean that certain report of CDD Engineer to the CDD Board of Supervisors determining the CDD Air Rights Parcel and the Surplus Air Rights Parcel prepared by Alvarez Engineers, Inc. dated February 5, 2024, as further amended on February 19, 2024, indicating that the Surplus Air Rights Parcel(s) (after same is approved by the District) may be transferred by the District to the Purchaser, and such transfer will not affect the construction of the District's Public Improvements.

"**First Phase Purchase Price**" shall mean the sum of Six Hundred Ninety-Nine Thousand Three Hundred and 00/100 Dollars ($699,300).

"**First Purchase Note**" shall mean the promissory note in the amount of the First Phase Purchase Price which has previously been executed and delivered by Purchaser to the District.

"**First Phase Air Rights Parcel**" shall mean the portion of the CDD Air Rights Parcel legally described on **Exhibit F**, attached hereto and made a part hereof, which was conveyed by the CDD to Rahn pursuant to the Corrective First Phase Deed.

"**First Phase of Construction**" shall mean the portion of the Proposed Improvements generally shown on **Exhibit G**, attached hereto and made a part hereof.

"**Garage**" shall mean the portion of the Podium providing for the garage including parking, access drives and appurtenant facilities related thereto as contemplated in the Air Rights Declaration.

"**Interlocal Agreement**" shall mean that certain Interlocal Agreement by and between the City and the District dated January 29, 2024 recorded under Instrument #119432135 of the Public Records of Broward County, Florida, as amended by that First Amendment of Interlocal Agreement dated June 15, 2026, recorded under Instrument #121088687 of the Public Records of Broward County, Florida.

"**Interlocal Advance**" shall have the meaning set forth in Section 4(a) of this Agreement.

"**Master Lease**" shall mean that certain Master Lease Agreement by and between the City and the Purchaser having an effective date of April 13, 2022, as amended by Amendment No. 1 to Master Lease Agreement dated October 31, 2022, as further amended by Amendment No. 2 to Master Lease Agreement dated January 29, 2024, as same may be further amended from time to time.

"**Notice Location**" shall mean the locations set forth below as same may be changed by a party upon written notice of such change being provided to the other party, to wit:

If to Purchaser: Rahn Bahia Mar L.L.C.
1175 N.E. 125th Street, Suite 102
North Miami, FL 33161
Attn: J. Kenneth Tate
Telephone: (305) 891-1107
Fax: (305) 891-2577
Email: Kenny@tatecapital.com

With a copy to: Greenspoon Marder LLP
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, FL 33301
Attn: Barry E. Somerstein, Esq.
Telephone: (954) 527-2405
Fax: (954) 333-4005
Email: barry.somerstein@gmlaw.com and
bs1168@nova.edu

If to PRH/TRR: PRH/TRR BAHIA MAR HOLDINGS, LLC
2850 Tigertail Avenue, Suite 800
Miami, Florida 33133
Attn: Matt Allen
Email: mallen@relatedgroup.com

With a copy to: Greenberg Traurig, P.A.
333 SE 2nd Avenue
Suite 4400
Miami, Florida 33131
Attn: Kimberly S. LeCompte, Esq.
Email: lecomptek@gtlaw.com

If to District: District Manager
GMS – South Florida
5385 N. Nob Hill Road
Sunrise, FL 33351
Email: rhans@gmssf.com

With a copy to: District Counsel
Ginger E. Wald, Esquire
515 E. Las Olas Blvd., Suite 600
Fort Lauderdale, FL 33301
Email: gwald@bclmr.com

"**Objection Period**" shall have the meaning set forth in Section 6(d) of this Agreement.

"**Phased Lease(s)**" shall mean those certain Phased Leases to be entered into between the Phased Tenant(s) and the City as contemplated under the Master Lease, whereby upon the execution of each such Phased Lease, the District shall join in each such Phased Lease as a Lessor provided in the Declaration.

"**Phased Tenant**" shall mean as defined in the Master Lease.

"**Plans**" shall mean plans and specifications for the First Phase of Construction, which shall be determined as provided in Paragraph 6 of this Agreement.

"**Podium**" shall mean that certain structure in the general location as described on **Exhibit H**, attached hereto and made a part hereof, within and upon which the applicable Proposed Improvements are to be constructed, recognizing that the Public Parking Spaces, hotel building and each residential building shall be built on or within a portion of the Podium. The Parties recognize the Podium and Proposed Improvements will be constructed in phases.

**"Preliminary Plans"** shall have the meaning set forth in the Section 6(b) of this Agreement.

"**Proposed Improvements**" shall mean the improvements contemplated to be constructed within and upon the Podium as shall be set forth on the Plans, including residential buildings, hotel, parking spaces, amenities, landscaping, ramps and other improvements.

"**Public Infrastructure Budget**" shall mean a budget of the estimated hard and soft costs to be incurred in connection with the construction of the First Phase of Construction prepared by Purchaser (or Developer, as determined by the Purchaser) subject to the approval by the applicable owner(s) of the Surplus Air Rights Parcel(s), the Purchaser and the District, plus any adjustments to such Public Infrastructure Budget reasonably approved by the Purchaser and the District.

"**Public Improvements**" shall have the meaning set forth in the Engineer's Report, as amended from time to time.

"**Public Parking Spaces**" shall mean the public parking spaces to be located within the CDD Air Rights Parcel, as shall be shown on the Plans, which shall be owned and operated by the District and maintained as provided in the Air Rights Declaration to provide public parking in such spaces.

"**Purchase Note(s)**" shall mean the (i) First Purchase Note and (ii) upon Closing, Second Purchase Note.

"**Purchaser**" shall have the meaning set forth in the preamble.

"**Resolution(s)**" shall have the meaning set forth in the definition of Agreed Cure Items.

"**Second Closing Date**" shall mean the Effective Date.

"**Second Phase Purchase Price**" shall mean the sum of One Hundred Forty-One Thousand Three Hundred Sixty-Four and 00/100 Dollars ($141,364), based upon the CDD Engineer's allocation of Nine Hundred Thousand and 00/100 Dollars ($900,000) fair market value for all of the CDD Air Rights Parcel as set forth in the Appraisal, being: (i) $699,300 for the fair market value of the First Phase Air Rights Parcel, (ii) $59,336 for the fair market value of the CDD Air Rights Parcel, and (iii) $141,364 for the fair market value of the Second Phase Air Rights Parcel.

"**Second Purchase Note**" shall mean the promissory note in the amount of the Second Phase Purchase Price, in the form of **Exhibit I**, to be executed by Purchaser in favor of the District at the Second Closing.

"**Second Phase Air Rights Parcel**" shall mean the parts of the CDD Air Rights Parcel legally described on **Exhibit J** attached hereto and made a part hereof.

"**Surplus Air Rights Parcel(s)**" shall mean the First Phase Air Rights Parcel and Second Phase Air Rights Parcel.

"**Surviving Obligations**" shall mean the obligations of Purchaser which survive termination of this Agreement.

"**Title Company**" shall mean the title company selected by Purchaser to issue the Commitment to Purchaser, if any.

"**Title Policy**" shall mean an owner's title insurance policy issued pursuant to the Commitment by the Title Company with respect to the Second Phase Air Rights Parcel being purchased in the amount of the Second Phase Purchase Price, subject only to the Acceptable Exceptions.

"**True Up**" shall have the meaning set forth in Paragraph 4 of this Agreement.

"**True Up Date**" shall have the meaning set forth in Paragraph 4 of this Agreement.

"**True Up Request**" shall have the meaning set forth in Paragraph 4 of this Agreement.

3. Purchase and Sale. The Purchaser has already purchased the First Phase Air Rights Parcel and executed and delivered to the District the First Purchase Note evidencing the First Phase Purchase Price. Subject to the terms and conditions hereinafter set forth on the Effective Date, at the Second Closing the District agrees to sell to Purchaser, and Purchaser agrees to purchase from the District, the Second Phase Air Rights Parcel(s), and at the Second Closing, the Purchaser shall execute and deliver to the District, the Second Purchase Note evidencing the Second Phase Purchase Price and the District shall execute and deliver to Purchaser the Amended and Restated Deed, Closing Affidavit, Resolution and other documents reasonably requested to transfer the Surplus Air Rights Parcels to Purchaser.

4. Purchase Price. The Purchaser shall pay to the District the Second Phase Purchase Price at the Second Closing, which Second Phase Purchase Price shall be evidenced by Purchaser executing and delivering to the District the Second Purchase Note.

The Parties recognize that, prior to commencement of construction of the First Phase of Construction, Purchaser (either itself, or one or more of its subsidiaries) shall have assigned the Phased Leases applicable to the First Phase of Construction to Developer. In connection with such transfer, the Purchaser shall quit claim the applicable Surplus Air Rights Parcel(s) to the applicable Developer(s) and the applicable Developer(s) shall assume all of the applicable obligations under the Purchase Note(s), whereupon assumption by the Developer(s) of the applicable obligations under the Purchase Note(s), the Purchaser shall be released of its liability under such Purchase Note(s).

5. Interlocal Obligation, CDD Costs and True Up.

(a) Prior to the Effective Date, the District entered into the Interlocal Agreement with the City, whereby the District agreed to advance up to $1,000,000 with respect to certain Improvements as provided in Section 3 of the Interlocal Agreement ("**District Funding Obligation**"). Purchaser or PRH/TRR, as a Developer have agreed to advance as a short-term loan to the District, not to exceed an aggregate of $1,000,000, any monies the District may require in connection with the District Funding Obligation, which advances under such loan shall be advanced from time to time by Purchaser or PRH/TRR to the District within thirty (30) days after written request from the District to Purchaser or PRH/TRR that monies are needed by the District to advance to the City, as provided in Section 3 of the Interlocal Agreement ("**Interlocal Advances**"). All Interlocal Advances shall accrue interest from the date advanced until the date repaid at the "Applicable Federal Rate" imposed by the Internal Revenue Service per annum, simple interest, and the unpaid principal balance of all Interlocal Advances, together with all accrued and unpaid interest thereon, shall be due and payable on a date which will be the earlier to occur of (i) February 29, 2030, or (ii) the True Up Date, as such payment may be extended as provided in Section 5(b) of this Agreement. The obligations of the District to the Purchaser or Developer, as set forth in this Subsection 5(a), are collectively referred to as the "**District Interlocal Obligation**". The District and Purchaser or Developer hereby agree (i) that the District Interlocal Obligation may be prepaid by the District in whole or in part at any time without penalty or premium, and (ii) in the event of a default by District in not timely repaying all of the District Interlocal Obligation which default is not cured within ten (10) business days after written notice from Purchaser or Developer to the District of such non-payment, then all then outstanding District Interlocal Obligations shall accrue interest at the rate of twelve percent (12%) per annum from the initial date the Purchaser or Developer advanced such monies to the District until the date repaid, but in no event shall such interest be greater than the maximum rate permitted by law. This section shall survive Closing.

(b) The Parties have agreed to cooperate with the construction of the First Phase of Construction and the District shall be responsible for the CDD Costs. The Purchaser (or the Developer) shall pay for all the costs of construction of the First Phase of Construction, subject to the District's obligation to pay the CDD Costs. Upon the written request of the Purchaser or the Developer as the applicable Air Rights Owner to the District after substantial completion of the First Phase of Construction ("**True Up Request**"), the Parties shall, within ten (10) business days

of such True Up Request ("**True Up Date**"), have a True Up whereby, subject to the terms of this Agreement, the District shall be obligated to pay to the applicable Purchaser or Developer as the applicable Air Rights Owner the District Interlocal Obligation plus the CDD Costs (collectively, the "**CDD Payment Obligation**"), and the Purchaser or Developer as the applicable Air Rights Owner shall be obligated to pay to the District the outstanding principal balance, together with accrued and unpaid interest under the Purchase Note(s). To the extent that the CDD Payment Obligation exceeds the amount owed under the Purchase Note(s), then the District shall make such payment to the Purchaser or Developer as the applicable Air Rights Owner, upon the District's receipt of funds for the CDD Payment Obligation as noted below, and to the extent the District does not have sufficient funds to pay the CDD Payment Obligation, the District shall enter into an agreement with the Purchaser or Developer as the applicable Air Rights Owner to defer such payment on terms mutually approved, in writing, between the District and the Purchaser or Developer as the applicable Air Rights Owner to enable the District time to adopt a budget and follow statutory procedure to levy special assessments to provide for the payment of any remaining unpaid CDD Payment Obligations, and collect monies thereunder in order to make such CDD Payment Obligation. To the extent that the CDD Payment Obligation is less than the amount owed under the Purchase Note(s), the Purchaser or Developer as applicable shall pay such net balance to the District on the True Up Date. Each such payment shall be made by wire transfer of good federal funds to the other party at a wire transfer address provided by the party entitled to such payment. The Parties recognize that the CDD Payment Obligation shall be paid only upon the receipt of the funds by the District from either (i) the Purchaser (or Developer, as applicable) pursuant to the Purchase Note(s), or (ii) the receipt of funds by the District from the levy of special assessments provide for the payment of any remaining unpaid CDD Payment Obligations.

(c) On the True Up Date, the Parties will cause to be delivered the following:

(i) The Purchaser or Developer as the applicable Air Rights Owner shall deliver to the District a bill of sale transferring to the District the Public Parking Spaces, free and clear of liens and encumbrances other than the Acceptable Exceptions ("**Bill of Sale**");

(ii) The Parties shall execute, deliver and record the Air Rights Declaration;

(iii) The Purchaser or Developer as the applicable Air Rights Owner shall deliver to the District an affidavit providing that (i) the Purchaser or Developer as the applicable Air Rights Owner is conveying such Public Parking Spaces free and clear of all liens, claims and encumbrances, no petition in bankruptcy has been filed by or against the Purchaser or Developer within the past twelve (12) months in any Federal Court in the United States, and (ii) no judgment has been rendered and no suit is now pending against the Purchaser or Developer as the applicable Air Rights Owner in any court of record which would impair conveying title to the Public Parking Spaces being conveyed to the District;

(iv) The District and the Purchaser or Developer as the applicable Air Rights Owner shall deliver each to the other a certificate of non-foreign status or statement complying with Section 1145(b)(2) or (3) of the Internal Revenue Code of 1986, as amended;

(v) A closing statement;

(vi) A public disclosure act affidavit pursuant to Section 286.23, Florida Statutes;

(vii) A sworn statement under Section 287.133(3)(a), Florida Statutes;

(viii) A resolution of the District and the Purchaser or Developer as the applicable Air Rights Owner authorizing the transactions contemplated pursuant to this Section 5;

(ix) An agreement of the Purchaser or Developer as the applicable Air Rights Owner to provide to the District within ten (10) business days after same has been received by Purchaser or Developer as the applicable Air Rights Owner the as-built plans with respect to the Garage portion of the First Phase of Construction;

(x) A quit claim assignment of a one year warranty from completion of the Public Parking Spaces or such longer length of time as such warranty is provided in the construction contract between the Purchaser or Developer as the applicable Air Rights Owner and the contractor performing such work that such Public Parking Spaces shall be free from defects in material and workmanship.

6. Phased Lease and Construction.

(a) The Parties agree that at such time as each Phased Lease is entered into, that the District and each applicable Air Rights Owner shall join in each such Phased Lease as provided in the Declaration.

(b) The Parties acknowledge that the Developer (or Purchaser, as determined by Purchaser) shall be preparing the plans and specifications for the Garage portion of the First Phase of Construction which shall be subject to the approval by the District ("**Plans**"). A preliminary set of the Plans have already been prepared, reviewed, and approved by the Parties (**"Preliminary Plans"**) which Preliminary Plans show the portion of the Proposed Improvements comprising the Garage portion of the First Phase of Construction required for the Public Improvements, including the Public Parking Spaces to be owned by the District, which shall be located within the CDD Air Rights Parcel.

(c) It is intended that after Purchaser acquires the Surplus Air Rights Parcel(s) that it will be conveying portions of such Surplus Air Rights Parcel(s) to the Developer (or its designees) and such Developer (or its designees) will be obtaining financing with respect to the Phased Parcels demised under the Phased Leases applicable to the First Phase of Construction and on portions of the Surplus Air Rights Parcel(s) ("**Financing Documents**"). The District agrees to execute such documents in connection with such Financing Documents as may be reasonably required by the Developer to evidence its consent to such financing, provided that the District shall not be required to incur any liability or expense or obligation inconsistent with law in connection with such Financing Documents. This provision shall survive Closing.

(d) Upon commencement of construction of the First Phase of Construction, the Parties shall cooperate and coordinate the construction process. During the first five (5) business days of each month during construction of the First Phase of Construction ("**Inspection Period**"), the party performing such construction of the First Phase of Construction ("**Constructing Party**")

shall provide the District and the CDD Engineer the opportunity to inspect such Proposed Improvements within the First Phase of Construction as same are being performed. The CDD Engineer shall coordinate all inspections with the Constructing Party (provided, however, that such inspections shall not materially interfere with or cause any material delays in the construction of the Proposed Improvements) and, to the extent that such CDD Engineer shall notify the Constructing Party, in writing, ("**Deficiency Notice**") within five (5) business days of each Inspection Period (each an "**Objection Period**") that such work does not comply in all material respects with the Plans and that same adversely affects, in any material respect, the CDD Air Rights Parcel and/or the improvements to be constructed within the CDD Air Rights Parcel ("**Deficiency**"), then such Constructing Party shall either promptly correct such Deficiency or work in good faith with the District and the CDD Engineer to resolve any disputes with respect to such Deficiency. If no Deficiency Notice is timely provided by the CDD Engineer to the Developer prior to the end of each applicable Objection Period, then such portion of construction performed prior to such Objection Period shall be deemed approved by the CDD Engineer. Upon substantial completion of the Podium portion of the First Phase of Construction, the Developer shall (i) notify the District of such substantial completion, (ii) certify to the District the amount of the CDD Costs ("**Cost Notice**"), and (iii) cause Developer's engineer and/or architect to certify that the Public Parking Spaces being conveyed to the District have been constructed in compliance in all material respects with the Plans and in conformance with applicable laws governing such construction.

(e) The Parties acknowledge that the District will accept the Public Improvements only upon certification by the District Engineer to the Board that such improvements are complete, comply (or are deemed to comply) in all material respects with the Plans and specifications and legal requirements. The CDD Engineer may inspect the Garage portion of the First Phase of Construction as same is being performed as set forth in subsection (e) above, and, unless the CDD Engineer notifies the Developer in writing that the work does not comply in all material respects with the Plans (including advising the basis for such determination), it shall be deemed that the CDD Engineer has approved such work, as performed through such date, as complying in all material respect with the Plans.

(f) After the Purchaser provides the Cost Notice set forth in Section 6(d) above and the amount in the Cost Notice is accepted by the District Engineer (in his commercially reasonable by judgment), the Parties shall perform the True Up as set forth in Paragraph 4 of this Agreement.

(g) Each Air Rights Owner agrees that within ten (10) days of written request by Purchaser (or Developer, if designated by Purchaser), each applicable Air Rights Owner shall execute and record the Air Rights Declaration. When Purchaser conveys each Surplus Air Rights Parcel to the Developer, the Developer shall be required to agree to the provisions of this paragraph 6(g) and shall take title subject to all Acceptable Exceptions.

(h) Upon substantial completion of the First Phase of Construction, if, based on such construction, the Public Parking Spaces encroach into the Surplus Air Rights Parcel or the Proposed Improvements constructed in the Surplus Air Rights Parcel encroach into the CDD Air Rights Parcel, then, upon the request of any Surplus Air Rights Owner or the District, such Parties shall modify the legal description of the CDD Air Rights Parcel and Surplus Air Rights Parcel to

eliminate such encroachment(s) and will provide any corrective deeds that may need to be entered into as long as encroachments are of de minimus nature and value, which would not require any adjustment to the Purchase Price. The Parties recognize the Air Rights Declaration provides for encroachment easements.

7. Title and Sketch and Legal.

The Purchaser and the District have reviewed title to the Second Phase Air Rights Parcel as set forth in the Title Commitment and hereby agree that title to the Second Phase Air Rights Parcel shall be conveyed by the District to Purchaser by the Deed.

8. AS-IS and Inspection.

(a) Purchaser acknowledges and agrees that, except as set forth in this Agreement or in the closing documents, the District shall sell and convey to Purchaser and Purchaser shall accept the physical conditions of such Surplus Air Rights Parcel(s) then conveyed in "AS IS, WHERE IS" physical conditions. Except for the representations and warranties of the District set forth in this Agreement or in the closing documents, Purchaser has not relied and will not rely on, and the District has not made and is not liable for or bound by, any express or implied warranties, guarantees, statements, representations or information pertaining to the Surplus Air Rights Parcel(s) (including specifically, without limitation, property information packages distributed with respect to the Surplus Air Rights Parcel(s)) made or furnished by the District, or any property manager, real estate broker, agent or third party representing or purporting to represent the District, to whomever made or given, directly or indirectly, orally or in writing. Purchaser represents that it is a knowledgeable, experienced and sophisticated purchaser of real estate and that it is relying solely on its own expertise and that of Purchaser's consultants in purchasing the Surplus Air Rights Parcel(s) and shall make an independent verification of the accuracy of any documents and information provided by the District. Purchaser has conducted such inspections and investigations of the Surplus Air Rights Parcel(s) as Purchaser deemed necessary, including, but not limited to, the physical and environmental conditions thereof, and shall rely solely upon same. The Parties acknowledge the First Phase Air Rights Parcel was conveyed to Purchaser prior to the Effective Date but the Second Corrective First Phase Deed shall be executed by the District and delivered to Purchaser at the Second Closing.

(b) Purchaser, Developer, and their respective agents, employees and representatives shall have access to the Second Phase Air Rights Parcel at all times subsequent to the Effective Date and prior to the Second Closing Date with full right to inspect and conduct reasonable tests and/or surveys thereon including, but not limited to, soil borings and hazardous waste studies, and to make such other examinations with respect thereto as Purchaser, Developer, and their respective counsel, licensed engineers, surveyors or other representative may deem reasonably necessary. Any test, survey, examinations or inspections of the CDD Air Rights Parcel by Purchaser or Developer and all costs and expenses in connection with Purchaser's or Developer's inspection of the CDD Air Rights Parcel shall be at the sole cost of Purchaser or Developer, as applicable. Purchaser or Developer, as applicable, shall remove or bond any lien of any type which attaches to the CDD Air Rights Parcel by virtue of any of Purchaser's or Developer's inspections, as applicable. Upon completion of any such inspection, examination, or test, Purchaser or Developer, as applicable, shall restore any damage to the CDD Air Rights Parcel

caused by Purchaser's or Developer's inspection, as applicable. Purchaser and Developer hereby indemnify and hold the District harmless from all loss, cost or expense, including, but not limited to, attorneys' fees and court costs resulting from Purchaser's (as to its acts) or Developer's (as to its acts) inspections in connection with the CDD Air Rights Parcel, as applicable.

The indemnities and covenants of Purchaser in this Section 8 shall expressly survive any termination of this Agreement and/or the Closing without time limitation, and not merge with the provisions of any closing documents.

9. District's Representations. The District represents, warrants, and covenants unto Purchaser and agrees with Purchaser as follows, to wit, as of the Effective Date and Closing:

(a) The District is and shall remain current and in good standing under the laws of Florida, and the District has all requisite power and authority to enter into and consummate the transaction contemplated by this Agreement.

(b) The execution, delivery and performance of this Agreement and all documents contemplated by this Agreement to be executed by the District has been duly authorized by the Board, and no consent of any other person or entity to such execution, delivery and performance is required to render this document a valid and binding instrument enforceable in accordance with its terms.

(c) The entering into this Agreement (and the sale of the Surplus Air Rights Parcel(s) to Purchaser) and the transactions contemplated by this Agreement do not constitute a violation or breach by the District of: (i) any contract, agreement, understanding or instrument to which it is a party or by which the District or the CDD Air Rights Parcel is subject or bound; (ii) any judgment, order, writ, injunction or decree issued against or imposed upon them; or (iii) will result in the violation of any applicable law, order, rule or regulation of any governmental or quasi-governmental authority.

(d) The Second Phase Air Rights Parcel is not subject to any leases, tenancies, or other occupancy rights, recorded or unrecorded, written or oral, other than the Acceptable Exceptions.

The representations, warranties, and covenants of the District in this Section 9 shall expressly survive the Second Closing without time limitation and shall not merge with the provisions of any closing documents.

10. Purchaser's Representations and Warranties. Purchaser represents and warrants to the District that:

(a) Purchaser has the full right, power and authority, without the joinder of any other person or entity, to enter into, execute and deliver this Agreement and to perform all duties and obligations imposed on Purchaser under this Agreement.

(b) Neither the execution nor the delivery of this Agreement, nor the consummation of the purchase and sale contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement conflict with or will result in the breach of any of

the terms, conditions, or provisions of any agreement or instrument to which Purchaser is a party or by which Purchaser or any of Purchaser's assets is bound.

(c) There are no actions, lawsuits, litigation, or proceedings pending or threatened in any court or before any governmental or regulatory agency that would have a materially adverse effect on Purchaser's power or authority to enter into or perform its obligations under this Agreement.

(d) There are no judgments, orders, or decrees of any kind against Purchaser unpaid or unsatisfied of record, nor any actions, suits, or other legal or administrative proceedings pending or, to the best of Purchaser's actual knowledge, threatened against Purchaser, which would have any material adverse effect on the ability of Purchaser to consummate the transactions contemplated by this Agreement.

The representations, warranties and consents of the Purchaser in this Section 10 shall survive the Second Closing without time limitation and shall not merge with the provisions of any closing documents.

11. Default. In the event of a default or breach of representation or warranty by either Party ("**Defaulting Party**") under this Agreement, which default or breach is not cured by such Defaulting Party within thirty (30) days after written notice thereof from the non-defaulting party ("**Non-Defaulting Party**"), specifying such breach, the Non-Defaulting Party shall be entitled to any and all remedies at law (for compensatory damages) or in equity including, but not limited to, an action for specific performance and/or injunctive relief (without the need for the posting of a bond), provided, however, that no Defaulting Party to this Agreement shall be liable for special, consequential or punitive damages.

12. Prorations and Closing Costs. There shall be no proration of real estate taxes, assessments, personal property taxes, assessments, or items of income and expense regarding either Surplus Air Rights Parcel. The expenses regarding the Surplus Air Rights Parcel and Interlocal Agreement shall be paid in accordance with the Cost Allocations.

13. Closing. The Second Closing shall be held at 10:00 a.m. on the Second Closing Date at the offices of Closing Agent or such other time and/or location as may be mutually agreed to by the Parties. At the Second Closing, the following shall occur with respect to the applicable Surplus Air Rights Parcel then being conveyed:

(a) The District shall execute and deliver to Closing Agent, for delivery to Purchaser, upon consummation of the Second Closing, the following documents with respect to the applicable Second Phase Air Rights Parcel then being conveyed to Purchaser:

(i) The Deed;

(ii) The Closing Affidavit;

(iii) A non-foreign affidavit to comply with FIRPTA;

(iv) The Resolution; and

(v) The other Agreed Cure Items.

(b) Purchaser shall execute and deliver to Closing Agent, for delivery to the District upon consummation of such Second Closing, the Second Purchase Note(s).

(c) The District and Purchaser shall each execute and deliver to Closing Agent, for delivery to each Party upon consummation of such Closing, counterpart closing statements in a customary form, together with such other documents as are reasonably necessary to consummate such Closing.

14. Brokers. The Parties each represent and warrant to the other that there are no real estate brokers, salesman or finders involved in this transaction. If a claim for brokerage in connection with this transaction is made by any broker, salesman or finder claiming to have dealt by, through or on behalf of one of the Parties hereto ("**Indemnito**r"), Indemnitor shall indemnify, defend and hold harmless the other party hereunder ("**Indemnitee**"), and Indemnitee's officers, directors, agents and representatives, from and against any and all liabilities, damages, claims, costs, fees and expenses whatsoever, including reasonable attorneys' fees and court costs through all trial and all appellate levels with respect to said claim for brokerage. The provisions of this paragraph shall survive the Second Closing and any cancellation or earlier termination of this Agreement.

15. Assignability. Purchaser may assign this Agreement in whole or in part to the Developer(s) and upon each such assignment Purchaser shall be released of its obligations, if any, which were assigned to such assignee under this Agreement and any such assignee shall assume such obligations of Purchaser set forth in this Agreement and any applicable Purchase Note(s) as allocated to the portion of the Surplus Air Rights so transferred. Any such assignment (other than to the Developer(s)) shall be subject to the written approval of the District which shall not be unreasonably withheld, delayed, or conditioned.

16. Notices. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed given if delivered by hand, sent by recognized overnight courier (such as Federal Express), and a copy transmitted via email transmission or mailed by certified or registered mail, return receipt requested, in a postage pre-paid envelope, and addressed to the Notice Location. Notices personally delivered or sent by overnight courier shall be deemed given on the date of receipt, notices sent via email transmission shall be deemed given upon transmission and notices sent via certified mail in accordance with the foregoing shall be deemed given two (2) business days after being deposited in the U.S. Mails.

17. Miscellaneous.

(a) This Agreement shall be construed and governed in accordance with laws of the State of Florida, and in the event of any litigation hereunder, the venue for any such litigation, shall be in the County.

(b) In the event any provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or reconstrued as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

(c) In the event of any dispute with respect to this Agreement, the Parties shall meet and attempt to resolve such dispute within thirty (30) days of request of any Party to the other Parties, and if the Parties do not resolve such dispute as to the Public Infrastructure Budget, CDD Costs, the Plans or the True Up within such thirty (30) day period, the Parties shall submit such dispute to bring Arbitration in which one arbitrator shall hear the cause in accordance with the rules of the American Arbitration Association in Broward County, Florida and the determination of such Arbitration shall be binding on the Parties. The Parties shall split the cost of the Arbitration and the prevailing party shall be entitled to recover its reasonable attorney fees in such Arbitration from the non-prevailing Party.

(d) In the event of any litigation between the Parties under this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and court costs through all trial and appellate levels. The provisions of this subparagraph shall survive the Closing and any termination or cancellation of this Agreement. The Purchaser acknowledges that the District is a local unit of special purpose government organized under the provisions of Chapter 190, Florida Statutes, that the District is a "State agency or subdivision" as defined in Section 768.28, Florida Statutes, and the District is afforded protections, immunities, and limitations of liability afforded the District thereunder. Nothing in this Agreement is intended or should be construed as a waiver of the doctrine of sovereign immunity or the protections, immunities and limitations of liability afforded the District pursuant to Section 768.28, Florida Statutes.

(e) In construing this Agreement, the singular shall be deemed to include the plural, the plural shall be deemed to include the singular and the use of any gender shall include every other gender and all captions and paragraph headings shall be discarded.

(f) All of the Exhibits to this Agreement are incorporated in and made a part of this Agreement.

(g) This Agreement constitutes the entire agreement between the Parties for the sale and purchase of the Second Phase Air Rights Parcel(s), the First Phase of Construction, the True Up, and other matters as set forth herein, and supersedes any other agreement or understanding of the Parties with respect to the matters herein contained, provided, however, there are additional agreements between Purchaser and Developer with respect to some or all of such matters. This Agreement may not be changed, altered or modified except in writing signed by the Party against whom enforcement of such a change would be sought. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns.

(h) The preparation of this Agreement has been a joint effort of the Parties, and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

(i) THE PARTIES HEREBY MUTUALLY KNOWINGLY, WILLINGLY AND VOLUNTARILY WAIVE THE RIGHT TO TRIAL BY JURY, AND NO PARTY NOR ANY ASSIGNEE, SUCCESSOR, HEIR OR LEGAL REPRESENTATIVE OF THE PARTIES (ALL OF WHOM ARE HEREINAFTER REFERRED TO AS "THE PARTIES") SHALL SEEK A JURY TRIAL ON ANY LAW SUIT, PROCEEDINGS, COUNTERCLAIM OR ANY OTHER LITIGATION, PROCEEDING BASED UPON OR ARISING OUT OF THIS AGREEMENT OR

ANY OF THE TRANSACTIONS RELATED THERETO, OR ANY COURSE OF ACTION, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS RELATING TO THIS TRANSACTION. THE PARTIES ALSO WAIVE ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY NEGOTIATED BY THE PARTIES. THE WAIVER CONTAINED HEREIN IS IRREVOCABLE, CONSTITUTES A KNOWING AND VOLUNTARY WAIVER AND SHALL BE SUBJECT TO NO EXCEPTION. DISTRICT HAS IN NO WAY AGREED WITH OR REPRESENTED TO PURCHASER OR ANY OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED ON ALL INSTANCES. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT.

(j) This Agreement and any amendments hereto (i) may be executed in any number of counterparts, each of which, when executed, shall be deemed an original and all of which shall be deemed one and the same instrument, and (ii) may be signed by electronic signature such as facsimile transmission and such signatures shall be deemed to be original signatures.

(k) Each Party will promptly execute and deliver any and all written further assurances that are necessary, convenient, or desirable to evidence, complete or perfect (or any combination thereof) the transactions contemplated by this Agreement, so long as no further assurance operates to impose any new or additional liability upon any party. The Parties will so perform all other acts that are reasonably necessary, convenient, or desirable for any such purpose, so long as no new or additional liabilities are incurred.

(l) Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

(m) The Parties hereby agree that time is of the essence with respect to performance of each of the Parties' obligations under this Agreement. The Parties agree that in the event that any date on which performance is to occur falls on a Saturday, Sunday or Florida or national holiday, then the time for such performance shall be extended until the next "business day" (i.e., day which is not a Saturday, Sunday or Florida or national holiday) thereafter occurring.

(n) The provisions of this Agreement shall survive the Second Closing.

(o) Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

(p) The Parties recognize that the actions to be taken by the District shall be made by the Board (or delegated in writing by such Board to such other persons as the Board may

designate), acting in accordance with applicable legal requirements imposed on the Board pursuant to applicable law.

(q) The District agrees that, to the extent it or the District Engineer needs to approve or provide consent of any matter pursuant to this Agreement, it shall notify Purchaser in writing, within forty-five (45) days of the request for the approval or consent of its approval of same or disapproval of same and provide a reasonable explanation for such disapproval; otherwise, such approval or consent shall be deemed to have been given.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

Signed, sealed and delivered
In the presence of:

DISTRICT:

**BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government organized and existing pursuant to Chapter 190, Florida Statutes

_____
Print Name: _____

Address: _____
_____

By: _____
Name: _____
Title: _____

Date: _____, 2026

_____
Print Name: _____

Address: _____
_____

Signed, sealed and delivered
In the presence of:

PURCHASER:

**RAHN BAHIA MAR L.L.C.**

_____
Print Name: _____

Address: _____
_____

By: _____
Name: _____
Title: _____

Date: _____, 2026

_____
Print Name: _____

Address: _____
_____

Signed, sealed and delivered
In the presence of:

PRH/TRR:

**PRN BAHIA MAR HOLDINGS, LLC**

By: _____
Name: _____
Title: _____

Date: _____, 2026

_____
Print Name: _____

Address: _____
_____

_____
Print Name: _____

Address: _____
_____

**EXHIBIT A**
**AMENDED AND RESTATED QUITCLAIM DEED**

**EXHIBIT B**
**APPROVED SITE PLAN**

Insert New Site Plan

**EXHIBIT C**
**CDD AIR RIGHTS PARCEL**

The Corrective CDD Air Rights less the Surplus Air Rights Parcels.

Insert CDD Air Rights Parcel

**EXHIBIT D**

**CLOSING AFFIDAVIT**

STATE OF FLORIDA )
) SS:
COUNTY OF BROWARD )

BEFORE ME, the undersigned Notary Public, personally appeared _____, to me well known to be the person who made and subscribed the following Affidavit, who, upon being first by me duly sworn on oath, deposed and said as follows:

1. Affiant is the _____ of Bahia Mar Community Development District, a local unit of special purpose government organized and existing pursuant to Chapter 190, Florida Statutes ("District"), and as such officer has personal knowledge of the business and affairs of the District and of all facts stated hereinafter.

2. The District is selling that certain real property, situated in Broward County, Florida ("Subject Property"), more particularly described on **Exhibit A**.

3. The District is in possession of the Subject Property and the District has not entered into a written agreement granting any party a lease or right to possession of the Subject Property.

4. No judgments have been rendered and no suits are now pending against the District, in any court of record, which impair or involve title to the Subject Property; nor have any writs of execution or attachment, issued from any court (including a court of a Justice of the Peace), been levied upon the Subject Property in Broward County, Florida belonging to the District.

5. No petition in bankruptcy has been filed by or against the District within the past twelve (12) months, in any federal court in the United States.

6. All persons, firms and corporations who have performed labor or supplied materials upon the Subject Property on behalf of the District, if any, have been fully paid; there is no person, firm or corporation who has any right or claim of lien against the Subject Property for having furnished material or performed labor thereon on behalf of the District; there have been no improvements, alterations or repairs to the Subject Property on behalf of the District for which the costs thereof remain unpaid; within the past ninety (90) days, no improvements have been commenced on the Subject Property on behalf of the District that would result in a lien on the Subject Property.

7. (a) The District is not a foreign corporation, foreign partnership, foreign trust, or foreign estate as defined by the Internal Revenue Code of 1986, as amended, or regulations promulgated thereunder.

(b) The District's employer identification number is _____

(c) The District's office address is: District Manager, GMS – South Florida, 5385 N. Nob Hill Road, Sunrise, Florida 33351.

(d) Affiant understands and acknowledges that this Affidavit may be disclosed to the Internal Revenue Service and that any false statement contained in this Paragraph could be punished by fine, imprisonment, or both.

8. The District will not record any instrument to be recorded amongst the Public Records of Broward County, Florida, subsequent to _____ at _____ through the date of recording of the Deed of conveyance from the District to Rahn Bahia Mar, L.L.C., with respect to the Subject Property.

9. Affiant declares that he has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct and complete and that Affiant has the authority to execute this Affidavit on behalf of the District.

FURTHER AFFIANT SAYS NOT.

**BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose Government organized and existing pursuant to Chapter 190, Florida Statutes

By:_____
Name:_____
Title:_____

Sworn and Subscribed to before me this _____day of _____, _____, by _____, the _____ of BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT, a local unit of special purpose government organized and existing pursuant to Chapter 190, Florida Statutes, who is personally known to me.

_____
Notary Public, State of Florida

My Commission Expires:

**Exhibit A to Closing Affidavit**

Subject Property

# EXHIBIT E

EXISTING TITLE DOCUMENTS

REUSE AFTER GETTING UPDATED TITLE

- Taxes and assessments for the year 2024 and subsequent years.
- Oil, gas, and mineral reservations contained in deed from the Trustees of the Internal Improvement Fund of the State of Florida, dated March 31, 1937, recorded in Deed Book 289, Page 450, as modified by the Corrective Deed recorded in Official Records Book 4935, page 156. Said reservations have been released of record as to a portion of the insured land by the Quitclaim Deed dated November 1, 1972, recorded December 6, 1972, in Official Records Book 5080, page 843.
- Easement granted to Florida Power & Light Company dated July 13, 1966, recorded August 8, 1966, in Official Records Book 3279, page 797.
- Easements contained in the Order of Taking dated October 16, 1980, recorded in Official Records Book 9190, page 256 and the Supplemental Order of Taking dated November 20, 1980, recorded in Official Records Book 9264, page 11, both Orders rendered in Civil Action Case No. 80-17964 in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida.
- Easement granted to Selkirk Communications, Inc. recorded in Official Records Book 12423, page 740.
- Easement granted to Florida Power & Light Company recorded in Official Records Book 13080, page 150, and Official Records Book 13080, Page 158.
- Removal Agreement for Future Right-of-Way recorded October 5, 1988, in Official Records Book 15842, page 678.
- Easement granted to Florida Power & Light Company recorded June 11, 1992, in Official Records Book 19577, page 607.
- Easement for right of way, utilities and other public purposes granted by Bahia Mar Associates, Ltd., a Florida limited partnership to the City of Fort Lauderdale, dated December 13, 1991, recorded May 12, 1994, in Official Records Book 22134, page 740.
- Deed of Easement granted to Bell South Telecommunications, Inc., d/b/a Southern Bell Telephone and Telegraph Company recorded in Official Records Book 23836, page 18.
- Easement Deed granted to Florida Power & Light Company recorded October 5, 1995, in Official Records Book 23994, page 417.
- Easement Deed granted to Florida Power & Light Company recorded October 5, 1995, in Official Records Book 23994, page 422.

- Easement Deed granted to Florida Power & Light Company recorded in Official Records Book 23994, page 427.

- Matters set forth in the Notice Regarding Intracoastal Waterway Right of Way recorded April 20, 1998, in Official Records Book 28071, page 945.

- Perpetual Easement Deed for street lighting purposes granted to the State of Florida Department of Transportation, recorded July 13, 2000, in Official Records Book 30668, page 1955.

- Easement granted to Florida Power and Light Company recorded May 19, 2003, in Official Records Book 35190, page 724.

- Easement granted to Florida Power and Light Company recorded June 13, 2003, in Official Records Book 35375, page 1476.

- Matters contained in Resolution Nos. 07-142 and 07-162 of the City Commission of the City of Fort Lauderdale, pertaining to beach business improvement assessments, recorded in Official Records Book 44715, page 1566, and Official Records Book 44715, page 1583.

- Easement granted to Florida Power & Light Company recorded July 26, 2018, at Official Records Instrument No. 115225357.

- Terms, covenants, conditions, and other matters contained in the Extended Boat Show Lease dated June 6, 2017, between Rahn Bahia Mar, L.L.C. and Marine Industries Association of South Florida, Inc. and Yachting Promotions, Inc., as evidenced by the Memorandum of Lease recorded at Official Records Instrument No. 116018755.

- Terms, covenants, conditions, restrictions, and easements (which provides for liens for assessments) created by and set forth in the Declaration of Covenants and Restrictions of Bahia Mar Master Association, Inc. recorded October 7, 2019, at Official Records Instrument No. 116096957; as affected by Amended and Restated Declaration of Covenants & Restrictions of Bahia Mar Master Association, Inc. ("Amended Declaration") to be recorded immediately after the recording of this Restrictive Covenant, as such Amended Declaration may be amended from time to time.

- Terms, covenants, conditions and other matters contained in the Amended and Restated Lease Agreement dated January 4, 1995, recorded February 23, 1995 in Official Records Book 23168, page 347, as amended by the First Amendment to Amended and Restated Lease Agreement by and between the City of Fort Lauderdale, a municipal corporation and Rahn Bahia Mar L.L.C., a Delaware limited liability company successor by merger to Rahn Bahia Mar, Ltd., dated as of May 6, 2014 and recorded in Official Records Book 50912, page 1085, and as further amended by Amended and Restated Lease Agreement City of Fort Lauderdale, a municipal corporation and Rahn Bahia Mar L.L.C., a Delaware limited liability company, dated April 13, 2022, recorded May 10, 2022 in Official Records Instrument No. 118135051, as amended by Amendment No. 2 to Master Lease dated January 29, 2024, as same may be amended from time to time.

  AS AN INFORMATIONAL NOTE: The tenant's leasehold interest under the above Amended and Restated Lease Agreement (as amended), but **NOT** the owner's fee interest is subject to that certain Amended and Restated Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, and Notice of Future Advance executed by RAHN BAHIA MAR L.L.C., a Delaware limited liability company, in favor of Florida Community Bank, N.A., a national banking

association, dated September 07, 2017, in the original principal amount of $135,000,000.00, recorded September 14, 2017 in Instrument Number 114608286, affected by Partial Release of Mortgage and Other Loan Documents recorded December 9, 2021 in Official Records Instrument No. 117790894, as amended by the Partial Release of Collateral and First Amendment to Amended and Restated Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, and Notice of Future Advance dated October 4, 2019, and recorded October 7, 2019, at Official Records Instrument No. 116096960, as amended from time to time (as to the leasehold interest not to fee simple interest).

- Declaration of Restrictive Covenants as recorded June 30, 2023, in Instrument No. 118953316.

- Perpetual Easement in favor of State of Florida Department of Transportation as recorded December 7, 2022, in Instrument No. 118559365.

- Perpetual Easement in favor of State of Florida Department of Transportation as recorded December 7, 2022, in Instrument No. 118559366.

- As to that portion of the premises herein described which is (a) submerged land or is (b) artificially filled in land, artificially exposed land, or any land accreted thereto, in what was formerly navigable waters, this Policy is subject to the right of the United States government arising by reason of its control over navigable waters in the interest of navigation and commerce.

- This Declaration of Restrictive Covenants between Rahn Bahia Mar L.L.C., a Delaware limited liability company; The City of Fort Lauderdale, Florida, and Bahia Mar Community Development District.

- Note: Notice of Lien Prohibition recorded in Official Records Book 51345, Page 1752.

- Note: Recorded Notice of Environmental Resource Permit recorded at Official Records Instrument No. 117731884.

**Note:** All of the recording information contained herein refers to the Public Records of BROWARD County, Florida, unless otherwise indicated. Any reference herein to a Book and Page or Instrument Number is a reference to the Official Record Books of said county, unless indicated to the contrary, and all references to the above documents is to such document(s) as same may be amended from time to time.

# EXHIBIT F

FIRST PHASE AIR RIGHTS PARCEL

Attach corrected

# EXHIBIT G

FIRST PHASE OF CONSTRUCTION

The Podium,

Attach new area

# EXHIBIT H

PODIUM

Attach new

**EXHIBIT I**

SECOND PURCHASE NOTE

**PURCHASE UNSECURED PROMISSORY NOTE**

$124,200.00 [_____], 2024
**[Why is it changing?]**

FOR VALUE RECEIVED, **RAHN BAHIA MAR, L.L.C.**, a Delaware limited liability company, having an address of 1175 N.E. 125th Street, Suite 102, North Miami, Florida 33161, (**"Initial Borrower"**), promises to pay to the order of **BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT** (**"Lender"**), having an address of c/o GMS – South Florida, 5385 N. Nob Hill Road, Sunrise, Florida 33351, or at such other place as the holder hereof may from time to time designate in writing, the principal sum of One Hundred Forty-One Thousand Three Hundred Sixty-Four and 00/100 Dollars ($141,364.00) plus interest at the rate of _____ percent (___%) [ADR for month of Second Closing] per annum, simple interest whereby all unpaid principal, together with all accrued and unpaid interest shall be due and payable on the "Maturity Date" (as hereafter defined).

1. **Defined Terms**. Terms not otherwise defined herein shall have the meaning set forth in the "PSA" (as hereafter defined). In addition to the terms defined in the PSA, the following terms shall have the meanings set forth in this Section 1:

**"Borrower"** shall mean the Initial Borrower and upon the Developer assuming the obligations of Initial Borrower under this Note the term Borrower shall mean the Developer and the Initial Borrower shall be released of all further obligations.

**"Developer"** shall mean PRH/TRR Bahia Mar Holdings, LLC or any of its subsidiaries.

**"Maturity Date"** shall mean the earlier of: (i) February 29, 2028, (ii) the True Up Date, and (iii) the date of an Event of Default that remains uncured after any applicable cure period.

**"Note"** means this Purchase Money Unsecured Promissory Note as from time to time may be amended or supplemented.

**"PSA"** shall mean that certain Agreement of Purchase and Sale dated as of _____, 2024, by and among Borrower and Lender, as amended from time to time.

**"True Up"** shall have the meaning set forth in the PSA.

**"True Up Date"** shall shave the meaning set forth in the PSA.

2. **Payment Terms**.

(a) The outstanding principal balance of this Note, together with all accrued and unpaid interest, shall be due and payable on the Maturity Date.

(b) This Note may be prepaid in whole or in part without penalty or premium.

(c) All payments made pursuant to this Note shall be applied first to attorneys' fees and other costs of collection, second to principal, and the balance to accrued and unpaid interest (if any).

3. **Default Rate**. Upon the occurrence and during the continuance of an Event of Default, Borrower shall pay interest on the outstanding principal balance hereof at an annual rate equal to twelve percent (12%), but in no event greater than the maximum rate permitted by law.

4. **Events of Default**. Any one or more of the following shall constitute an "Event of Default" hereunder if not cured within thirty (30) days after written notice from Lender to Borrower:

(a) If Borrower fails to pay this Note in full on the Maturity Date;

(b) If any petition for bankruptcy, reorganization or arrangement pursuant to federal bankruptcy law, or any similar federal or state law, shall be filed by Borrower, with the approval of each of the Borrower's Members;

(c) If Borrower makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts when due.

5. **Remedies**. If an Event of Default has occurred hereunder, then the entire outstanding principal amount of this Note may, at the option of Lender, become immediately due and payable. Except as set forth in this Note, Borrower hereby waives presentment for payment, demand, notice of dishonor, protest and notice of protest of this Note.

6. **Savings Clause**. In no event shall any agreed or actual exaction charged, reserved, or taken, as an advance or forbearance by Lender as consideration for the Loan, exceed the limits (if any) imposed or provided by the law applicable from time to time to the Loan for the use or detention of money or for forbearance in seeking its collection, and Lender hereby waives any right to demand such excess. In the event that the interest provisions of this Note or any exactions provided for in this Note or any other document executed in connection herewith shall result at any time or for any reason in an effective rate of interest that exceeds the maximum interest rate permitted by applicable law (if any), then without further agreement or notice the obligation to be fulfilled shall be automatically reduced to such limit and all sums received by Lender in excess of those lawfully collectible as interest shall be applied against any remaining balance of this Note and, if not sufficient, then such shortfall shall be returned to Borrower.

7. **Applicable Law; Venue**. This Note shall be governed by, and construed and enforced in accordance with, the laws of the State of, Florida, without regard to conflicts of law principles, except that federal law shall govern to the extent that it may permit Lender to charge,

from time to time, interest on the Loan at a rate higher than may be permissible under applicable Florida law. The parties hereto agree to submit to the jurisdiction of Broward County, Florida in connection with any claims or controversy arising out of this Note, and that venue for such actions shall be in Broward County, Florida.

8. **Severability**. Any provision of this Note, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction only, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

9. **Interpretation**. Whenever used in this Note, the term "person" means any individual, firm, corporation, trust or other organization or association or other enterprise or any governmental or political subdivision, agency, department or instrumentality thereof. Whenever used in this Note, words in the singular include the plural, words in the plural include the singular, and pronouns of any gender include the other genders, all as may be appropriate.

10. **No Oral Change**. This Note may be extended, modified, amended or terminated only in writing by an instrument executed by Lender and Borrower. No requirements hereof may be waived at any time, except by a writing signed by the party against whom the waiver shall be enforced, nor shall any waiver be operative upon other than a single occasion, unless to the contrary expressly stated therein.

11. **Notices**. Any notices required or permitted to be given under this Note shall be in writing and shall be deemed to have been given if sent by nationally recognized overnight courier (such as Federal Express) or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed as follows:

If to Borrower at:
Rahn Bahia Mar L.L.C.
1175 N.E. 125th Street, Suite 102
North Miami, FL 33161
Attn: J. Kenneth Tate
Telephone: (305) 891-1107
Fax: (305) 891-2577
Email: Kenny@tatecapital.com

If to Lender at:
Bahia Mar Community Development District
c/o GMS – South Florida
5385 N. Nob Hill Road
Sunrise, Florida 33351
Telephone: _____
Fax: _____
Email: _____

or to such other address as shall, from time to time, be supplied in writing by such party. Any such notice shall be deemed given on the next business day after deposit with a nationally recognized overnight courier and on the third business day after deposit in the mail if sent by certified or registered mail, return receipt requested.

12. **Transfer**. All of the terms of this Note shall inure to the benefit of Lender and its successors and assigns and shall be binding upon the Borrower and Developer (upon Developer's assumption of obligations under this Note) and their heirs, executors, administrators, personal representatives, successors and assigns, jointly and severally.

13. **Waiver of Jury Trial**. LENDER AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. BORROWER ACKNOWLEDGES THAT THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT TO THE LENDER IN EXTENDING CREDIT TO BORROWER, THAT THE LENDER WOULD NOT HAVE EXTENDED SUCH CREDIT WITHOUT THIS JURY TRIAL WAIVER, AND THAT BORROWER HAS BEEN REPRESENTED BY AN ATTORNEY OR HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY IN CONNECTION WITH THIS JURY TRIAL WAIVER AND UNDERSTANDS THE LEGAL EFFECT OF THIS WAIVER.

14. **Partnership or Joint Venture**. Nothing contained in this Note shall be deemed or construed as creating a partnership or joint venture between Lender and Borrower.

15. **Binding Effect**. This Note shall be binding upon and inure to the benefit of Lender, Borrower, and their respective successors and assigns.

WITNESS the due execution hereof as of the date first above written.

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

By: _____
Name: _____
Title: _____

# EXHIBIT J

SECOND PHASE AIR RIGHTS PARCEL

The Corrected CDD Air Rights Parcel less the CDD Air Rights Parcel and less the First Phase Air Rights Parcel.

**Return to: (enclose self-addressed stamped envelope)**
Barry E. Somerstein, Esq.
Greenspoon Marder LLP
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, FL 33301

**This Instrument Prepared by:**
Barry E. Somerstein, Esq.
Greenspoon Marder LLP
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, FL 33301

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**SPACE ABOVE THIS LINE FOR PROCESSING DATA** **SPACE ABOVE THIS LINE FOR PROCESSING DATA**

# DECLARATION OF AIR RIGHTS, COVENANTS, EASEMENTS & RESTRICTIONS FOR BM PODIUM

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**DECLARATION OF AIR RIGHTS,
COVENANTS, EASEMENTS & RESTRICTIONS
FOR
BM PODIUM**

THIS DECLARATION OF AIR RIGHTS, COVENANTS, EASEMENTS & RESTRICTIONS FOR BM PODIUM ("**Declaration**") is made as of this ____ day of _____, 202__, by and between **BM PODIUM ASSOCIATION, INC.**, a Florida not-for-profit corporation its successors and assigns ("**Association**"), **PRH/TRR BM CONDO, LLC**, a Delaware limited liability company its successors and assigns ("**Hotel Tower Condominium Owner**"), **PRH/TRR BM TOWER 1, LLC**, a Delaware limited liability company, its successors and assigns ("**Condominium 1 Owner**"), **BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**, a community development district established pursuant to Chapter 190, Florida Statutes, its successors and assigns ("**CDD**"), **RAHN BAHIA MAR, L.L.C.,** a Delaware limited liability company, its successors and assigns ("**Rahn**"), and **PRH/TRR BM HOTEL, LLC**, a Delaware limited liability company, its successors and assigns ("**Hotel Owner**").

WHEREAS, the Owners desire to utilize a Podium structure which is comprised of the Shared Facilities areas owned by the Association, the Hotel Parcel owned by the Hotel Owner, the Hotel Tower Condominium Parcel owned by the Hotel Tower Condominium Owner, the Condominium 1 Parcel owned by the Condominium 1 Owner, and the CDD Parcel owned by the CDD;

WHEREAS, the Podium has been constructed which includes the CDD Parcel, Hotel Parcel, Hotel Tower Condominium Parcel, and Condominium 1 Parcel;

WHEREAS, it is in the mutual best interest of the Owners to maintain and preserve the character, quality and aesthetic standards of the Podium;

WHEREAS, the Owners desire to set forth certain rights, easements, appurtenances, interests and benefits of the Owners of the Parcels;

WHEREAS, the Owners have determined that it is desirable for the efficient preservation of the values and amenities established with respect to the Podium and the improvements located thereon and therein to create the Association known as BM Podium Association, Inc., which corporation has joined in this Declaration and to which there have been and will be delegated and assigned (i) certain powers and duties of ownership, operation, administration, maintenance and repair of portions of the Podium with the improvements thereon; (ii) the enforcement of the covenants and restrictions contained herein; and (iii) the collection and disbursement of the Shared Facility Costs and Shared Amenities Costs;

WHEREAS, the Podium is presently comprised of the Phase 1 Land;

WHEREAS, Future Land, which hereinafter may be committed to this Declaration, as Future Land Owner may determine in its sole discretion;

WHEREAS, Rahn does not own a Parcel but is an Owner entitled to utilize the Shared Facilities (including certain Limited Shared Facilities allocated to Rahn).

WHEREAS, this Declaration imposes upon the Phase 1 Land mutually beneficial restrictions under a general plan of improvement for the benefit of the Owners and establishes a flexible and reasonable procedure for the overall development, administration, maintenance, and preservation of the Phase 1 Land.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth, the Declarant and the Association hereby declare that the Phase 1 Land and the Buildings thereon shall be owned, held, used, transferred, sold, conveyed, demised and occupied, subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth, which shall run with title to all portions of the Phase 1 Land and the Buildings thereon and be binding on all parties having any right, title or interest in the Phase 1 Land and the Buildings thereon or any portion thereof, their successors and assigns.

## 1. DEFINITIONS AND INTERPRETATION

1.1 Definitions. The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

"**Affiliate**" means a Person (as defined below) that (i) directly or indirectly controls another Person; (ii) directly or indirectly is controlled by another Person; or (iii) is under common control with another Person. The terms "control," "controlling," "controlled by" and "under common control with" mean the direct or indirect power to: (x) vote more than 50% of the voting interests of a Person; or (y) direct or cause the direction of the management and policies of a Person, whether through ownership of voting interests, by contract or otherwise.

"**Allocated Interests**" shall have the meaning given in Section 11.7(b).

**"Applicant/Owner"** shall have the meaning set forth in Section 5.11

"**Assessments**" shall mean and refer to the various forms of payment to the Association, which are required to be made by Owners, including, without limitation, Shared Facilities Costs (as hereinafter defined), Shared Amenities Costs, and as more particularly described in Article 15.

"**Architect**" shall mean a particular architect or architectural firm, licensed to practice in the State of Florida, who shall perform the functions of Architect called for in this Declaration, including, without limitation, in Articles 12, 13 and 16 hereof. The practitioner or firm who serves as the Architect in any instance shall be determined in accordance with the terms of this Declaration.

"**Architectural Committee**" means the persons or firms appointed pursuant to Article 5 hereof.

"**Articles**" shall have the meaning set forth in Section 4.2.

"**Association**" means BM Podium Association, Inc., a Florida not-for profit corporation.

"**Bahia Mar Property**" or **"Bahia Mar Project"** shall mean the property described on Exhibit A, generally known as the "Bahia Mar Property" or "Bahia Mar Project".

"**Benefited Parcel**" shall, subject to revisions based upon Supplemental Declarations, mean and refer to, with respect to (i) each of the Limited Shared Facility, the Parcel designated in this Declaration that is the sole and exclusive beneficiary of the use and enjoyment of such Limited Shared Facilities, (ii) the Limited Amenities Facilities, the Residential Unit Owners of Parcel(s) that are designated in this Declaration as sole beneficiaries of the use and enjoyment of such Limited Amenities Facilities, and (iii) Rahn (the Benefited Parcel is deemed to be its use and easement rights to the Podium Facilities).

"**Board**" shall mean the board of directors of the Association.

"**Boat Show**" shall mean the Fort Lauderdale International Boat Show and/or any replacement thereof.

"**Boat Show Activities**" shall have the meaning set forth in Section 7.3 of this Declaration.

"**Boat Show Event of Default**" shall have the meaning set forth in the Master Lease.

"**Boat Show Lease**" shall have the meaning set forth in the Master Lease.

"**Boat Show Tenant**" shall have the meaning set forth in the Master Lease.

"**Bylaws**" shall have the meaning set forth in Section 4.2.

**"Budget"** shall be the budget as contemplated in Section 15.

"**Buildings**" mean the improvements located within or upon the Podium which include the Shared Facilities, the Condominium 1 Tower, Hotel Tower Condominium, Hotel, Public Parking Spaces and may in the future include Buildings located within Phase 2 and/or Phase 3 as provided in Article 2.

"**Building Plans**" means the plans and specifications for the Buildings, as such plans and specifications may be amended from time to time to reflect changes made during the course of construction, or to reflect a permissible alteration made pursuant to this Declaration. Upon completion of the Buildings, the Building Plans shall be "as-built" plans.

**"Casualty Decision"** shall have the meaning set forth in Section 12.3(b).

"**City**" means the City of Fort Lauderdale, a Florida municipal corporation, or such other successor municipal corporation in which the Buildings are situated.

"**CDD**" means and refers to the uniform community development district established pursuant to Chapter 190, Florida Statutes, and known as the Bahia Mar Community Development District, a local unit of special purpose government and further described in

that certain Ordinance No. C-23-44 and Notice of Establishment of the Bahia Mar Community Development District, recorded December 19, 2023, under Instrument # 119292562, of the Public Records of Broward County, Florida (collectively, the "**CDD Documents**").

"**CDD Documents**" shall have the meaning given to it in the definition of CDD.

"**CDD Parcel**" shall mean the property described on Exhibit B, attached hereto which shall contain the Public Parking Spaces.

**"Condominium Parcel"** shall mean any Parcel committed to Condominium form of ownership.

"**Condominium**" is a condominium formed pursuant to the Condominium Act on Condominium 1 Parcel, and Hotel Tower Condominium Parcel, or any other Parcel committed to this Declaration, pursuant to a Condominium Declaration.

"**Condominium 1 Parcel**" shall mean the property described on Exhibit D.

"**Condominium 1 Tower**" shall mean the Building within the Condominium 1 Parcel.

"**Condominium Act**" means Chapter 718, Florida Statutes in effect on the date an Office Condominium Declaration is filed in the Public Records of the County for such Parcel. The Condominium Act does not apply to this Declaration since this Declaration does not create a condominium.

"**Condominium Association**" means any other condominium association created on any Parcel submitted to Condominium Declaration. For purposes of this Declaration only the Condominium Association shall be deemed to be the Owner of the Parcel submitted to Condominium upon receipt of the applicable Condominium Declaration for such Parcel. It being acknowledged that the applicable Condominium Association may not have or hold title to such Parcel.

"**Condominium Declaration**" shall mean the Declaration of Condominium submitting a Parcel to Condominium pursuant to the Condominium Act together with all Exhibits thereto.

"**Construction Practices**" shall have the meaning given in Section 5.3.

"**County**" shall mean and refer to Broward County, Florida.

**"Creating Owner"** shall have the meaning set forth in Section 6.2 of this Declaration.

"**Creditor Owner**" shall mean an Owner who has paid or advanced amounts due pursuant to this Declaration for the account of a Defaulting Owner or who has performed other obligations required to be performed by this Declaration on behalf of a Defaulting Owner, as permitted under this Declaration.

"**Declarant**" shall mean Condominium 1 Owner, CDD, Hotel Tower Condominium Owner, Hotel Owner, Rahn and/or any Future Land Owner (who adds portions of the Future Land to this Declaration).

"**Declarant's Affiliates**" shall mean and refer to each Declarant, its parent companies, and its and their partners, members, managers, officers, directors, shareholders, employees, and its and their, as applicable, partners, officers, managers, members, directors, parent companies, shareholders, employees and/or other person who may be liable by, through or under Declarant. Notwithstanding anything herein contained to the contrary, any and all releases, waivers and/or indemnifications of Declarant set forth in, or arising from, this Declaration, shall be deemed to be releases, waivers and/or indemnifications, as applicable, of Declarant's Affiliates.

"**Declaration**" shall mean this instrument as it may be amended or supplemented from time to time.

"**Declarant's Mortgagee**" shall mean and refer to any lender and/or mortgagee having a mortgage upon any portion of Land together with any improvements thereon at the time of the recordation of this Declaration, for as long as the lender holds a mortgage or mortgages on any Parcel, Unit or other portion of Land together with any improvements thereon owned by Declarant, and thereafter such mortgagee or mortgagees as Declarant shall, from time to time, designate by notice to the Association as being "Declarant's Mortgagee". For the avoidance of doubt, there may be more than one Declarant's Mortgagee at any time.

"**Default Rate**" shall mean the lesser of (i) eighteen percent (18%) per annum, (ii) the then current rate of interest published from time to time by Citibank, N.A. (or any successor to it, or if none, such financial institution as the Association may designate) as its "prime" or "bank" (or comparable) lending rate, plus ten percent (10%) per annum, or (iii) the maximum rate allowed by applicable Legal Requirements.

"**Defaulting Owner**" shall mean any Owner who is delinquent on its obligation to pay Assessments or other amounts due and payable pursuant to the terms of this Declaration or who has failed to perform other obligations required to be performed by this Declaration. For purposes of this Declaration, a Defaulting Owner may be (a) the Condominium Association in the event it fails to remit to the Association all amounts it is required to pay to the Association pursuant to this Declaration as to the Condominium Parcel which is administered by such Condominium Association, or (b) any other Owner in the event it fails to remit to the Association all amounts it is required to pay to the Association pursuant to this Declaration.

"**Development Approvals**" shall mean and refer to any and all governmental or quasi-governmental authorizations, approvals, ordinances, resolutions, orders, entitlements, variances, waivers, conditional waivers, allocations, permits, licenses and agreements of any kind or nature authorizing or relating to the development or redevelopment of the Podium or any portion thereof and/or the construction of any improvements thereon. When the context permits, the Development Approvals shall be deemed to include the Podium Encumbrances.

"**Development Rights**" shall mean all development rights and/or building rights appurtenant to or benefitting the Podium, including without limitation: those arising out of any Development Approvals; water, sanitary sewer and storm water rights, capacity allocations or reservations and connections (and/or their equivalents); impact fees, impact fee credits or other utility connection fees; available or reserved development floor area/FAR (residential or nonresidential); available or reserved residential density; and/or other rights of any kind or nature relating to the development of the Podium or any portion thereof and/or the construction of any improvements thereon.

"**District**" shall have the meaning given to it in Section 21 below.

"**Easements**" shall mean the easements in favor of the Parcels, Shared Facilities, Association and/or Owners as provided in the Declaration.

"**Facilities Records**" shall have the meaning given in Section 15.12.

**"Functional Airspace"** shall mean and refer to any and all airspace within a Parcel which is beyond the boundaries of the improvements upon the Parcel and is intended to be privately used by the applicable Parcel Owner. All such Functional Airspace shall be deemed part of the applicable Parcel in which it is included and shall not be part of the Shared Facilities.

"**Future Land**" means the land described on Exhibit E comprising Phase 2 Land and/or Phase 3 Land but has not yet been submitted to this Declaration.

"**Future Land Owner**" shall mean the fee simple title holder of the Future Land then being committed to this Declaration.

"**Generators**" shall mean electrical generators and related improvements.

**"Governing Documents"** shall have the meaning set forth in Section 22.1.

"**Governmental Authority**" shall mean (i) the United States of America, the State of Florida, the County, the City, any political subdivision thereof and any agency, department, commission, board, bureau, official or instrumentality of any of the foregoing, or (ii) any quasi-governmental authority, now existing or hereafter created, and any successor to any of the foregoing, having jurisdiction over the Podium or any portion thereof.

"**Hotel**" shall mean the hotel and related improvements located in the Hotel Parcel.

"**Hotel Parcel**" shall mean the property described on Exhibit F-1, which Hotel Parcel includes the Hotel and the Hotel Tower Shared Facilities Parcel.

"**Hotel Tower Condominium**" shall mean the Building within the Hotel Tower Condominium Parcel.

"**Hotel Tower Condominium Mixed Use Vertical Covenants**" shall mean the Declaration of Covenants, Restrictions and Easements for BM Tower Master, recorded

_____ in Official Records Book _____, Page _____ of the Public Records of the County, as now or hereafter amended, modified or supplemented.

"**Hotel Tower Condominium Parcel**" shall mean the property described on Exhibit C-1, which Hotel Tower Condominium Parcel includes the Long-Term Units.

"**Hotel Tower Shared Facilities Parcel**" shall mean the property described on Exhibit F-2.

**"In-Ground Improvements"** shall have the meaning set forth in Section 22.3(a).

"**Institutional Mortgage**" shall mean a mortgage held by an Institutional Mortgagee on any Parcel within the Land.

"**Insurance Trustee**" shall have the meaning set forth on Section 11.

"**Institutional Mortgage"** shall mean a mortgage held by an Institutional Mortgagee on any Parcel within the Land.

"**Institutional Mortgagee"** or **"Institutional Lender**" shall mean any lending institution owning a first mortgage encumbering any Parcel on any portion of the Land, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof, licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America or any "secondary mortgage market institution," including the Federal National Mortgage Association ("**FNMA**"), Government National Mortgage Association ("**GNMA**"), Federal Home Loan Mortgage Corporation ("**FHLMC**") and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any and all lenders, and the successors and assigns of such lenders, which have loaned money to Declarant, the Owners and which hold a mortgage on any portion of the Land securing any such loan; any pension or profit-sharing funds qualified under the Internal Revenue Code; the Veterans Administration, the Federal Housing Administration or the Department of Housing and Urban Development or such other lender as is generally recognized in Florida as an institutional lender; or Declarant, its successors and assigns.

"**Insurance Trustee**" means the institution appointed pursuant to Section 11 hereof.

"**Insured Property**" shall have the meaning given in Section 11.3(a).

"**Land**" shall mean the Phase 1 Land and any portion of the Future Land committed to the Declaration.

**"law or laws"** shall have the meaning set forth in Section 6.1.

"**Legal Requirements**" shall mean any law (including without limitation any laws relating to hazardous materials or substances), enactments, statute, code, ordinance, administrative

order, charter, comprehensive plan, tariff, resolution, rule, regulation (including land development regulations), guideline, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, or other direction, approval or requirement of any Governmental Authority, now existing or hereafter enacted, adopted, promulgated, entered, or issued.

"**Limited Amenities Facilities**" shall refer to the portion of the Shared Facilities which are intended for the exclusive use (to the exclusion of others) of the Residential Unit Owners of the Condominium 1 Tower, PH1, and PH2, and such other areas and parties as may be permitted pursuant to a Supplemental Declaration. As of the date hereof, the Limited Amenities Facilities include a pool, pool deck, playground, padel court, bathrooms, bar, kitchen area and related Amenities which are located in the area set forth on Exhibit G-2.

"**Limited Shared Facilities**" shall mean and refer to such portions of the Shared Facilities which are intended for the exclusive use (subject to the rights, if any, of the County, the City, the Association and the public) of some or all of the Owners, to the exclusion of other Owners and others. Unless otherwise provided specifically to the contrary, reference to the Shared Facilities shall include the Limited Shared Facilities. As of the date hereof, the Limited Shared Facilities are the Valet Stand Areas and Parking Areas which have been allocated to the Owners as set forth on Exhibits F and F-1 as such areas and users may be permitted pursuant to a Supplemental Declaration.

"**Losses**" shall mean all damages, construction liens, mechanics or other liens, liabilities, losses, demands, actions, causes of action, claims, costs and expenses (including reasonable attorneys' fees, fees and costs in arbitration, at trial and on appeal or as a result of a bankruptcy).

"**Maintenance**" means, and shall include with regard to any particular component of the Buildings and the Land, the maintenance (including, but not limited to, painting and other decorating), operation, inspection (including, but not limited to, inspection for the purpose of meter reading), testing, repair, preservation, replacement and/or cleaning (including, but not limited to, dusting, washing, mopping and vacuuming) thereof, as well as any other action commonly or customarily regarded as maintenance.

"**Management Agreement**" shall mean an agreement executed by the Association and the Management Company for the day-to-day management of the Shared Facilities by the Management Company, if any. Subject to the terms of the Management Agreement, nothing herein shall prohibit the Association from retaining multiple Management Companies for different portions of the Shared Facilities.

"**Management Company**" shall mean the entity retained by the Association from time to time to manage the Podium and the Shared Facilities pursuant to a Management Agreement. To the extent permitted by law, so long as the Management Agreement is in effect, references herein to the Association shall also be deemed to refer to the Management Company to the extent that the Management Company has been delegated the authority to act on behalf of the Association pursuant to such Management Agreement. Nothing herein shall be deemed to divest the Association of its powers and duties under this Declaration.

"**Master Declaration**" shall mean the Amended and Restated Declaration of Covenants and Restrictions of Bahia Mar Master Association, Inc. recorded as Instrument #119363797 in the Public Records of Broward County, Florida, as amended from time to time.

"**Master Lease**" shall mean the Amended and Restated Master Lease between Rahn and the City, as amended from time to time.

"**Master Life Safety Systems**" mean and refer to any and all emergency and safety systems which are now or hereafter installed in the Podium and which serve either (1) more than one Parcel, (2) a Parcel and the Shared Facilities, or (3) any portion of the Shared Facilities, including but not limited to: fire protection, emergency lighting, Generators, an emergency radio system to facilitate communication among public emergency personnel, fire pump equipment and rooms, monitoring stations, audio and visual signals, interconnected and/or integrated internet, communications, Wi-Fi or other systems (and the equipment incorporated with same), sprinklers and smoke detection systems, moisture, humidity or leak detection systems. All such Master Life Safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, regardless of where located, shall be deemed part of the Shared Facilities. Without limiting the generality of the foregoing, when the context shall so allow, the Master Life Safety Systems shall also be deemed to include all means of emergency ingress and egress, including but not limited to all Shared Stairways.

**"Members"** shall have the meaning set forth in Section 4.2.

"**Mechanical Rooms**" shall mean and refer to, collectively, the machinery and equipment rooms now or hereafter located within the Podium, other than those within a Parcel.

"**Mortgage**" shall have the meaning given to it in subsection 10.1(a).

"**Mortgagee**" means any holder of a first mortgage lien on a Parcel, or on a leasehold interest in an entire Parcel, or on a Unit, which mortgage is security for a loan advanced in good faith to finance the purchase of rights in and/or construction of the Parcel or a Unit, or to refinance a loan of such nature, provided that such holder shall give notice to the parties that it is the holder of such mortgage prior to being considered a Mortgagee for purposes hereof.

"**Multiple Parcel Building**" shall have the meaning given to it in Section 193.0237(1), Florida Statutes.

**"Non-Performing Owner"** shall have the meaning set forth in Section 12.1(c).

"**Occupant**" means any person or entity rightly in possession of all or part of a Parcel other than the Owner.

"**Owner**" shall mean Rahn, its successor and assigns, as the entity who has the rights to utilize the Shared Facilities, Limited Amenities Facilities, and/or the Limited Shared Facilities allocated to Rahn and subject to the provisions of this definition and Section 8.7, and shall also mean and refer to the record owner, whether one or more persons or entities,

of the fee simple title to any Parcel situated upon or within the Podium. For the purposes of this Declaration, with respect to any Parcel/Structure governed by a Condominium Declaration, an "Owner" shall also mean the Condominium Association for such Parcel/Structure. Solely as to the benefits and/or rights afforded Owners under this Declaration with respect to the Shared Facilities and easements for same granted hereunder or in any other instance where the context so requires, except as otherwise provided herein, Owner shall also be deemed to mean and refer to each Unit Owner. Further, in any instances in this Declaration where the Owner makes, waives, releases and/or agrees to indemnify any other party, said waivers, releases, agreements and indemnification shall be deemed to be made by both the Owner and all applicable Unit Owners.

"**Parking Areas**" shall mean the Limited Shared Facilities shown on Exhibit G-1 made available to the Specified Owners for parking which may be valet parking or striped parking spaces as desired by each such Specified Owner for its Limited Shared Liability.

"**Parking Spaces**" shall mean the valet parking spaces and/or striped parking spaces which may be located in the CDD Parcel or the Parking Areas.

"**Parcel**" shall mean and refer to a portion of the Podium which is designated as such in this Declaration or in a Supplemental Declaration. In the event that any Parcel is submitted to the Condominium or other collective form of ownership, it shall nevertheless be deemed a single Parcel hereunder, as more particularly described in Section 8.7 of this Declaration. It is contemplated (but without imposing any obligation) that the Podium shall ultimately contain Shared Facilities and the following Parcels:

(i) The Condominium 1 Parcel**;**

(ii) The Hotel Tower Condominium Parcel**;**

(iii) The Hotel Parcel**;**

(iv) The CDD Parcel; and

(v) Any Parcel created within the Future Land if and when same is committed to this Declaration as provided in Article 2.

"**Permit**" shall have the meaning given to it in Section 21.1.

"**Permitted User**" shall mean **Permitted User**" shall mean any person who occupies a Parcel or a Unit or any part thereof with the permission of the Parcel Owner or Unit Owner, including, without limitation, Tenants (as hereinafter defined), easement beneficiaries, and its or their guests, licensees, employees, customers, business invitees and personal invitees. The rights of Permitted Users are limited in scope by the terms and conditions of this Declaration, depending on the applicable Parcel, Shared Facilities and Limited Shared Facilities involved.

"**Person**" means an individual (and the heirs, executors, administrators or other legal representatives of an individual), a partnership, a corporation, a limited liability company,

a government or any department or agency thereof, a trustee, a trust, an unincorporated organization or any other legal entity of whatever kind or nature.

**"PH-1 and PH-2"** shall mean PH-1 and PH-2 as defined in the Condominium Declaration for the Hotel Tower Condominium Parcel.

"**Phase 1 Land**" shall mean the property described on Exhibit H.

"**Phase 2 Land**" shall mean the property described on Exhibit I.

"**Phase 3 Land**" shall mean the property described on Exhibit J.

"**Podium**" shall mean the structure located on the Phase 1 Land which may be expanded onto portions of the Future Land.

"**Podium Encumbrances**" shall mean and refer to any covenants, conditions, restrictions, easements, agreements, instruments and other encumbrances that now or hereafter encumber all or any portion of the Podium, the ongoing requirements of any entitlements or development approvals for the Podium, and any other instruments entered into in connection with obtaining such entitlements and development approvals, including without limitation, the following, as same may be assigned, modified, extended, renewed, supplemented, amended, restated and replaced from time to time, the reference to which herein is not intended to reimpose the same:

(i) Amended and Restated Declaration of Covenants and Restrictions of Bahia Mar Master Association, Inc. recorded January 30, 2024, under Instrument #119363797, (as amended from time to time, the **"Master Declaration"**);

(ii) Declaration of Restrictive Covenants recorded under Instrument #119363796, (as amended from time to time);

(iii) Interlocal Agreement, dated January 29, 2024, recorded under Instrument#119432135 between the City of Fort Lauderdale, Florida, a municipal corporation of the State of Florida, and the Bahia Mar Community Development District, a local unit of special-purpose government organized and existing pursuant to Chapter 190 of the Florida Statutes, as amended by that First Amendment of Interlocal Agreement dated June 15, 2026, recorded under Instrument #121088687 (as amended from time to time); and

(iv) The CDD Documents; and

(v) All such restrictions and other matters properly recorded of record.

All of the Public Records of the County.

"**Podium Facilities**" means, collectively, the Limited Shared Facilities, Limited Amenities Facilities, and the Shared Facilities.

"**Podium Facilities Plans**" shall mean, collectively, the plans entitled _____ prepared by _____ that graphically depict the Podium Facilities, which plans are maintained at the office of the Association located at the Podium (or another location designated by the Association), as same may be revised, modified, supplemented and replaced from time to time.

"**Podium Standard**" shall mean the highest of the following: i) the standard required to maintain and operate the Podium (and all Parcels therein) in a condition and a quality level no less than that which existed at the time that the initial design, development and construction of the Structures on the Parcels was completed (ordinary wear and tear excepted) and the initial landscaping and signage was installed, including, without limitation any ecological standards incorporated into the initial design, construction and landscaping of the Podium (if applicable), ii) the standard established from time to time by the Association, iii) the standard established from time to time by the Management Agreement entered into by the Association with the Management Company, if any, and iv) the standard dictated by the Development Approvals and/or Podium Encumbrances; provided, that the Podium Standard may not be changed by the Association with respect to the standards for the maintenance and repair of the Podium and Shared Facilities without a vote of seventy-five percent (75%) of the Owners, except for the CDD Parcel which shall be controlled solely by the CDD.

"**Public Parking Spaces**" shall mean the parking spaces owned and operated by the CDD within the CDD Parcel, which parking spaces may be valet parking spaces or striped parking spaces as designated by the CDD.

"**Residential Unit Owner(s)**" shall mean the Owner of a Residential Unit in the Condominium 1 Tower, PH-1, and PH-2 (as defined in the Condominium Declaration applicable to the Condominium 1 Parcel, PH-1, PH-2, and any other Unit Owners or other persons or entities as may be authorized by Supplemental Declaration, including without limitation, Owners of Residential Units within any condominium constructed upon Future Land and/or otherwise submitted to this Declaration pursuant to a Supplemental Declaration.

"**Release of Lien**" means the instrument to be provided by either the Association and/or Creditor Owner, whichever the case may be, to a Defaulting Owner after the Defaulting Owner has cured any and all defaults for which a Notice of Lien was filed by the Association and/or Creditor Owner.

"**Restricted Person**" means a Person who is identified by any government or legal authority as a Person prohibited or restricted from transacting business, including any Person (i) on the US Treasury Department's Office of Foreign Assets Control List of Specially Designated Nationals and Blocked Persons, under resolutions or sanctions-related lists maintained by the United Nations Security Council, or under the EU Consolidated Financial Sanctions; (ii) directly or indirectly 10% or more owned by any Person identified in clause (i); or (iii) ordinarily resident, incorporated, or located in any country or territory subject to comprehensive US or EU sanctions, or owned or controlled by, or acting on behalf of, the government of any such country or territory.

**"Second Period"** shall have the meaning set forth in Section 12.3(d).

**"Seller"** shall have the meaning set forth in Section 20.18.

"**Shared Facilities**" or "**Shared Facility**" shall mean and refer to the portions of the Podium (or adjacent to or in the vicinity thereof), described on Exhibit G (plus any portion of the Future Land committed as a Shared Facility) whether by purpose, nature, intent or function, that afford benefits or impose burdens shared by more than one Parcel or Owner, as same may be modified, supplemented or replaced from time to time. Notwithstanding the legal descriptions or graphic depictions contained in any exhibits, or the legal descriptions or graphic depictions of any Parcels added hereto or redrawn by Supplemental Declaration, given the integration and design of the improvements comprising the Parcels and any additional Parcel as a unified Podium, there is a necessity to share and/or unify responsibility for certain components of the Podium. Those shared components shall be identified as the "Shared Facilities", which include, without limitation, the land underlying the Shared Facilities and the following areas and/or facilities (together with a license for reasonable pedestrian access thereto) intended for use by and/or enjoyment of the Parcel Owners (and other Permitted Users), as modified, supplemented or replaced from time to time:

(i) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NO POST TENSION CABLES AND/OR RODS CONTAINED IN ANY SHARED IMPROVEMENTS CONSTRUCTED UPON THE PROPERTIES SHALL BE CONSIDERED A PART OF A PARCEL (OTHER THAN THE SHARED FACILITIES). SUCH CABLES AND/OR RODS ARE ESSENTIAL TO THE STRUCTURE AND SUPPORT OF THE SHARED IMPROVEMENTS, AND, AS SUCH, ALL POST TENSION CABLES AND/OR RODS SHALL BE DEEMED PART OF THE SHARED FACILITIES AND MAY NOT BE DISTURBED OR ALTERED WITHOUT THE PRIOR WRITTEN CONSENT OF THE SHARED FACILITIES OWNER OR THE ASSOCIATION, AS APPLICABLE;

(ii) all driveways, pathways, sidewalks, bike paths and any courtyards serving the Shared Facilities or more than one Parcel, together with all improvements related thereto;

(iii) any gateway or other entry feature or landmark at any entrance to the Podium (as distinguished from any entry feature for any particular Parcel or Parcels, but not all Parcels) or included in the Shared Facilities;

(iv) any landscaping and streetscaping around and/or serving any exterior portion of the Podium, including without limitation exterior landscaping and streetscaping on any Parcel and any plantings, flowers, planters, fountains, public water sources, artwork and sculptures, irrigation systems, rain gardens and similar water conservation installations, benches and public seating, but expressly excluding any plants, shrubbery or other

landscaping materials within any improvements upon any Parcel or on balconies, terraces or patios serving such improvements, provided however, that same shall at all times comply with the Podium Standard;

(v) any improvements made by, to or within the rights-of-way, whether public or private, adjacent to or within the vicinity of the Podium, including without limitation pavers, traffic, bike and pedestrian control devices and signage, pavement markings and signage, noise reduction installations, driveways and drive aisles, lighting and landscaping in excess of the standard improvements customarily installed by the applicable governmental authority (e.g., the City, County or Florida Department of Transportation) with jurisdiction over such rights-of-way, if required to be maintained by Declarant Affiliates under the Development Approvals or Podium Encumbrances;

(vi) all lighting and all street or exterior lighting fixtures, installations and equipment serving all or part of the Shared Facilities, and/or which are part of an exterior lighting scheme applicable to more than one Parcel;

(vii) any Podium-wide directional signage system and all Podium identification signage, including without limitation monument signs, exterior façade and entranceway "eyebrow" signage and interior signage;

(viii) Generators; and

(ix) any Shared Facilities designated as Limited Shared Facilities and/or Limited Amenities Facilities.

Nothing herein shall preclude portions of the Shared Facilities from being declared Limited Shared Facilities, Limited Amenities Facilities, or, specifically, allocating use of such Shared Facilities to one or more Owners. All Shared Facilities shall be subject to such regulations and restrictions as may be imposed from time to time by the Association in accordance with the provisions of this Declaration. For the avoidance of doubt, the Shared Facilities include all areas and/or facilities comprising the Shared Facilities, except for any areas or facilities, which, although located in or comprising a part of the Shared Facilities, are specifically identified as Limited Shared Facilities and/or Limited Shared Facilities on the Podium Facilities Plans. The Shared Facilities may be graphically depicted on the Podium Facilities Plans. References herein to Shared Facilities also shall include the Limited Shared Facilities unless the context would prohibit or it is otherwise expressly provided. While it is intended that this Declaration is not and shall not be governed by Chapter 718, Florida Statutes, notwithstanding anything to the contrary, to the extent that any portion of the Shared Facilities conflicts with an item required to be included as common elements of a Submitted Parcel under the provisions of the Florida Condominium Act (Chapter 718, Florida Statutes) governing the Submitted

Parcel, then such portion or portions shall be reclassified as and to the extent (but only to the extent) required to comply with applicable law. Notwithstanding any such reclassification of Shared Facilities required by law as aforesaid, the easements for use and enjoyment of such reclassified Shared Facilities shall continue in full force and effect. For avoidance of doubt, the Shared Facilities do not include any property owned by the CDD.

Notwithstanding the foregoing, there is (i) no requirement to create any of the Parcels, (ii) no representation that these will be the only Parcels created, and (iii) no limitation on subdividing, changing, or eliminating any Parcels created herein or to be created in the future. If Parcels are revised, the legal descriptions and/or graphic depictions of the affected Parcels will be set forth in the Supplemental Declaration submitting or modifying same. The Land may be supplemented to redefine Parcel and/or Land boundaries (i.e., to conform to as built Structures), to subdivide and/or combine existing Parcels and/or to supplement the Shared Facilities or any other Parcel pursuant to Article 2 hereof, or to revise the legal description of the Land, including any Supplemental Declaration committing Future Land to this Declaration, and the creation of additional Parcels and Shared Facilities with respect thereto. Notwithstanding anything herein contained to the contrary, the name of each Parcel is assigned only for convenience of reference, and is not intended, nor shall it be deemed to limit or otherwise restrict the permitted uses thereof. For the avoidance of doubt, the Hotel Tower Shared Facilities Parcel, and such facilities located therein, are not "Shared Facilities" under this Declaration and are not controlled or operated by the Association.

"**Shared Amenities Costs**" shall have the meaning given in Section 15.3. The Shared Amenities Costs shall initially be allocated as set forth in Exhibit K-1.

"**Shared Facilities Costs**" or "**Shared Expenses**" shall have the meaning given in Section 15.3 of this Declaration. The Shared Facility Costs shall initially be allocated as set forth in Exhibit K-2.

"**Shared Infrastructure**" shall mean and refer to the portions of the Land (or adjacent to or in the vicinity thereof), whether by purpose, nature, intent or function, that afford benefits or impose burdens: (i) on the Shared Facilities or (ii) shared by more than one Parcel or Owner, as same may be modified, supplemented or replaced from time to time, including, without limitation, the following (the "**Shared Infrastructure**"):

(i) Any and all structural components of any improvements now or hereafter installed within any portion of the Podium which serve (or provide structural support or are necessary to provide structural integrity for) either: (i) the Shared Facilities and any Parcel, and/or (ii) more than one Parcel, whether or not within any Units, including, without limitation, all foundations, pilings, slabs and structural columns, post tension cables and/or rods contained within any structural components, exterior walls, exterior glass surfaces, cantilever structures, and all finishes and balconies, terraces and/or facades attached or affixed to any structural components (collectively, the "**Shared Improvements**");

(ii) the roofs and all roof trusses, roof support elements and roofing insulation serving, directly or indirectly, Shared Improvements;

(iii) the Master Life Safety Systems;

(iv) all Shared Stairways and corridors connecting more than one Parcel;

(v) any airspace within a Parcel, beyond the boundaries of any improvements therein, with the exception of any Functional Airspace;

(vi) all drainage, utility, mechanical, electrical, telephonic, telecommunications, plumbing and other systems and any areas housing any of same, which are now or hereafter installed within any portion of, and/or serve, any Shared Improvements, including, without limitation, all water and sanitary sewer system facilities, and all wires, conduits, pipes, ducts, transformers, cables and other apparatus used in any drainage system and the delivery of the utility, mechanical, telephonic, telecommunications, electrical, plumbing and/or other services, and all rooms in which any of the foregoing are located;

(vii) all heating, ventilating and air conditioning systems and any areas housing any of same, which are now or hereafter installed within any portion of, and/or serve, any Shared Improvements, including, without limitation, compressors, air handlers, ducts, chillers, water towers and other apparatus used in the delivery of HVAC services;

(viii) all elevator lobbies, elevator shafts, elevator cabs, elevator cables and/or systems and/or equipment used in the operation of elevators serving the Shared Improvements;

(ix) all trash rooms and any and all trash collection and/or disposal systems and any areas housing any of same, which are now or hereafter installed within any portion of, and/or serve, any Shared Improvements;

(x) all mechanical rooms included in or serving the Shared Improvements, including without limitation fire pump rooms, fire command rooms, water pump rooms, electrical rooms, generator rooms, fuel tank rooms, and FPL or other electrical vault rooms;

(xi) any stormwater management system serving the Podium;

(xii) all loading bays, docks and other areas serving the Shared Facilities or more than one Parcel;

(xiii) any access control systems installed from time to time, which serve the Shared Improvements; and

(xiv) Any other area identified as Shared Infrastructure in this Declaration or in any Supplemental Declaration.

All Shared Infrastructure shall be subject to such regulation and restrictions as may be imposed from time to time by the Association in accordance with the provisions of this Declaration.

"**Shared Infrastructure Responsibilities**" shall have the meaning given to it in Section 6.4 below.

"**Shared Improvements**" shall have the meaning given to it in the definition of Shared Infrastructure.

"**Shared Stairways**" mean any flight of steps, fire corridors, elevators and/or escalators which are located in, or directly accessible from, more than one Parcel and/or required under Legal Requirements for life safety purposes.

"**Show Dates**" shall have the meaning set forth in the Master Lease.

"**Show Site**" shall have the meaning set forth in the Master Lease.

"**Special Functions**" shall have the meaning set forth in the Master Lease.

"**Specified Owners**" shall have the meaning set forth in Section 2.3 herein.

"**Specified Parking Spaces**" shall have the meaning set forth in Section 3.6.

"**Structure or Building**" shall mean and refer to the structure or structures constructed on a Parcel and all appurtenant improvements. A "Structure" shall be deemed a single Structure hereunder even though divided into separate condominium, cooperative or other collective ownership parcels.

"**Submitted Parcel**" shall mean any portion of the Podium now or hereafter submitted to the condominium or cooperative form of ownership or other collective ownership structure pursuant to a Condominium Association.

"**Supplemental Declaration**" shall mean and refer to an instrument executed by any Declarant (of the applicable Parcel) or Future Land Owner (as to any Future Land) and recorded in the Public Records of the County, for the purpose of (i) subjecting any additional real property to the terms and conditions of this Declaration, (ii) withdrawing any portion(s) of the Podium from the effect of this Declaration, (iii) subdividing any Parcel, (iv) creating an additional Parcel, (v) reallocating Shared Facilities Costs and/or Shared Amenities Costs among Parcels based on commitment of Future Land to this Declaration, (vi) establishing additional types of Podium Facilities, (vii) designating (or removing the designation of) a portion of the Podium as Podium Facilities hereunder, (viii) designating or redesignating any portion of the Podium Facilities as a particular type of Podium Facilities or a shared component or common area/element of a Submitted Parcel, (ix) permitting certain other Owners of Future Land then being committed to this

Declaration to utilize Limited Amenities Facilities and/or Limited Shared Facilities or (x) for such other purposes as are provided in this Declaration. Any Supplemental Declaration made to accomplish (a) items (i), (iv), (v), and (ix) above may be made by the Future Land Owner acting alone; and (b) items (ii), (iii), (vi), (vii) (viii), and (x) above (other than as may be done by Supplemental Declaration executed by the Future Land Owner acting alone at the time it submits any Future Land to this Declaration) shall require approval of the applicable Owner materially affected by such Supplemental Declaration and by the Association. Supplemental Declarations shall also be signed by any applicable Owner, if and to the extent execution by any such applicable Owner is expressly required under this Declaration and by the Future Land Owner as to adding portions of the Future Land to this Declaration.

"**Tax**" or "**Taxes**" shall mean all taxes and other governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against the Podium, a Parcel (excluding Units within any Parcel), or any part thereof or any interest therein, including, without limitation, all general and special real estate taxes and assessments or taxes assessed specifically in whole or in part in substitution of such real estate taxes or assessments, by virtue of being situated within a business improvement district, or any taxes levied or a charge upon the rents, revenues or receipts therefrom which may be secured by a lien on the interest of an Owner therein, and all ad valorem taxes and non-ad valorem assessments lawfully assessed upon the Podium or any Parcel (excluding Units within any Submitted Parcel).

**"Tax Consultant"** shall have the meaning set forth in Section 14.2(a)

"**Tax Value Percentage Share**" shall have the meaning given in subsection 1.2(b).

"**Taxed Parcels**" shall have the meaning given in Section 13.2.

"**Tenant**" shall mean any person who is legally entitled to the use and enjoyment of all or any portion of a Unit or Parcel under a lease, rental or tenancy agreement, exchange arrangement, or concession agreement, from a Unit Owner or Owner in accordance with all Legal Requirements. Tenant is included in the definition of Permitted User.

"**Trash Facility**" shall mean the equipment and facilities provided for the collection of trash from the Podium.

"**Unit**" or "**Units**" shall mean, with respect to any Submitted Parcel, the condominium, cooperative or other units, lots or parcels located within such Submitted Parcel.

"**Unit Owner**" shall mean the owner of a Unit.

"**Valet Stand Area(s)**" shall mean the areas shown on Exhibit G-1.

**"Variance"** shall have the meaning set forth in Section 12.5.

"**Visible Area**" shall mean any portion of a Building curtain, wall, roof or other area of Building visible from any Parcel from outside of such Building.

"**Voting Interest**" shall have the meaning set forth in the Articles of the Association.

1.2 Interpretation. The provisions of this Declaration shall be interpreted by the Association. Any such interpretation of the Association which is rendered in good faith shall be final, binding and conclusive if the Association receives the written confirmation of majority of Voting Interest of the Owners. Notwithstanding any Legal Requirement to the contrary, the provisions of this Declaration shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of the Podium, the preservation of the values of the Parcels and the Buildings, and the protection of the Owners' and Association's rights, benefits and privileges herein contemplated. As provided elsewhere in this Declaration, the Association's duties and obligations under this Declaration shall be subject in all events to receipt of funds necessary to perform same (through Assessments or as otherwise provided herein), and the Association shall have no personal obligation to fund any sums needed to perform such duties and obligations.

## 2. PROPERTY SUBJECT TO THIS DECLARATION; CERTAIN RIGHTS OF DECLARANT AND THE ASSOCIATION

2.1 Property Subject to Declaration. The initial real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is the Phase 1 Land. The Podium, as modified and/or supplemented is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

2.2 General Plan of Development. The Lands are planned to be developed as a multi-staged, mixed-use Podium which will encompass residential dwelling units, offices, retail, hotel and parking, as more particularly described in this Declaration. The initial property declared hereunder as the Land is the Phase 1 Land. This Declaration may be modified to enable the Future Land Owner to add portions of the Future Land from time to time by recording a Supplemental Declaration with respect to all or portions of the Future Land in the Public Records of the County and, therefore, the number of Buildings and Shared Facilities within the Podium may change. The Owners' general plan of development further contemplates that such Buildings shall be whatever types of structures in conformance with this Declaration.

The Declarants have submitted the Phase 1 Land for this Declaration and the Future Land Owner may unilaterally subject any portion of the Future Land to this Declaration by subsequent Supplemental Declaration to additional covenants and easements, including creating additional Parcels, additional Shared Facilities and Limited Shared Facilities, covenants obligating the Association to maintain and insure such property on behalf of the affected Owners, and obligating such Owners to pay the costs incurred by the Association through Assessments. Any such Supplemental Declaration may modify Exhibits K-1 and K-2 to change the allocation of Shared Amenities Costs and Shared Expenses respectively among the Owners and Parcels based upon the additional Buildings and uses included in such added property. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed concurrent with, as a part of, or after the annexation into this Declaration of additional portions of the Lands.

Any Future Land Owner shall have the right to amend this Declaration to annex additional portions of the Future Land owned by such Future Land Owner pursuant to this Article without prior notice and without the consent of any Person.

Nothing herein, however, shall obligate a Future Land Owner to add any real property to the initial portion of the Podium, to develop any such future additional real property under a common scheme, nor to prohibit the Future Land Owner from rezoning, changing plans, or not developing all or any part of the initial or future portions. All Owners shall be deemed to have automatically consented to any such rezoning, replatting, the recording of a Supplemental Declaration at any time (provided, however, that the refusal to give such written consent shall not obviate the general and automatic effect of this provision). A Supplemental Declaration may vary the terms of this Declaration by addition, deletion or modification so as to reflect any unique characteristics of a particular portion of the Podium identified therein or areas affected thereby; provided, however, that no such variance shall be directly contrary to the uniform scheme of development of the Podium. In furtherance of the foregoing, any Supplemental Declaration shall describe with particularity the extent to which the property being supplemented, the addition of new Parcels or shall provide for other parties to have use rights in and to the Shared Facilities, and to provide for Limited Shared Facilities and/or Limited Amenities Facilities submitted by such Supplemental Declaration (and/or be liable for any costs relating to any of the Shared Facilities), it being understood and agreed that all determinations with respect to same must include the written joinder of the Association (which joinder shall not be unreasonably withheld or delayed).

2.3 Association's Future Land Owners' and Specified Owners' Right to Modify Podium Facilities. Subject to Section 2.6, each Future Land Owner shall have the right (but not the obligation), by Supplemental Declaration executed by such Future Land Owner to eliminate or supplement the Podium by removing or adding additional facilities or to designate any additional portions of the Podium as Parcels, Shared Facilities, Limited Amenities Facilities, and/or Limited Shared Facilities hereunder (or redesignate any portion of same among any types of Shared Facilities, Limited Amenities Facilities, and/or Limited Shared Facilities, whether from among the existing types, or any future type of Shared Facilities, Limited Amenities Facilities, and/or Limited Shared Facilities which such Future Land Owner (together with the Association) may elect to establish. Notwithstanding the designation of the Shared Facilities, Limited Shared Facilities, and/or Limited Shared Facilities, and subject to Section 2.6, such Future Land Owner (together with the Association) shall have the right, from time to time, to expand, alter, relocate and/or eliminate the Shared Facilities, Limited Amenities Facilities, and/or Limited Shared Facilities, or any portion thereof, without requiring the consent or approval of any Owner (including, without limitation, any and all owners or mortgagees of the Units, if any, established within any Parcel). In furtherance of the foregoing, but subject to Section 2.6, each Future Land Owner shall have the absolute right at any time, and from time to time, to construct additional facilities upon or adjacent to the Podium and to determine whether same shall be deemed (i) a Parcel, (ii) a Shared Facility and serving all Parcels or specific Parcels, and/or (iii) a Limited Shared Facilities and/or Limited Amenities Facilities (i.e., serving one or more particular Parcel(s) and/or certain Owners exclusively).

Without limiting the generality of the foregoing, but subject to the limitations of Section 2.6 below, each Future Land Owner may, from time to time, designate new Parcels, portions of the Shared Facilities as Limited Shared Facilities and/or Limited Amenities Facilities (as applicable) for the use of some, but not all Owners. Any such designation shall be made by Supplemental Declaration executed only by such Future Land Owner and the Association, without requiring the consent or joinder of any other Owners or mortgagees. The Supplemental Declaration shall designate for any new Parcels the portion of the Shared Facilities to be designated as Limited Shared Facilities and/or Limited Amenities Facilities (as applicable), the Parcels and/or Owners entitled to use of the designated Limited Shared Facilities and/or Limited Amenities Facilities (as applicable), the allocation of the costs associated with the maintenance, operation, insurance, repair and replacement of the designated Limited Shared Facilities (which may keep said costs as general Shared Expenses to be borne by all Owners, or limiting responsibility for said costs between or among only the Parcel Owners entitled to use thereof, and if the latter the percentages to be allocated to the applicable Parcels).

Additionally, as to any Limited Shared Facilities and/or Limited Amenities Facilities (as applicable), the Owners who are benefited by and/or obligated for expenses for such Limited Shared Facility and/or Limited Amenities Facilities (as applicable), ("**Specified Owners**") may, by Supplemental Declaration executed by (a) the Association as to any Limited Shared Facility matters (i)-(iii) below and as to items (ii) and (iii) below as to any Limited Amenities Facilities and (b) the Condominium Associations having Residential Unit Owners benefitted by the Limited Amenities Facilities and a majority of the Specified Owners (if any) who are not members of a residential Condominium Association as to item (i)-(iii) below as to any Limited Amenities Facilities, (i) alter the right to use all or any of such Limited Shared Facility and/or Limited Amenities Facilities (as applicable), among such Specified Owners, including reallocating the description of such Limited Shared Facility and/or Limited Amenities Facilities (as applicable), to reallocate same to such Specified Owners as they may desire, (ii) alter any Shared Facility by an Owner and the Association to make same a Limited Share Facility and/or Limited Amenities Facilities (as applicable), for the benefit of such Owner, or (iii) designate an existing Limited Shared Facility and/or Limited Amenities Facilities (as applicable), of such Specified Owner as a general Shared Facility (for the benefit of all Owners) thereby having such Specified Owner relinquish exclusive use of said Limited Shared Facilities by the designation of same as general Shared Facilities. No mortgagees or other Owners shall be required to join in a Supplemental Declaration designating Limited Shared Facilities and/or Limited Amenities Facility and/or Limited Amenities Facilities (as applicable), as part of the general Shared Facilities. The Owner having rights to a Limited Shared Facility that contains a Valet Stand Area may make such Valet Stand Area available to any other Owner on terms agreed to in writing by such parties.

2.4 Additional Podium Facilities. The Association shall have the right (but not the obligation), by Supplemental Declaration executed by the Association, to supplement the Podium Facilities by adding additional Podium facilities or to designate additional portions of the Podium Facilities as a Shared Facility, Limited Amenities Facility and/or Limited Shared Facility hereunder (or redesignate any portion of same among any types of Podium Facilities, whether from among the existing types, or any future type of Podium Facilities). Notwithstanding the

designation of the Shared Facilities, Limited Shared Facilities and/or Limited Shared Facilities, the Association shall have the right, from time to time, to (i) expand, alter, relocate and/or eliminate the Podium Facilities, or any portion thereof, without requiring the consent or approval of any Owner, or any member/Owner of a Submitted Parcel, (ii) designate portions of the Shared Facilities (including without limitation elevators, trash facilities and loading bay areas) as a Limited Shared Facility, (iii) designate special use and/or priority rights with respect to any portion of the Shared Facilities to particular Parcels, and (iv) establish rules and regulations with respect to any portion of the Shared Facilities, including without limitation rules prohibiting Owners from accessing particular Shared Facilities with pets, limiting the hours of operation, and allocating exclusive or non-exclusive use rights to the Parcels during particular periods of time (including without limitation elevators, trash facilities and loading bay areas). No such alteration, relocation, elimination or redesignation by the Association hereunder shall deny any Owner legal access (direct or via easement) to and from the Owner's Parcel, nor terminate any utility and/or mechanical, electrical, HVAC, plumbing, life safety, monitoring, information and/or other systems located in and/or comprising the Podium Facilities and serving said Owner's Parcel, nor compromise the structural integrity of the Structure or otherwise impair the easements of support granted herein (without otherwise providing equivalent substitutions for same). Furthermore, no such removal, alteration, relocation or re-designation by the Association shall eliminate or materially and adversely affect any Limited Shared Facilities and/or Limited Amenities Facilities without the consent or joinder of the Owner of the applicable Benefited Parcel and its mortgagee(s). The foregoing shall not, however, preclude the temporary cessation of services as reasonably necessary to effect repairs to any such systems. Notice of any modified, amended or additional rules and regulations shall be furnished by the Association to each affected Owner (and Unit Owner) prior to the effective date thereof together with a copy of such rules and regulations or means of how to access same.

The determination of the Association, in its reasonable judgment, as to whether a particular portion of the Podium is part of the Shared Facility, Limited Shared Facility, and/or Limited Amenities Facility, as applicable, shall be binding and conclusive, absent manifest error, as long as the Owner has reasonable access to and from Owners' Parcels for the intended use of such Owner's Parcel. Furthermore, in the event of any doubt, conflict or dispute as to whether any portion of the Podium is or is not part of the Shared Facilities, Limited Shared Facilities and/or Limited Amenities Facilities under this Declaration, the Association may, without the consent of any Parcel Specific Manager or then existing Owners or mortgagees, record in the Public Records of the County, a Supplemental Declaration resolving such issue and such Supplemental Declaration executed by the Association and Declarant (if separate legal entities) shall be dispositive and binding, absent manifest error.

2.5 Subdivision of Parcels. Subject to the provisions hereof, a Parcel may be subdivided by Supplemental Declaration executed by the Association, the Association and the Owner of the subdivided Parcel, without the consent of any other existing Owners or mortgagees. To the extent that any Parcel shall be subdivided, reference herein to the Parcels shall be deemed to include all of the Parcels, including the newly subdivided Parcels, unless otherwise indicated in the Supplemental Declaration. All Owners, shall be deemed to have automatically consented to any such subdivision of such Parcels, and shall evidence such consent in writing if requested to do so by the Association or the Owner of the subdivided Parcel at any time (provided, however, that

the refusal to give such written consent shall not obviate the general and automatic effect of this provision). Any Supplemental Declaration effectuating a subdivision of a Parcel as contemplated herein shall describe with particularity the extent to which each portion of the subdivided Parcel shall have use rights in and to the Podium Facilities (and/or be liable for any costs relating to the Shared Facility, Limited Shared Facility and/or Limited Amenities Facility, as applicable). For the avoidance of doubt, the foregoing provision is not intended to apply to the subdivision of a Parcel through a Condominium Declaration or other subdivision declaration which shall be governed by the other provisions of this Declaration applicable to collective ownership structures.

2.6 Limitations on Supplements, Modifications and Withdrawal. Neither the Future Land Owner nor the Association shall remove, alter, relocate, re-designate or subdivide any portion of the Podium or the Podium to the extent that same will result in (i) the denial to any Owner or any Unit Owner of legal pedestrian and/or vehicular access (direct or by easement) to and from the Owner's Parcel or Unit Owner's Unit, or (ii) the termination of any utility and/or mechanical, electrical, HVAC, plumbing, life safety, monitoring, information and/or other systems located in and/or comprising the Podium and serving said Owner's Parcel or Unit Owner's Unit, or (iii) the compromise of the structural integrity of the Podium or otherwise impair the easements of support granted herein (without otherwise providing reasonably equivalent substitutions for same). Furthermore, no removal, alteration, relocation, re-designation, subdivision or supplement shall (a) encumber or adversely affect, in a material manner, any portion of the Future Land not previously encumbered or affected without the consent or joinder of the Future Land Owner of such portion of Future Land, or (b) eliminate or adversely affect, in a material manner, the Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, without the consent or joinder of the Owner of the applicable Benefited Parcel. The foregoing shall not, however, preclude the temporary cessation of services by the Association as reasonably necessary to effect repairs to any Shared Facilities.

2.7 Legal Description of Parcels. The legal descriptions and graphic depictions of the Parcels in this Declaration may be adjusted and/or modified to comport to as-built Structures, to accommodate changes in development and/or construction plans, and to correct manifest errors. The legal descriptions and graphic depictions of the affected Parcels shall be modified by Supplemental Declaration executed by the Association and the Owner of the affected Parcels (without the consent of any other Owners or mortgagees). The Owner of a Parcel may transfer a portion of such Parcel to a third party, but such transferee shall acquire such portions of the Parcel subject to the rights and obligations applicable to such Parcel (in which its property was conveyed) but such transferee shall not obtain any voting rights of such Parcel (unless assigned such voting rights in writing by the Owner of such Parcel having such voting rights, and such assignment is recorded in the Public Records of the County (i.e. the Owner of the Hotel Parcel may convey a portion of such Hotel Parcel such as the Hotel Tower Shared Facilities Parcel to a third party transferee, and such transferee shall take such portion of the Hotel Parcel subject to the rights and obligations of the Hotel Parcel under this Agreement, but shall not have any voting rights unless the then Owner of the Hotel Parcel assigns any such voting rights to such transferee in writing and same is recorded in the Public Records of the County. All Owners, by acceptance of a deed or other conveyance of their Parcels, shall be deemed to have automatically consented to any such modification of the legal descriptions and graphic depictions for the purposes provided herein, and shall evidence such consent in writing if requested to do so by the Association or the Owner of the affected Parcels at any time.

2.8 CDD.

(a) The CDD is a local unit of special-purpose government of the State of Florida, pursuant to Chapter 190, Florida Statutes. The CDD provides certain infrastructure facilities and services and has the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide said services. The CDD is empowered to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for certain basic infrastructures which may include, without limitation, parking facilities.

(b) THE CDD MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THE PORTIONS OF THE BAHIA MAR PROJECT. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES OF THE CDD AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE CDD. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

(c) Except as otherwise provided in this Declaration, all individuals or entities owning or purchasing tracts of land, parcels, lots or units within the CDD, including, without limitation, Parcel Owners and Unit Owners will be obligated and responsible for paying such non-ad valorem taxes and assessments that have or may be assessed and levied annually by CDD upon an Owner's Parcel or a Unit Owner or its Unit. These non-ad valorem assessments may appear on each Owner's or Unit Owner's annual Unified Real Property portions of the Tax Bill that is issued and collected by the Tax Collector of the County. The portions of the Bahia Mar Project (including, without limitation, all Parcels, Units and the Shared Facilities) are governed and burdened by, and subject to, and each Owner is governed and burdened by, and subject to, all of the terms and conditions of the CDD. Among the powers of the CDD are the power to assess Owners (either directly or indirectly, by virtue of membership in a Condominium Association), and other owners of benefited real property within the CDD for a share (based on the special benefit accruing to such property) of the expenses of the operation and maintenance of (including the management fees relating to) the CDD, and any and all Improvements therein and/or maintained thereby and to impose and foreclose liens in the event such assessments are not paid when due. Each Owner (for itself, its Tenants and other Permitted Users, successors and assigns) understands and agrees, by acceptance of a deed or otherwise acquiring title to a Parcel and/or a Unit, to pay any and all such fees, rates, charges, taxes and assessments imposed by the CDD, with respect to such Owner's Parcel or Unit, and to abide by all of the rules and regulations of the CDD. Declarant makes no warranty or representation regarding the CDD.

2.9 Creation of Separate Parcels. The Owners, by executing and recording this Declaration, do hereby declare and establish each Parcel situated on the Land as separate estates in fee simple absolute. By such execution and recording of this Declaration, each Owner (other than Rahn) owns its separate Parcel in fee simple absolute, subject to all conditions, restrictions, limitations, dedications, easements and encumbrances of record, provided however, that this reference shall not operate to reimpose any of the same. The Hotel Tower Condominium Parcel, Condominium 1 Parcel, CDD Parcel, and Hotel Parcel will each be a separate Parcel. Property within the Future Land may become a Parcel to the extent, provided in a recorded Supplemental Declaration as provided in this Declaration. No merger of estates or interests shall be deemed to occur in any instance in which a single person or entity has right, title or interest in or an encumbrance against or easement over the Parcels, or any combination thereof, except where legally valid and proper affirmative action is taken to create such merger. The foregoing sentence shall not apply to the first mortgage lien on the real property included in all of the Parcels on the date hereof except at the option of such person or entity holding such lien.

## 3. GENERAL RIGHTS AND EASEMENTS.

3.1 Easements. Each Owner shall each have the following non-exclusive easements through, across, and upon the Podium, subject to the reasonable regulation of easements provided for in this Article 3.

(a) For use of the electric service vaults and the cables and conduits therein through which electric power is supplied by the public utility to the Parcels, as well as vaults, cables and conduits for cable television, telecommunications, telephone and related services, all as substantially shown on the Building Plans.

(b) For use of the domestic and fire protection water service lines, sanitary and storm sewer lines, soil lines, internet and cable TV lines, gas lines and sewage ejector lines, including all valves, traps and clean-out appurtenant to any such line, located in the Buildings and serving the Parcels, all substantially as shown on the Building Plans.

(c) For the placement of air conditioning compressors on the roofs of the Buildings, all as substantially shown on the Building Plans.

3.2 General Easements. Subject to the rights of Owners entitled to the exclusive use of the Limited Shared Facilities and/or Limited Amenities Facilities (as same may be modified as provided in this Declaration), each Owner and Permitted User shall have the following additional non-exclusive perpetual easements from the Association and other Owners, which easements shall be used by the grantee in common with, and not to the exclusion of, the applicable grantor:

(a) For use of all plumbing, electrical, telephone, water, heating, ventilating, air cooling, gas, fire and life safety, communication, telecommunication, mail, radio, cable television, exhaust, window washing, and other piping, lines, wires, ducts, shafts, systems, facilities and equipment, and for the use of all other facilities whatsoever, except to the extent restricted by this

Declaration, shown on the Building Plans (or located in the Parcels and indicated, but not shown, on the Building Plans) as located within any Parcel and serving or benefiting the improvements on another Parcel or serving or benefiting any facility with respect to which an Owner is granted an easement under any provision of this Declaration.

(b) For use of the Shared Facilities located within the Podium to the extent necessary to receive the benefit of the functioning of the Shared Facilities in accordance with the intended respective purpose of each particular Shared Facility including the exclusive right of certain Owners to use the Limited Shared Facilities and/or Limited Amenities Facilities as set forth in this Declaration.

(c) Of support for the benefit of each Parcel or other portions of the Podium, in and to all structural members, footings, exterior walls, roof and foundations shown on the Building Plans as located within the Podium and which are necessary for support of the improvements on the Parcel or of any facility with respect to which the Association, Owner or Permitted User is granted an easement under any provision hereof. Nothing in this Declaration shall be construed to require the Association (as to the Shared Facilities) or any Owner to erect, or permit the erection of, additional columns, bearing walls or other structures on its Parcel for the support of the Shared Facilities or other Parcels, beyond those as shown on the Building Plans.

(d) For the continued existence of encroachments in the event that, by reason of the construction of the Buildings or the subsequent settling or shifting of the Buildings, any part of the improvements on the Shared Facilities or any other Parcel encroaches or shall hereafter encroach upon any other Parcel. Such easement for the continued existence of encroachments on the Shared Facilities or the Parcel shall exist only so long as all or any part of the encroachment shall remain.

(e) For Maintenance of any Shared Facility, or for any facility located within a Parcel, for which another Owner has Maintenance responsibility, or for which the other Owner is otherwise permitted or required to perform the Maintenance.

(f) For entry upon, and for ingress and egress through a Parcel, with persons, materials and equipment, to the extent reasonably necessary in the performance of the Maintenance of any portion of the Podium, whether or not located within Owner's Parcel, for which the Owner has Maintenance responsibility, or for which the Owner is otherwise permitted or required to perform the Maintenance.

(g) For ingress and egress through the Podium to the extent necessitated by an emergency involving danger to life, limb or property.

(h) For pedestrian ingress and egress through the Building areas intended and designated for pedestrian use, and for pedestrian ingress and egress through the entrance, service entrance, paths, walkways and lobbies located in the Buildings that are at any point in time intended and designated for pedestrian use, including, but not limited to, those portions of any Parcel required to afford reasonable access from each other Parcel to the public right of ways adjoining the Buildings and for the use in common with the Owner of such Parcel, its Permitted Users, invitees, and agents of such facilities and areas of the Parcel for the other uses for which such facilities and/or areas are normally used in a first class, mixed-use, residential and commercial building, including, without limitation, the elevators located within the Parcel, which facilities and areas are shown on the Building Plans.

(i) For ingress and egress through, and use of, the Podium elevator shafts, and, subject only to the Association hereinafter granting such rights, in writing, to one or more Owners, then for the right of ingress and egress to those sections of the Building service core (including service and passenger elevator shafts and cabs, pit, machine room, stairways and utility lines), which serve the Parcels and for access to the roof of the Buildings for Maintenance of the ventilating, heating and air-conditioning equipment located on such roof. Said service core and elevator shafts are shown on the Building Plans.

(j) As reasonably required or needed, to accommodate the design, construction, maintenance, repair, replacement, use and enjoyment of the Buildings including but not limited to the use and benefit of Permanent Easements created under the Master Declaration.

Notwithstanding anything to the contrary contained in this Declaration, the site plan and plan for the Buildings included as a part of Exhibit G hereto set forth certain of the Limited Shared Facilities and/or Limited Amenities Facilities that are available to only certain Owners.

3.3 Extent of Owners' Rights and Easements. Except as expressly provided herein to the contrary, any right and easement created by or under any provision of this Declaration shall be subject to the following: The right of the Association to establish and enforce reasonable rules and regulations pertaining to the use of the Shared Facilities located within the Podium.

(b) The right of the Association to borrow money for the purpose of improving the Shared Facilities and, in furtherance thereof, to mortgage, pledge or hypothecate the Shared Facilities and Assessments therefor as security for money borrowed or debts incurred, provided that the rights of the mortgagee or secured party in any such case shall be subordinate to the rights and easements of the Owners and Unit Owners under this Declaration, including their rights in the Shared Facilities and the Owners' and Permitted Users' use of such rights.

(c) The right or duty of the Association to reconstruct, replace or refinish any improvement upon the Shared Facility, subject to those conditions and limitations set forth elsewhere in this Declaration.

(d) The right or duty of the Association to plant and replace trees, shrubs, ground cover and other vegetation and "hard-scape" upon any portion of the Shared Facilities designed for such use.

(e) The rights and easements provided elsewhere in this Declaration.

(f) All Podium Encumbrances and all other plats, restrictions, covenants, conditions, reservations, limitations, easements and other matters of record affecting the Podium.

(g) Any easement granted pursuant to this Declaration shall be subject to such reasonable rules and regulations as the Association may impose.

3.4 Specific Easements.

In addition to the easements set forth above, there shall be the following specific grants and/or reservations of easement:

(a) A perpetual non-exclusive easement granted in favor of the Association for (i) the placement of one (1) or more cooling towers or compressors on the upper roof of the Buildings, (ii) the placement of one (1) or more mechanical rooms on the upper roof of the Buildings, and (iii) a perpetual non-exclusive easement on, over and across the upper roof of the Buildings for entry and access purposes in order to access and service, repair, maintain and replace the cooling tower(s), compressors, mechanical room(s) and the equipment and machinery located therein.

(b) A perpetual non-exclusive easement on, over and across the upper roof of the Buildings for entry and access purposes in order to access, service, repair, maintain and replace the roof.

(c) A perpetual non-exclusive easement in favor of the Association on, over and across the areas identified as staircases in the Buildings for pedestrian ingress and egress in order to afford reasonable access throughout the Buildings and amongst the Parcels.

(d) A perpetual non-exclusive easement on, over and across the Parcels for entry by the Association and such other persons, materials and equipment as designated by the Association, to the extent reasonably necessary in the performance of the Maintenance responsibilities of the Association.

(e) A perpetual non-exclusive easement in favor of and reserved for Owners, the Association and any and all utility companies as designated by the Association (i) to install conduits, lines, cable, wires and the like

("Equipment"), (ii) to maintain, repair, service such Equipment, and (iii) for ingress and egress purposes in order to afford reasonable access to and for Owners, the Association and those utility companies designated by Declarant or the Association in order to install, maintain, repair, service and replace said such Equipment, all in such areas located within the Podium as designated by the Association; provided however, that the easements granted in this subparagraph shall not adversely and materially impact upon the use and enjoyment of the Parcels by the Owner thereof. The easements granted and reserved in this subparagraph to and for Declarant and the Association may be assigned by Declarant or the Association to any other person and/or entity in whole or in part.

3.5 Delegation of Use. Any Owner or Unit Owner may delegate its right of use and enjoyment of and to the Shared Facilities or Limited Shared Facility (in favor of such Owner) Permitted Users; provided however, said delegation of use and enjoyment of and to the Shared Facilities shall be subject in all cases to reasonable regulation by the Association.

3.6 Parking. The Owner(s) who are allocated rights to the Limited Shared Facility comprising the Parking Areas and/or Valet Stand Areas shall have the right, at any time and from time to time, to: (a) utilize such Parking Areas for valet parking spaces or striped parking spaces as desired by each Specified Owner in its Parking Area which is allocated to such Owner as a Limited Share Facility ("**Specified Parking Spaces**") as it determines, and (b) subject to reasonable rules and regulations such may be adopted by the Association, retain complete and absolute discretion to control, operate, license, grant and assign spaces in the Specified Parking Area as it determines. The Association is hereby authorized and empowered to establish rules and regulations for the Specified Parking Spaces and other Shared Facilities and may make provision for the involuntary removal of any vehicle which is in violation of such rules and regulations. All fees collected by Specified Owner(s) of Benefited Parcel who are allocated such Specified Parking Spaces for use of its Specified Parking Spaces in whatever form, including charging for use of electric charging stations, shall belong solely to such Owner(s). Each Owner who is allocated a Valet Stand Area, shall have the exclusive right to conduct valet services from such Valet Stand Area allocated to such Specified Owner, and such Specified Owner (i) shall have the exclusive right to set the rates to be charged for use of its valet services, and (ii) may enter into a written agreement with third parties (including the CDD or other Owners) to provide valet parking services for such third party on the terms set forth in such agreement. Additionally, each Specified Owner may install gates or technical methods to address access to and/or charges for use of parking with respect to its Parking Areas.

The CDD shall, at its expense, operate the CDD Parcel with the Public Parking Spaces located within the CDD Parcel.

3.7 Waiver of Use. No Owner may exempt itself from personal liability for Assessments or release the Parcel owned by it from the Assessments, liens and charges provided for herein, by waiver of the use and enjoyment of the Shared Facilities or by abandonment of its Parcel.

3.8 Rights and Easements in Shared Facilities. Subject to and in accordance with all of the other provisions of this Declaration, and except for Limited Shared Facilities and/or Limited Amenities Facilities as herein specified for exclusive use of such areas by the applicable Specified Owner and their Permitted Users, each Owner (including, if applicable, any Unit Owner and its and their Permitted Users), shall have limited rights to use, benefit from and enjoy the Shared Facilities (as same may exist from time to time) for their intended purposes (as reasonably determined by the Association) in common with all other Owners (and their Permitted Users), but in such manner as may be reasonably regulated by the Association and in accordance with Legal Requirements. As to any Limited Shared Facilities, each Owner entitled to use of the Limited Shared Facility (and its and their Permitted Users) shall have limited rights to use, benefit from and enjoy the applicable Limited Shared Facilities (as same may exist from time to time) for their intended purposes (as reasonably determined by the Association) in common with all other Owners designated to be entitled to use of their respective Limited Shared Facility (and their Permitted Users), but in such manner as may be reasonably regulated by the Association and in accordance with Legal Requirements. As to any Limited Amenities Facilities, each Owner entitled to use of the Limited Amenities Facilities (and its and their Permitted Users) shall have limited rights to use, benefit from and enjoy the applicable Limited Amenities Facilities (as same may exist from time to time) for their intended purposes (as reasonably determined by the Association) in common with all other Owners designated to be entitled to use of their respective Limited Amenities Facilities (and their Permitted Users), but in such manner as may be reasonably regulated by the Association and in accordance with Legal Requirements. Except for the Exclusive Rights of use for the Limited Shared Facilities and/or Limited Amenities Facilities, the Declarant hereby reserves to itself, and hereby grants in favor of the Association, all Owners, including Unit Owners, and their Tenants and Permitted Users, a perpetual, non-exclusive easement over, under and upon such portions of the Shared Facilities as may be designated in writing from time to time by the Association for the use, benefit and enjoyment of any Shared Facilities that may be constructed thereon from time to time.

3.9 Rights and Easements in the Limited Shared Facilities. Subject to and in accordance with all of the other provisions of this Declaration, the Owner (including, if applicable, any Unit Owner and its and their Permitted Users) of each Benefited Parcel, shall have limited rights to use, benefit from and enjoy the Limited Shared Facilities and/or Limited Amenities Facilities (as applicable) allocated to such Owner (as same may exist from time to time) designated for the benefit and exclusive use of such Owner (including, if applicable, any Unit Owner and its and their Permitted Users) for their intended purposes (as reasonably determined by the Association), but in such manner as may be reasonably regulated by the Association and in accordance with Legal Requirements. The Owners of the Benefited Parcels shall have exclusive easements with respect to the Limited Shared Facilities and/or Limited Amenities Facilities (as applicable) serving such Benefited Parcels and/or in favor of such Owner(s) as more particularly described in Section 3.16.

3.10 Rights of the Association. The rights of use and enjoyment and other easement rights with respect to the Shared Facilities, Limited Shared Facilities, and/or Limited Amenities Facilities granted herein are hereby made subject to the following:

(a) The right and duty of the Association to levy Assessments against each Parcel and Rahn (as one of the Owners), excluding the CDD and the CDD

Parcel while the CDD is the Owner of such Parcel, for the purpose of maintaining, operating, repairing, insuring, replacing and/or altering the Shared Facilities and any facilities located thereon in accordance with the Podium Standard, as more particularly provided in this Declaration.

(b) The right and duty of the Association to maintain and comply with any requirements set forth in the Project Encumbrances.

(c) The duty and obligation of the Association to undertake its Shared Infrastructure Responsibilities and to maintain the Shared Facilities as elsewhere provided herein, all in accordance with the Podium Standard.

(d) The right of the Association (i) to suspend an Owner's (and his or her Permitted Users) right to use the Shared Facilities (x) for any period during which any Assessment against such Owner's Parcel remains unpaid for more than thirty (30) days, and (y) except as otherwise provided in clause (ii) hereof, for a period not to exceed sixty (60) days following any infraction of this Declaration or the rules and regulations governing the Shared Facilities, and (iii) to exclude individuals from use of the Podium Facilities based upon willful misconduct of such individuals such as criminal activity, vandalism, loitering, soliciting, loud or violent behavior, or lewd or lascivious conduct; provided, however, that any such suspension or exclusion in this (d) shall not deny any Owner or its Permitted Users legal access to and from the Owner's Parcel and/or Unit, as applicable, to the right of the applicable Owner to utilize a Limited Shared Facility and/or Limited Amenities Facility (as applicable), nor terminate any utility and/or mechanical, electrical, HVAC, plumbing, life safety, monitoring, information and/or other systems located in the Shared Facilities and serving said Owner's Parcel and/or Unit, as applicable, nor compromise the structural integrity of the Structure or otherwise impair the easements of support granted herein (without otherwise providing equivalent substitutions for same).

(e) The right of the Association to adopt and establish, at any time and from time to time, and enforce rules and regulations governing the easements granted herein and/or the use of the Shared Facilities, the Limited Shared Facilities, and/or Limited Amenities Facilities (as applicable), including, without limitation, rules and regulations (i) allocating to such Benefited Parcel at any time, and from time to time, exclusive or non-exclusive use rights to the applicable Owner during particular periods of time and/or with respect to particular Shared Facilities (and as such, allowing the closure of such portions of the Shared Facilities to other Owners and their Permitted Users that are not granted such exclusive use), and (ii) limiting by gate or other access control device, access over roads, paths or other portions of the Podium, and temporarily closing or restricting use of same, whether for maintenance purposes, due to an emergency situation or event of *force majeure*, for security reasons, for the holding of private events for one or

more of the Owners or Parcels (limiting or precluding use by some or all Owners), or for any other purpose expressly permitted under this Declaration or otherwise; provided, however, that in no event shall any Owner (including, without limitation, Unit Owners and their Permitted Users) be denied legal access to and from a publicly dedicated street and the applicable Parcel/Unit or use of their Limited Common Facilities and/or Limited Amenities Facilities (as applicable) allocated to such Owners. Any rule and/or regulation so adopted by the Association shall apply until rescinded or modified as if originally set forth in this Declaration.

(f) The right of the Association to permit such persons as the Association shall designate to use the Shared Facilities, except as otherwise expressly provided herein. Additionally, the Association reserves the right from time to time to (i) limit the right to use certain Shared Facilities, Limited Shared Facilities, and/or Limited Amenities Facilities (as applicable) (such as, by way of example and not limitation, Mechanical Rooms, elevators, trash facilities and loading bay areas) to Owners only, or to Owners and Unit Owners only, and not their Permitted Users, (ii) to designate portions of the Shared Facilities as Limited Shared Facilities, and/or Limited Amenities Facilities (as applicable) and/or (iii) to designate special use and/or priority rights to particular Parcels with respect to any portion of the Shared Facilities.

(g) The right of the Association to engage third parties (such as property management companies, consultants and other vendors) to perform and carry out its obligations under this Declaration (or in furtherance thereof) and/or any ongoing obligations under the Project Encumbrances, the cost of which shall be included in Shared Facilities Costs and/or Shared Amenities Costs, as applicable.

(h) The right of the Association to have and use, and to require the Owners to grant to the Association, general ("**blanket**") and specific easements over, under and through the Shared Facilities, the Limited Shared Facilities, and/or Limited Amenities Facilities, in favor of such Owner as necessary or desirable to exercise its rights or perform its obligations under this Declaration.

(i) The unconditional right of the Association to temporarily restrict use of the Shared Facilities for private functions of a particular Parcel, or otherwise on behalf of an Owner (and to charge fees or other sums for such access to such functions) and/or for public functions but no Owner or their Permitted User shall be denied legal access to and from a publicly dedicated street. Each Owner and/or Unit Owner shall be deemed to acknowledge and agree that the fees shall be retained by the Association for its own account and shall not be used to offset the costs of operating, maintaining, repairing or replacing the Shared Facilities.

(j) The unconditional right of the Association to temporarily close or restrict access to some or all Shared Facilities, including, without limitation, Limited Shared Facilities and/or Limited Amenities Facilities as applicable, from time to time as may be reasonably necessary for the maintenance, repair or replacement of any such Podium Facility under the terms of this Declaration or in the event of an emergency.

(k) The right of the Association to establish a guest policy or policies and to impose charges, restrictions and/or prohibitions, from time to time, with respect to the use of Shared Facilities by guests (or others who are not Owners, Unit other Permitted Users). Each Owner shall be deemed to acknowledge and agree that the guest or other fees shall be retained by the Association for its own account and shall not be used to offset the Shared Facilities Costs and/or Shared Amenities Costs, as applicable.

(l) The right to supplement and/or withdraw portions of the Podium Facilities as provided in this Declaration.

WITH RESPECT TO THE USE OF THE SHARED FACILITIES AND THE PODIUM GENERALLY, ALL PERSONS ARE REFERRED TO ARTICLE 22 HEREOF, WHICH SHALL AT ALL TIMES APPLY THERETO.

Notwithstanding anything herein to the contrary, the Association shall have the right to delegate any of its rights and obligations hereunder to any party employed or engaged by the Association.

3.11 Easements Appurtenant. The rights and easements provided in this Article 3 shall be appurtenant to and shall pass with the title to each Parcel benefited thereby, but shall not be deemed to grant or convey any ownership interest in the Shared Facilities, the Limited Shared Facilities, and/or Limited Amenities Facilities (as applicable) subject thereto. Notwithstanding the foregoing, any systems, equipment and other facilities located within or comprising the Limited Shared Facilities and/or Limited Amenities Facilities shall be maintained by such Owner as provided in Section 6.10.

3.12 Storage Outside Limited Amenities Facilities. With respect to any storage spaces and/or lockers within the Shared Facilities (but outside of the Limited Amenities Facilities), the Association shall have the exclusive right at any time, and from time to time, to grant to specific Units, Parcels or to any Condominium Association the exclusive right to use one or more storage spaces and/or lockers, if any, located within the Shared Facilities (and once assigned, same shall be deemed Limited Shared Facility of the Unit and/or Parcels to which assigned) provided however any storage spaces and/or lockers located in the Limited Amenities Facilities shall be assigned by the Association to the Specified Owners having the exclusive rights to utilize such Limited Amenities Facilities. Nothing herein shall obligate the Association to make any such grant, whether to a particular Unit or Parcel (or any portion thereof) and there is no assurance that any such grant will be made. A grant with respect to a storage space/ locker as aforesaid shall be made by the Association by written assignment (which shall not be recorded, but, rather, shall be made by way of instrument placed in the official records of the Association). Any such grant vests in

the Unit Owner or Parcel Owner, or such Condominium Association, as appropriate, the exclusive right to use (but not title to) such storage space(s) and/or locker(s), and, if to a Unit or Parcel Owner, as an appurtenance to such Owner's Unit or Parcel subject to this Declaration and any applicable rules and regulations promulgated by the Association. Unless otherwise noted on the form of assignment or grant, such exclusive right to use shall pass with title to such Unit or Parcel, whether or not specifically assigned. All fees collected by the Association for assigning spaces and/or lockers, if any, shall be retained by the Association and shall not constitute income or revenue of any other Owner (and/or be utilized to offset any Shared Facilities Costs and/or Shared Amenities Costs as applicable). Any and all unassigned spaces and/or lockers shall be controlled by the Association and may be used only as determined by the Association. As to any party granted exclusive use of a storage space or locker, that party shall be responsible for the cleaning, repair and replacement of the space or locker and for the contents therein.

3.13 Flooding. EACH OWNER ACKNOWLEDGES AND AGREES THAT A PORTION OF THE SHARED FACILITIES MAY BE LOCATED BELOW THE FEDERAL FLOOD PLAIN, AND, ACCORDINGLY, IN THE EVENT OF FLOODING, ANY PERSONAL PROPERTY STORED THEREIN IS SUSCEPTIBLE TO WATER DAMAGE. ADDITIONALLY, INSURANCE RATES, BOTH FOR THE ASSOCIATION IN INSURING THE STORAGE FACILITIES, AND FOR OWNERS, MAY BE HIGHER THAN IF THE STORAGE FACILITIES WERE ABOVE THE FEDERAL FLOOD PLAIN. FURTHERMORE, INSURANCE OBTAINED BY THE ASSOCIATION OR CONDOMINIUM ASSOCIATION WILL NOT COVER DAMAGE, INCLUDING WITHOUT LIMITATION BY FLOOD, TO ANY PERSONAL PROPERTY OF THE OWNERS. BY ACQUIRING TITLE TO, OR TAKING POSSESSION OF, A UNIT AND/OR PARCEL, OR ACCEPTING THE USE OF THE SHARED FACILITY, EACH OWNER, FOR SUCH OWNER AND THE OWNER'S PERMITTED USERS HEREBY EXPRESSLY ASSUME ANY RESPONSIBILITY FOR LOSS, THEFT, DAMAGE OR LIABILITY RESULTING THEREFROM AND WAIVES ANY AND ALL LIABILITY OF DECLARANT, DECLARANT'S AFFILIATES AND/OR THE ASSOCIATION.

3.14 Trash Room. The Trash Facility is part of the Shared Facility. Although the Trash Facility is a Shared Facility, each Parcel shall be responsible for payment of its share of Shared Expenses based on a tracking system for determining usage of such Trash Facility as Owner shall be payable based on a schedule determined by the Association from time to time.

3.15 Signs. The Association shall have the exclusive right to regulate and approve the placement, installation, alteration and replacement of any signage (including without limitation pylons, monument signs, billboards, murals, digital displays and other signage) visible from the exterior of any Parcel (including on the exterior façade of any Building) or on the Shared Facilities within the Podium, all as the Association may deem necessary, desirable or acceptable from time to time, without requiring approval from any Owner. All such signage shall be subject to and comply with Legal Requirements, the Podium Standard, signage criteria adopted from time to time by the Association for the Podium, and such rules and regulations as may be established from time to time by the Association. Any consideration paid or received for such signage located on the exterior façade of any Parcel shall be the sole property of the applicable Parcel Owner (e.g., signage on the exterior façade of the Hotel Parcel shall be the sole property of the Hotel Parcel Owner). No Owner of a Parcel shall place or install any signage within the interior of or on the exterior of any other Parcel or Shared Facility without the prior written consent of the Association,

whereupon such signage shall be deemed part of the Limited Shared Facilities of the Benefited Parcel. Once interior or exterior signage has been approved by the Association as hereinabove provided, the Owner of the Benefited Parcel shall have the right and obligation to access, maintain, repair and replace such signage as part of the Limited Shared Facilities hereunder; subject, however, to any conditions of such approval. Notwithstanding the foregoing, the Association shall have the right to install directional signage as part of the project-wide directional signage system and other project identification signage on the exterior façade and/or within the public areas of any individual Parcel; provided, however, that such signage shall not unreasonably interfere with the operations of the affected Parcel and shall be consistent with the Podium Standard.

3.16 Limited Shared Facilities.

(a) Valet Stand Areas and Parking Spaces. Valet Stand Areas and Parking Areas, as well as and any portion of the Shared Facility, now or hereafter designated as a Limited Shared Facility designated as such in this Declaration (or by Supplemental Declaration), shall be subject to the provisions hereof, be a "Limited Shared Facility" reserved for the exclusive use of the Specified Owner granted the use right to such Limited Shared Facility, and/or Unit Owner, as applicable, may, to the extent permitted by law, incorporate and use such areas in connection with, or relating to, the use and/or operations from its Parcel and/or Unit. Similarly, as to any terrace, balcony, deck, lanai and/or patio within the Shared Facilities, the Association may assign and/or designate same (or a portion of same) for the exclusive use of a Parcel (to the exclusion of other Parcels), in which event, the Parcel as to which the terrace, balcony, deck, lanai and/or patio was assigned or designated shall be entitled to exclusive use of same (subject to the rights of the Association as elsewhere provided herein) granted the use right to such Limited Shared Facility. The Association shall endeavor to show any such designated Limited Shared Facilities on the Podium Facilities Plans, but the failure to do so shall not invalidate any such designation. Any such Limited Shared Facilities shall be maintained, repaired and replaced as provided in Article 6 hereof. The initial Limited Shared Facilities and the Specified Owners who are allocated the use of each such Limited Shared Facility is set forth on Exhibit G and Exhibit G-1 attached hereto.

(b) Limited Amenities Facilities. All portions of the Limited Amenities Facilities are reserved for the exclusive use of the Specified Owners granted the right to utilize such Limited Amenities Facilities. Any such Limited Amenities Facilities shall be maintained, repaired and replaced as provided in Article 6 hereof. The initial Limited Amenities Facilities and the Owners who are allocated the use of such Limited Amenities Facilities is set forth on Exhibits G and G-2.

(c) Other Areas. Without limiting the generality of the foregoing, the Association may from time to time, designate other portions of the Shared Facilities for use by a Parcel Owner or Owner (which may be on an

exclusive or non-exclusive basis as determined in writing by the Association) to incorporate and use such designated areas in connection with, or relating to, the operations from the applicable Parcel. Limited Shared Facilities shall be maintained, repaired and replaced as provided in Article 6 hereof.

(d) Access. Notwithstanding the designation of any portion of the Shared Facilities as Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, same shall not allow any Owner and/or user of the Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, to preclude passage through such areas as may be needed from time to time for emergency ingress and egress, for the maintenance, repair, replacement, alteration and/or operation of the Shared Facilities which are most conveniently serviced (in the sole determination of the Association) by accessing such areas (and an easement is hereby reserved for such purposes) and/or as may be required by applicable law. Notwithstanding anything contained to the contrary herein, nothing herein shall preclude the Owner of the Benefited Parcel from temporarily restricting use of its Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, for private functions of such Parcel (and to charge fees or other sums for such access to such functions) and/or for public functions. Each Owner, by acceptance of a deed or other conveyance of a Unit, shall be deemed to acknowledge and agree that the fees shall be retained by the applicable Parcel Owner for its own account and shall not be used to offset the costs of operating, maintaining, repairing or replacing the Shared Facilities. Notwithstanding the foregoing, no Owner or its Permitted User shall be denied legal access to and from a publicly dedicated street.

(e) Additions, Alterations or Improvements. A Parcel Owner or Unit Owner using a Limited Shared Facility and/or Limited Amenities Facility, as applicable, or making or causing to be made any additions, alterations or improvements thereto shall be subject to the provisions of Article 5 hereof and agrees, and shall be deemed to have agreed, for such Owner, and his or her heirs, personal representatives, successors and assigns, as appropriate, to hold the Association and all other Owners harmless from and to indemnify them for any liability or damage to the Podium and expenses arising therefrom. Notwithstanding the designation of any portion of the Shared Facilities as Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, same shall not allow any Owner and/or user of the Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, to preclude passage through such areas as may be needed from time to time for emergency ingress and egress, for the maintenance, repair, replacement, alteration and/or operation of the Shared Facilities which are most conveniently serviced (in the sole determination of the Association) by accessing such areas (and an easement is hereby reserved for such purposes) and/or as may be required by Legal Requirements.

3.17 Encroachment. If (a) any portion of the Shared Facilities (or improvements constructed thereon) or any Building encroaches upon any other portion of a Parcel or upon any Structure; (b) any portion of a Parcel (or improvements constructed thereon) encroaches upon the Shared Facilities or any other Parcel; or (c) any encroachment shall hereafter occur as the result of (i) construction of any improvement; (ii) settling or shifting of any improvement; (iii) any alteration or repair to any improvement after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any improvement or portion of the Shared Facilities or any Parcel, then, in any such event, a perpetual easement is hereby granted, declared and created over the area of any Parcel affected by such encroachment (the "**Encroached Parcel**") in favor of the Parcel on which the Structure causing said encroachment exists (the "**Encroaching Parcel**"), and shall exist in favor of the Encroaching Parcel for purposes of accessing and maintaining the encroachment. Further, the Encroached Parcel grants to the Encroaching Parcel such other incidental rights as reasonably necessary in connection with the exercise of the easement rights granted by this paragraph.

3.18 Easements of Support. Whenever any Structure on any Parcel or included in the Shared Facilities adjoins any Structure included in any other portion of the Podium, and/or in the event that any Structure is constructed so as to transverse Parcel lines, then in any such event, a perpetual reciprocal easement is hereby granted, declared and created in favor of the Owner of each impacted Parcel over the area of each Parcel affected by the traversing Structure for purposes of support for any such Structure.

3.19 Easements for Pedestrian and Vehicular Traffic. In addition to the general easements for use of the Shared Facilities granted and reserved herein, the Association and its designees, and all Owners (and their respective Permitted Users), a perpetual, non-exclusive easement appurtenant for (a) pedestrian traffic over, through and across sidewalks, drives, paths, walks and other portions of the Shared Facilities as from time to time may be intended and designed for such purpose, and (b) vehicular traffic over all private drives within the Shared Facilities. Notwithstanding the foregoing, the Association shall have the right to designate certain private drives within the Shared Facilities for the exclusive or primary use by one or more Parcels (to the exclusion of other Parcels) for traffic circulation, valet parking, drop-off and pick-up and/or other ancillary uses to such Parcel(s), and to add to or withdraw any of the foregoing from the Shared Facilities, provided that the requirements of Article 2 are not violated.

3.20 Project Encumbrances. The easements, rights, restrictions and provisions set forth in the Development Approvals and/or Project Encumbrances and any other easements or instruments affecting the Podium (or any portion thereof) recorded in the Public Records of the County, burden and/or benefit (as applicable) the Podium or Parcel(s) or Shared Facilities (or portion thereof) therein described, subject to the terms and conditions thereof. Without limiting the foregoing, the Podium or Shared Facilities (or applicable portions thereof) are, and shall be, subject to, and encumbered by the Development Approvals and Project Encumbrances, which, among other things, may grant rights to persons who are not Owners and/or the general public. Accordingly, each Parcel is governed and burdened by, and subject to, and each Owner is governed and burdened by, and subject to, all of the terms and conditions of the Development Approvals and Project Encumbrances that encumber or otherwise affect such Parcel or the Podium or Shared Facilities generally. Each Owner (for itself and its Permitted Users) understands and agrees, by acceptance of a deed or otherwise acquiring title to a Parcel or Unit, that the rights in and to the

Podium and Shared Facilities are junior and subordinate to the rights therein granted under the Development Approvals and/or Project Encumbrances. Pursuant to the Development Approvals and Project Encumbrances, the Parcels may be obligated for the payment of certain ongoing costs and responsibilities. Any and all payments that are the responsibility of the Association under the Project Encumbrances pursuant to the terms thereof or this Declaration shall be part of the Assessments levied on Owners by the Association. Any and all reimbursements, if any, for expenses (other than capital expenditures associated with the initial construction of improvements comprising the Parcels) shall be credited against the annual budget. EACH OWNER SHOULD THOROUGHLY REVIEW THE DEVELOPMENT APPROVALS AND PROJECT ENCUMBRANCES TO DETERMINE THE EFFECT SAME WILL HAVE ON THE PODIUM, STRUCTURES, ANY PARCEL, ANY UNIT (OR ANY PORTION THEREOF), AND SHARED FACILITIES.

3.21 Recorded Utility Easements. Easements for the installation and maintenance of utilities are reserved as and to the extent shown on recorded plats and/or any recorded instruments covering the Podium (or any portion thereof) and/or as provided herein. Such easements (including, without limitation, those affecting electrical and utility vault rooms) shall be used in accordance with the applicable provisions of this Declaration and said plats and recorded instruments. The portion of the Podium covered by an easement and all improvements in such portion shall be maintained continuously by the applicable Parcel Owner (if within a Parcel), the Association or its designee (if part of the Shared Facilities) or the Owner of a Benefited Parcel (if part of the Limited Shared Facilities serving the Owner of such Benefited Parcel), except for installations for which a public authority or utility company is responsible. The Owners and the Association reserve for themselves, and grants to the appropriate water and sewer authority, electric utility company, telephone company, telecom company, and other utility provider, the applicable Parcel Owner liable for the maintenance thereof, and the Association, and each of their respective successors, assigns and designees, as applicable, a perpetual, non-exclusive easement under and through the areas of utility easements as shown on plats and recorded instruments applicable to the Podium, for the existence, installation and maintenance of, and access to, water lines, sanitary sewers, storm drains, and electric and telephone lines, cables and conduits.

3.22 Public Easements. The Owners and the Association reserve for themselves fire, police, health and sanitation and other public service personnel and vehicles, a permanent and perpetual easement for ingress and egress over and across the Shared Facilities in the performance of their respective duties. Additional easements are hereby reserved over portions of the Podium to accommodate all reserved rights as set forth in the Development Approvals and Project Encumbrances. Additionally, easements are hereby reserved in favor of all Owners (and their Permitted Users) for emergency ingress and egress over, through and across all Shared Stairways.

3.23 Easements for Limited Shared Facilities. The Owner and the Association hereby reserves for themselves, and grants for the benefit of the Association (and its designees) and all Owners of Benefited Parcels within the Podium, perpetual, non-exclusive easements for the Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, and ingress and egress over, under and through the Podium, to the extent reasonably necessary to install, access and use the Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, for their intended purposes, and to perform the maintenance, repair and replacement obligations with respect to the Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, as set

forth herein. The foregoing reservation and grant shall be deemed to include all incidental easements and rights of access in and to the Burdened Parcels and Limited Shared Facilities reasonably necessary to enable the applicable Owner of the Benefited Parcel to exercise its rights and perform its obligations with respect to the Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, under this Declaration, but shall be subject to such rules and regulations as may be established from time to time by the Association. The easements granted herein shall be both "in gross" and personal to the Owner of the Benefited Parcel and also appurtenant to the Parcel of such Owner of the Benefited Parcel. In exercising the easements contained in this Section, the Owner of such Benefited Parcel shall use reasonable efforts to minimize interference with the other proper uses of the Podium and the operations therefrom and restore any damage caused thereby.

3.24 Convey to the Association of Shared Facilities. On or before the date of the execution of this Declaration, the Owners have conveyed to the Association the Shared Facilities.

3.25 Limitation of Obligation. The provisions of this Article 3 shall not be deemed to imply, or to impose, upon the grantor of any easement provided in this Article 3, or of any other easement provided for in this Declaration, any affirmative obligation touching or concerning said easements. The only affirmative obligations touching or concerning said easements imposed upon any such grantor are those affirmative obligations which are specifically set forth in this Declaration.

## 4. POWERS AND DUTIES OF ASSOCIATION

4.1 Powers and Duties. The Association shall have the exclusive power and duty to:

(a) Perform Maintenance with respect to, repair and otherwise manage the Shared Facilities in accordance with the provisions of this Declaration.

(b) Clean or cause the Shared Facilities to be cleaned on a regular basis in accordance with the standards of a first class residential, office and commercial building, and to perform or cause to be performed other standard janitorial services as to the same.

(c) Obtain, for the benefit of the Owners for distribution through the Shared Facilities, all commonly metered water, sanitary sewage and other utility services including, without limitation, cable and/or satellite TV for the Buildings designed for common provision and metering services, and provide for distribution through the Buildings and Shared Facilities of all other utilities, as necessary, to be metered as determined in the Building Plans.

(d) Take whatever other actions the Association deems advisable with respect to the Shared Facilities as may be permitted hereunder or by law.

(e) Employ or contract with a manager (which may be an affiliate of the Declarant) to perform all or any part of the duties and responsibilities of the Association.

(f) Delegate its powers to committees, officers and employees.

(g) Permit events (e.g., art shows, farmers markets, etc.) to be conducted upon the exterior portions of the Shared Facilities.

(h) Enforce the provisions of this Declaration and shall have such other rights and powers to act that a Florida not-for-profit corporation may have as provided in the Articles.

The Association shall use its good faith efforts to provide the services described above at reasonable levels comparable with practices in other similar properties, subject to the Association's reasonable discretion, and subject to interruption due to the need to make repairs, alterations or improvements, or due to strikes or other labor disputes, fire, flood, explosion, severe weather, civil disturbances, war, acts, proceedings or regulations of any governmental authority, rationing, interruption of transportation facilities, and any cause beyond the reasonable control of the Association. The obligation of the Owners to pay Assessments hereunder shall not abate in the event of any interruption of service. The Association shall use its best efforts to and shall pursue with diligence all actions required to enable restoration of service in the event of such interruption. All costs and expenses incurred by the Association in performance of this Declaration with respect to the Shared Facilities (other than the Limited Amenities Facilities) shall be the Shared Facility Costs and such costs and expenses as to the Limited Amenities Facilities shall be a Shared Amenities Costs, each of which shall be subject to the payment obligation of the applicable Owners as set forth in this Declaration.

4.2 Membership. Each Owner shall be a member of the Association ("**Members**"). At such time as a Parcel is declared to be a Condominium, the Condominium Association established to operate such Parcel shall be the member of the Association in place of the former Owner of such Parcel. The Unit Owners within such Condominium shall not be Members of the Association. Each Owner, by acceptance of a deed or other instrument evidencing his, her or its ownership interest in a Building or any portion thereof, and whether or not stated therein, acknowledges the rights, powers and authority of the Association as stated and provided for in this Declaration, as the same may be amended from time to time, and agrees to abide by and be bound by the provisions of this Declaration. In addition, the Permitted Users of the Owners and Unit Owners shall, while in or on any part of the Land or Buildings, abide and be bound by the provisions of this Declaration. Attached hereto as Exhibits L and M, respectively, are the Articles of Incorporation ("**Articles**") and Bylaws ("**Bylaws**") of the Association, the terms of which are incorporated herein and made a part hereof by this reference.

4.3 Board of Directors. The Association shall be governed by its Board of Directors ("**Board**") which shall be appointed, designated or elected as set forth in the Articles and Bylaws.

The Association shall carry out the functions and services as specified in this Declaration to the extent such functions and services can be provided with the proceeds first obtained from

Assessments, and then, if necessary, from Special Assessments. The functions and services referred to in this Declaration to be carried out or offered by the Association at any particular time shall be determined by the Board, taking into consideration the proceeds of Assessments, the needs of the Members, the needs of the Buildings and the needs of the Shared Facilities. The functions and services which the Association is authorized to carry out or to provide may be added to or reduced at any time upon affirmative vote of a majority of the Board.

4.4 Acceptance of Conveyances. The Association is obligated to accept any and all conveyances to it by Declarant or Future Land Owner of a fee simple title, easements or leases to all or portions of the Phase 1 Land or any Future Land.

4.5 Miscellaneous. In addition to the powers and duties of the Association set forth elsewhere in this Declaration, the Association shall have the exclusive power and duty to approve in writing the type and quality of tables, chairs and other types of furniture, personal property, and equipment proposed to be used and located on the Shared Facilities and shall also have the power and right to approve of all items placed on any Balcony which is visible from any sidewalk or from anywhere in the Buildings, which approval shall be given in the sole and absolute discretion of the Association.

4.6 Limitations as to CDD Parcel. Notwithstanding any provision of this Declaration to the contrary, any obligation, requirement, agreement, term or condition of this Declaration to which the CDD is subject, or which requires performance by the CDD, shall be applicable to the CDD only in accordance with, and to the extent permitted by, Florida law. Florida law applicable to the CDD shall control in the event of a conflict with the provisions of this Declaration and the CDD shall not be bound by any provision hereof that is inconsistent with Florida law.

## 5. ALTERATIONS AND IMPROVEMENTS

5.1 Alterations. Except as set forth in Section 5.2 below, each Owner may make such alterations within its Parcel as it may from time to time determine without the consent or approval of the other Owners or the Association; subject, however, to (and except as otherwise provided in) the remaining provisions of this Article 5 and all other provisions of this Declaration. Notwithstanding anything herein to the contrary, no addition, alteration or improvement shall be permitted to the extent same is not permitted pursuant to the terms of the Development Approvals and any Project Encumbrances or Legal Requirements. The initial construction of Structures on and within a Parcel by Declarant or any Owner who is a Declarant Affiliate shall not be subject to this Article; however, such initial construction by any other Owner shall be subject to the review and approval of the Association under the remaining provision of this Article 5.

5.2 Approval Required. Without the prior written consent of the Association, which consent may be granted or withheld in the sole and absolute discretion of the Association, no alteration, addition or improvement shall be made by an Owner to any part of its Parcel that would:

(a) alter, modify and/or otherwise affect the exterior appearance of the Structures, including without limitation any signage, paint or other exterior finishing; any windows, walls or balconies; any awning, canopy or shutter; and/or exterior lighting schemes;

(b) alter or modify the size, configuration, location or exterior appearance of any exterior recreational facilities or amenities areas;

(c) involve a structural alteration or affect the Shared Facilities or penetrate another Parcel;

(d) reduce the size of any Shared Facilities or prevent or interfere with access to or use of any Parcel or any Project Facilities, except for temporary interruptions to the extent consistent with the Construction Practices;

(e) be likely to increase any line item of the Shared Facilities Costs over the then existing line item for such Shared Facilities Costs, or be likely to increase any line item of the Shared Amenities Costs over the then existing line item for such Shared Amenities Costs;

(f) modify the drainage and/or other water management facilities for the Podium;

(g) have a material adverse effect on (i) the operation, use, occupancy, leasing, maintenance, construction, repair, replacement or condition of any other Parcel, (ii) the ability of any other Owner to satisfy the Podium Standard with respect to the improvements comprising its Parcel, (iii) the access to or use of any Project Facilities (excluding temporary interruptions to such access or use), or (iv) the overall costs and expenses incurred by any other Owner in operating, maintaining, repairing, constructing or replacing any of the improvements comprising its Parcel; or

(h) contradict or conflict with, or have a material adverse effect on, the Development Approvals, Project Encumbrances, the Podium Standard or Legal Requirements.

5.3 Construction Practices. Any alterations to the Parcels (which, for purposes hereof shall include repair, reconstruction and replacement work, and inspection and maintenance of same), irrespective of whether the consent or approval of the Association is required, shall be performed in compliance with the following provisions (the "**Construction Practices**"):

(a) All alterations shall be performed (i) with reasonable diligence and dispatch, (ii) in a good and workmanlike manner, (iii) in accordance with the Development Approvals, Project Standard and all Legal Requirements, (iv) with respect to the portions of the Podium affected by any Project Encumbrances, in accordance with any requirements imposed by such Project Encumbrances, (v) pursuant to good, generally prevailing management practices and procedures which, to the extent reasonably feasible, will avoid or minimize any unreasonable resulting disturbances or interferences with the use, operation and occupancy of or access to and from any other Parcel, and (vi) by licensed contractors and/or service providers approved by the Association that have (unless otherwise agreed to in

advance and in a written instrument by the Association) policies of insurance that meet the insurance requirements of Article 11.

(b) Before beginning any alteration, the Owner performing the alteration shall procure, at its expense, all necessary licenses, permits, approvals and authorizations from the County, the City and any other applicable Governmental Authority, and shall deliver photocopies thereof to the Association (and, if the alteration affects areas or facilities located in or that benefit another Parcel, the Owner of such Parcel). Upon request, other Parcel Owners shall join in the application for such licenses, permits, approvals and authorizations whenever such action is necessary, and the Parcel Owner performing the alteration covenants that such other Parcel Owners and the Association will not suffer, sustain or incur any cost, expense or liability or other Losses by reason thereof and agrees to indemnify each of them and hold them harmless against any such Losses.

(c) At all times during the performance of any alteration (including during any removal, installation, construction, inspection, maintenance, repair and/or replacement of any equipment, facilities or other improvements), the Parcel Owner performing such alteration shall coordinate and stage all work with the Association (and, if the alteration requires access to or affects areas or facilities that benefit another Parcel, the Owner of such Parcel) to minimize, as much as reasonably possible, impact and disruption on the other Parcels and the Podium Facilities, including without limitation vehicular and pedestrian access and traffic, the use and enjoyment thereof and the conduct of any business thereon. The Parcel Owner performing the alteration shall be solely responsible for all costs incurred in connection with such alteration, such as an increase in costs of trash removal due to the work.

(d) In addition to the foregoing, the Association shall have the right to establish reasonable non-discriminatory rules and restrictions on any and all persons performing alterations with respect to any Parcel, including, without limitation, restricting the hours during which construction and/or repair work may be performed (including limiting jack hammers and other noisy work to specific hours designated by the Association), imposing noise abatement requirements, restricting access of contractors to certain areas, designating specific staging areas, restricting access by trucks and construction vehicles, and requiring a security deposit or other collateral to protect against damage to the Shared Facilities or any Structure that may be caused during such work, which rules and regulations may be modified from time to time. Such rules may also establish procedures and standards for the submission and review of any matter that requires the Association's approval, and for inspection and final approval of any completed work pursuant to the approval of the Association hereunder.

(e) With respect to any alterations, improvements or other work in progress, the Association shall have the right to establish requirements and guidelines for

the protection of all such work in progress from acts of God and other *force majeure* events such as (but not limited to) hurricanes, floods, acts of terrorism or war, civil disturbances, pandemics or other public health crises that impact the Podium, and other events that would reasonably be anticipated to damage such work in progress or impact same in a way that would potentially threaten or place at risk the health, safety or welfare of any Owner or Permitted User or the property of any of the foregoing, or adversely impact other portions of the Podium.

(f) To the extent any alteration requires plans or plans have otherwise been prepared, the Parcel Owner performing such alteration shall provide copies of the as-built plans to the Association (and, if the alteration affects areas or facilities located in or that benefit another Parcel, to the Owner of such Parcel).

(g) All costs associated with any alteration hereunder (including without limitation any increase in costs of trash removal due to the work) shall be promptly and fully paid for by the Parcel Owner performing same. Without limiting the foregoing, no Owner shall permit any liens to attach to another Parcel or the Podium Facilities as a result of its work, and the Owner performing the alteration shall either bond over or pay and discharge any lien so attaching within twenty (20) days after the earlier of (i) notice of the lien, or (ii) demand by the Owner of such other Parcel or the Association. If a Parcel Owner shall fail to obtain within such twenty (20) day period the requisite release or transfer of any lien claim, then the Association (or the Owner of the liened Parcel, if the Association does not pursue same) may, at its option, secure the release of the lien claim by any means available, including bonding or settlement, whereupon the defaulting Parcel Owner shall, within ten (10) days after demand, reimburse the Association or the other Parcel Owner, as applicable, for the latter's costs and expenses incurred in securing the lien release, including reasonable attorneys' fees. Interest shall accrue at the Default Rate on the amount of any such reimbursement obligation not paid within ten (10) days after demand. Notices by any party under this paragraph shall be provided to the Association, the Owner performing the alteration, and any Owner of a liened Parcel. Any Parcel Owner whose act or omission forms the basis for a lien on another Parcel shall indemnify, defend (with counsel reasonably satisfactory to the indemnified parties), and save the Owner of such Parcel, Declarant and the Association harmless from and against any and all Losses resulting therefrom.

(h) The Owner performing the alteration shall be solely liable for all costs and expenses, and any Losses, incurred, caused or occasioned by its acts or omissions, the acts or omissions of its Permitted Users, as well as the acts or omissions of its contractors, service providers, agents and representatives who cause any damage to any other Parcel (or any portion thereof), and shall indemnify, defend (with counsel reasonably satisfactory to the

indemnified parties) and hold the Owner of such damaged Parcel, Declarant, Declarant's Affiliates and the Association, and its and their respective directors, officers, employees, contractors, agents or affiliates, harmless from and against any and all Losses in any way whatsoever connected with the alteration contemplated herein.

Notwithstanding anything contained to the contrary herein, the provisions of the foregoing Section 5.3 shall not apply to any alterations to the Shared Facilities made by the Association, and the Association shall be exempt from the requirements of Section 5.3.

5.4 Review of Alterations. Each Owner desiring to make any alterations for which approval of the Association must be obtained shall submit all plans and specifications for the proposed alteration to the Association. The Association may condition its approval as it deems appropriate, and may require submission of additional plans and specifications (or more detailed plans and specifications); studies, reports and/or evaluations and any other materials from pre-approved consultants and other professionals confirming and detailing the potential effects (whether short-term or long-term) of such alterations on the Shared Facilities or any other portion of the Podium; and/or other information prior to approving or disapproving the material submitted. Review of any plans and specifications relating to alterations and any other activities of the Association in connection with any Owner's alterations shall be solely and exclusively for the Association's benefit. No person shall, under any circumstances, be a beneficiary of the Association's requirements hereunder. The Association may freely waive any of its requirements hereunder at any time if, in the Association's sole discretion, it desires to do so. In particular, but without limitation, the Association makes no representations and assumes no obligations to any Owners or any third parties concerning the quality of the construction of any alterations. In addition, the Association shall not be liable to any Owner or its Permitted Users or any other party for any Losses suffered or claimed by any Owner or its Permitted Users or any other party on account of any defects in such plans, or the failure of such plans or the alterations to comply with any Legal Requirements. Any approval tendered by the Association shall under all circumstances be interpreted in a manner consistent with this limitation of the Association's liability. With respect to any alterations that require the Association's approval under this Article, to compensate the Association for its services, each Owner shall pay the Association a reasonable construction administration and/or review fee with the exact amount of the fee to be determined by the Association in its sole and absolute discretion. In addition, each Owner shall promptly upon request therefor reimburse the Association for the amount of all reasonable fees and expenses incurred by it (including without limitation reasonable attorneys' fees and expenses, and reasonable fees and expenses of any architects, engineers and other design professionals) in connection with the Association's response to any requested approval of any proposed alterations.

5.5 Limited Shared Facilities and Limited Amenities Facilities.

(a) The Association shall not make alterations to the Limited Shared Facilities, in favor of such Benefited Parcel, that would impede in any material way the use of the Limited Shared Facilities or the benefits afforded by them, without the prior written consent of the Specified Owner of the Benefited Parcel served thereby, which consent may be granted or withheld in the sole discretion of the Specified Owner unless it is provided the functional and

aesthetic equivalent and quality of the Limited Shared Facilities that existed prior to the alteration, in which event such consent shall not be unreasonably withheld. The Specified Owner of the Benefited Parcel for such Limited Shared Facilities shall not make alterations to the Limited Shared Facilities serving it that would have a material adverse effect (as described in Section 5.2(g)) on the Limited Shared Facilities without the consent of the Association, which consent may be granted or withheld in the sole discretion of the Association unless it is provided the functional and aesthetic equivalent and quality of what existed in the Limited Shared Facility prior to the alteration, in which event such consent shall not be unreasonably withheld.

(b) Limited Amenities Facilities. The Association shall not make alterations to the Limited Amenities Facilities, in favor of such Benefited Parcel, that would impede in any material way the use of the Limited Amenities Facilities or the benefits afforded by them, without the prior written consent of the Specified Owner of the Benefited Parcel served thereby, which consent may be granted or withheld in the sole discretion of the Specified Owner unless it is provided the functional and aesthetic equivalent and quality of the Limited Amenities Facilities that existed prior to the alteration, in which event such consent shall not be unreasonably withheld. The Specified Owner of the Benefited Parcel for such Limited Amenities Facility shall not make alterations to the Limited Amenities Facilities serving it that would have a material adverse effect (as described in Section 5.2(g)) on the Limited Amenities Facilities without the consent of the Association, which consent may be granted or withheld in the sole discretion of the Association unless it is provided the functional and aesthetic equivalent and quality of what existed in the Limited Amenities Facilities prior to the alteration, in which event such consent shall not be unreasonably withheld.

5.6 Development Approvals. No Owner shall pursue or seek approval for a variance or waiver from the specific requirements or effect of any of the provisions, guidelines, conditions, requirements or restrictions contained in the Development Approvals, without first having obtained the prior written approval of the Association, which may be granted or withheld in the reasonable discretion of (i) the Owners materially affected by such variance and/or waiver and (ii) the Association. In considering requests for variance or waivers from the Development Approvals, the Association may take into account and require submission of documents and materials consistent with those required by or otherwise contemplated in connection with a variance from the covenants, conditions, requirements and restrictions of this Declaration pursuant to Section 7.11, in addition to any other material and/or information that the Association may deem appropriate or relevant in rendering its decision. The Association shall approve or reject such request by an Owner to pursue or seek a variance or waiver from the Development Approvals in the same manner as variances under this Declaration pursuant to Section 7.11, which request may be deemed approved or disapproved on the same terms as provided therein. If the Association approves such request, Owner shall pursue or seek approval for the variance or waiver from the applicable provisions of the Development Approvals strictly in accordance with the parameters of

the approval rendered by the Association and shall keep the Association fully apprised of Owner's progress with respect to such variance or waiver, including without limitation providing the Association with copies of all applications, documents and other materials relating to such waiver or variance on a regular basis (and, in all events, no later than contemporaneously with the submission of same to any Governmental Authority). Any grant, denial or deemed disapproval by the Association hereunder shall not preclude the Association from granting or denying requests to pursue or seek variances or waivers from the Development Approvals in any other circumstances. The Association shall not be liable to any Owner, Permitted User or any other party with regard to any request granted hereunder. Nothing contained herein shall be deemed to limit or restrict in any manner the right of the Association and Owner to pursue or seek variances or waivers from the specific requirements of any of the provisions, guidelines, conditions, requirements or restrictions contained in the Development Approvals, all of which the Association and each Owner shall have the right to pursue or seek in its sole but reasonable discretion, subject to Legal Requirements.

5.7 Composition. There shall be an "**Architectural Committee**" created by the Association. The Architectural Committee shall initially consist of one (1) member designated by each Owner. If any of such Parcels are owned by more than one Owner, they must designate one person to serve on the Architectural Committee on their behalf. Each member of the Architectural Committee shall hold office until such time as he or she resigns or is removed, as provided herein. Members of the Architectural Committee appointed by an Owner may be removed by such Owner at any time without cause.

5.8 Review of Proposed Construction. Subject to 5.16 and such rights of approval granted elsewhere in this Declaration, no improvement or alteration as provided for in this Articles 12 and 13, (including landscaping) shall be performed, erected or installed on or in a Building by any Owner, unless and until, in any such case, the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to, and approved in writing, by the Architectural Committee. The Architectural Committee shall approve proposals or plans and specifications submitted for its approval only if it determines that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Buildings as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The Architectural Committee may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted to it for its review and approval. Decisions of the Architectural Committee shall require the approval of a majority of its members but the member appointed by the Owner seeking the approval shall not vote on the matter. The Architectural Committee may also issue rules or guidelines setting forth procedures for the submission of plans for review and approval. The Architectural Committee may require such detail in plans and specifications submitted for its review as it considers proper, including, without limitation, floor plans, surveys, elevation drawings and descriptions or samples of materials and colors. Until receipt by it of required plans and specifications and other requested information as necessary, the Architectural Committee may postpone review of any proposal submitted for approval. The Architectural Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and a proposal that is not rejected within such thirty (30) day period shall be deemed approved. Notwithstanding any provisions in this Article 5 to the

contrary, the approval of the Architectural Committee shall not be required for any non-structural additions, changes or alterations if the non-structural additions, changes or alterations are not in a Visible Area within the Parcel.

5.9 Meetings of the Architectural Committee. The Architectural Committee shall meet from time to time as necessary to perform its hereunder. The Architectural Committee may from time to time, by resolution adopted in writing by a majority of its members other than the member selected by the Owner seeking approval, designate a representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of variances pursuant to Section 5.16. In the absence of such a designation, the vote of a majority of its members of the Architectural Committee, after at least seven days prior written notice of a vote to all members of the Architectural Committee, shall constitute an act of the Architectural Committee. One of the members of the Architectural Committee designated by the Association shall be designated to receive notice of alterations and to schedule and give notice to the members of the Architectural Committee meetings and votes.

5.10 No Waiver of Future Approvals. The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

5.11 Compensation of Members. The members of the Architectural Committee shall receive no compensation for services rendered other than reimbursement for third party expenses incurred by them on behalf of the Architectural Committee in the performance of their duties hereunder. The Architectural Committee may retain an Architect or engineer to advise it in its deliberations, to review plans and specifications submitted by an Owner ("**Applicant/Owner**") and to inspect work for which approval is required. The Architectural Committee may impose a fee upon an Applicant/Owner to defray the costs and fees of the Architect or engineer in reviewing the Applicant/Owner's plans and specifications and inspecting the work.

5.12 Inspection of Work. The inspection of work and correction of defects therein, if any, shall proceed as follows:

(a) Notice of Completion

Upon the completion of any work for which approved plans are required under this Article, the Applicant/Owner for such approval shall give the Architectural Committee written notice of the completion.

(b) Inspection

Within thirty (30) days thereafter, the Architectural Committee or its authorized representative may inspect the work. If the Architectural Committee finds that the work was not done in substantial compliance with the approved plans, it shall notify the Applicant/Owner in writing of the

noncompliance within thirty (30) days thereafter, specifying the particulars of noncompliance.

5.13 Non-Compliance. Any Applicant/Owner who receives notice of a non-compliance as provided in Section 5.12(b) of this Article shall remedy the noncompliance within thirty (30) days of being notified, and, if such Owner fails to, the Architectural Committee shall simultaneously notify the Association and other Owners in writing of the failure, its nature and the estimated cost of correcting or removing it. If the Applicant/Owner does not comply with the notice of noncompliance within said thirty (30) days, then the Association, at its option, may either remove the non-complying improvement or remedy the non-compliance, and in either case the Applicant/Owner shall reimburse the Association, upon demand, for all expenses incurred in connection with the Association's action. If the Applicant/Owner fails to promptly reimburse the Association its expenses, the Association shall levy a Special Charge against the Applicant/Owner and its Parcel for reimbursement.

5.14 Effect of Committee's Failure to Notify Applicant. If for any reason the Architectural Committee fails to notify the Applicant/Owner of any non-compliance within thirty (30) days after its receipt of a written notice of completion from the Applicant/Owner, the improvements shall be deemed to be in accordance with the plans approved by the Architectural Committee.

5.15 Non-Liability of Committee Members. Neither the Architectural Committee, any of its members, nor its authorized representative, shall be liable to any condominium association, any Owner, any Unit Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless the loss, damage or injury is due to the willful misconduct or bad faith of one of its members (in which case only the culpable member shall have any liability). The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition on the basis of aesthetic considerations and the overall benefit or detriment which would result to the Buildings. The Architectural Committee shall take into consideration the aesthetic aspects of the architectural designs, landscaping, color schemes, finishes and materials and similar features. It shall not, however, be responsible for reviewing any plan or design from the standpoint of structural safety or conformance with building or other codes.

5.16 Variances. The Architectural Committee may authorize a variance from compliance with any of the architectural provisions of this Declaration when circumstances such as natural obstructions, hardship, or aesthetic or environmental considerations dictate a variance. Any such variance must be evidenced in a writing signed by at least two members of the Architectural Committee. No violation of this Declaration shall be deemed to have occurred with respect to a matter for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the restrictions in this Declaration for any purpose except as to the particular Parcel and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting its use of the Parcel covered by the variance, including, but not limited to, zoning ordinances and set-back lines or requirements imposed by any governmental, quasi-governmental or municipal agent or authority, nor the Owner's obligation to seek approval as set forth in this Declaration.

5.17 Association and Declarant. The provisions of this Article 5 shall not apply to any Declarant or the Association and to any and all construction, alterations, additions or other work planned or performed by the Association, any Declarant or any affiliate of Declarant.

## 6. MAINTENANCE OF STRUCTURES, PARCELS AND OTHER FACILITIES

6.1 Compliance with Laws and Insurance Requirements. Each Owner shall comply with all laws, rules, orders, ordinances, regulations and requirements (hereafter in this Section 6.1 collectively referred to as "**laws**" and each of which is individually referred to as a "**law**") now or hereafter enacted or promulgated, by the United States, the State of Florida, the County, the City, and of any other governmental or quasi-governmental authority or agency thereof now or hereafter having jurisdiction, and also of any recognized insurance rating organization and of any other body or board concurrently or successively exercising similar functions, and of any other lawful authority having jurisdiction, relating to the ownership, Maintenance or use of the Parcel owned by such Owner, if noncompliance with such law would subject any other Owner to liability or criminal prosecution, or would jeopardize the full force or effect of the certificates of occupancy for the Buildings, or portions thereof, or would result in the imposition of a lien against the Parcel of any other Owner or would cause termination of or would increase the rate of premiums on any casualty or public liability insurance policy maintained by the Association or the Owner of a Parcel, as the case may be. The provisions of this section shall not be deemed to relieve any Owner of the obligation to perform any Maintenance for which such Owner has the responsibility.

6.2 Construction and Other Liens. An Owner ("**Creating Owner**") shall, within sixty (60) days after the filing of any construction, materialman's or other lien, bond off or otherwise remove of record any construction, materialman's or other lien affecting the Parcel of any other Owner, arising by reason of any work or materials provided to or ordered by such Creating Owner or by reason of any act taken or suffered or omitted by such Creating Owner. Removal of record of such lien may be accomplished by any means provided in the Florida Construction Lien Law or a successor statute thereto.

6.3 Disturbances. No Owner or Unit Owner shall permit any noxious odor, noise or vibration which under the circumstances is unreasonable to emanate from the Parcel, Unit owned by such Owner, or Condominium Unit Owner which will damage or disturb the occupancy of any other Parcel, Unit or the enjoyment of any Shared Facility.

The Owner who is to bear the Maintenance responsibility for any Limited Shared Facility and/or Limited Amenities Facility, as applicable, shall utilize its best efforts to not permit and/or allow any noxious odor, noise, or vibration which under the circumstances is unreasonable to emanate from such Limited Shared Facility and/or Limited Amenities Facility, as applicable, which will damage or unreasonably disturb any other portion of any Shared Facility, the occupancy of the Parcel of any other Owner, a Unit or the use and enjoyment of any Shared Facility serving any other Owner. Notwithstanding the foregoing, all Owners recognize and acknowledge that certain activities within a mixed use residential and commercial building will by their very nature result in noise and odors which are unavoidable. By taking title to their respective Parcels and Units, each Owner and Unit Owner agrees to these anticipated and unavoidable conditions.

All activities by or on behalf of any Owner in the use and occupancy of such Owner's Parcel or its Limited Shared Facility, including, without limitation, Maintenance shall be performed, insofar as possible, in a manner which minimizes interference with the use and enjoyment of any other Parcel, or any Shared Facility.

6.4 Maintenance of Shared Facilities. Subject to the other provisions hereof, the Association shall at all times maintain in good repair and manage, operate, insure, and replace as often as necessary, the Shared Facilities (except those Limited Shared Facilities, and/or Limited Amenities Facilities, as applicable, to be maintained or operated by Owners as otherwise provided in this Declaration) situated on or comprising the Shared Facilities (if any), with all such work to be done as ordered by the Association and in accordance with the Podium Standard. All work pursuant to this Section, and all costs and expenses incurred by the Association pursuant to this Article or any other provision of this Declaration (with respect to the Shared Facilities or otherwise, and whether or not so stated in any particular provision hereof), and all expenses related to the Shared Facilities or incurred by the Association with respect to the Shared Facilities, shall be paid for by the Association through Assessments (either general or special) imposed in accordance with Article 15. No Owner may waive or otherwise escape liability for Assessments by non-use (whether voluntary or involuntary) of the Shared Facilities or abandonment of the right to use the Shared Facilities.

Notwithstanding anything contained to the contrary herein, it is recognized and agreed that portions of the Shared Infrastructure may be located within one or more Parcels. As to any portion of the Shared Infrastructure contained within a Parcel (or Parcels), the Association's obligations hereunder shall be limited to (the "**Shared Infrastructure Responsibilities**") maintaining the functionality, structural integrity and provision of mechanical, utility, life safety or other service, as applicable, with the costs directly or indirectly attributable to the Association's Shared Infrastructure Responsibilities being a part of the Shared Facilities Costs (in the absence of damage caused by an Owner, in which event the cost shall be the responsibility of the Owner of the applicable Parcel upon which the Shared Infrastructure is located).

Further, notwithstanding the authority of the Association to operate, maintain, repair and replace the Shared Facilities and certain aspects of the Shared Infrastructure, the Association, in exercising its rights, shall take such steps to accommodate the primary uses from any Parcel upon which the Shared Infrastructure is located and to reasonably minimize interference and/or disruption to the operations from such Parcel(s) and/or from the use of such Parcel(s) by the Owner(s) thereof and their guests, tenants and invitees.

Without limiting the generality of the foregoing, the Association shall assume all responsibilities to the County, the City, and its and their governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Shared Facilities (including, without limitation, any and all obligations imposed by any permits or approvals issued by the City, County and/or State of Florida, as same may be amended, modified or interpreted from time to time).

6.5 Exteriors of Parcels. Without limiting the generality of Section 6.4, the Association, on behalf of the Owners, shall maintain all exterior surfaces and roofs, facias and soffits of the Shared Improvements and other improvements that are part of Shared Facilities located on the

Parcels (including but not limited to driveway, sidewalk and other surfaces) in a neat, orderly and attractive manner consistent with the Podium Standard. The aforesaid maintenance shall include maintaining the structural components of the Shared Improvements included in Shared Facilities (irrespective of the ownership of same), including without limitation, project-wide maintenance, repair and replacement of glass walls, windows, skylights, doors (including the framing and hardware associated with sliding glass doors), balconies, balcony railings and terraces and other Shared Facilities serving or utilized as part of Shared Improvements. The Association shall clean, repaint or re-stain, as appropriate, the exterior portions of each Structure that is a part of the Shared Facilities as often as is necessary to comply with the maintenance requirements set forth herein. The Owner of the applicable Parcel that is not a Shared Improvement shall maintain all exterior surfaces and roofs, facias and soffits of the structures (including the Structures) and other improvements located on the Parcel (including driveway and sidewalk surfaces that are not part of the Shared Facilities, if any) in a neat, orderly and attractive manner, consistent with the Podium Standard.

6.6 Maintenance of Parcels and Limited Shared Facilities. The Owner of each Parcel (or the party designated to maintain the Parcel as may be provided in a Condominium Association) shall, at such Owner's cost and expense, maintain all interior and exterior portions of such Parcel (including without limitation roofs, facias, and soffits, if any), other than the Shared Facilities (including the Limited Shared Facilities and/or Limited Amenities Facilities, as applicable), and other portions of the Podium designated to be maintained by the Association or another Owner under this Declaration, in a neat, orderly and attractive manner consistent with the Podium Standard and the other requirements of this Declaration. Each Specified Owner shall be liable for any Losses which may result from the use of its Limited Shared Facility and/or Limited Amenities Facility, as applicable, and shall indemnify, defend (with counsel reasonably acceptable to the indemnified parties) and hold the Association, its directors, officers, employees, contractors, agents or affiliates harmless from and against any and all Losses whatsoever connected with its use and operation of such Limited Shared Facility and/or Limited Amenities Facility, as applicable, other than Losses resulting from the Association's wrongful acts or neglect.

6.7 Landscaping. The Association shall maintain and irrigate, and replace when necessary, the trees, shrubbery, grass and other landscaping included in the Shared Facilities, including without limitation landscaping around and/or serving any exterior portion of the Podium and exterior landscaping on any Parcel that is part of the project-wide landscaping scheme, in a neat, orderly and attractive manner and consistent with the general appearance of the Podium as a whole and the Podium Standard. Each Owner of a Parcel shall be responsible for maintenance, irrigation and/or replacement of landscaping within its Parcel that is not part of the Shared Facilities or project-wide landscaping scheme. The Association shall have the right to delegate responsibility for landscaping located within any Parcel to the Owner of such Parcel, at its expense, as provided in Section 6.12 below. Landscaping shall be maintained by any party responsible therefor hereunder consistent with the general appearance of the Podium as initially landscaped (such standard being subject to being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained), in addition to consistency with the Podium Standard at a minimum and in conformance with the Development Approvals.

6.8 Exterior Project Lighting. The Association shall be responsible for the operation, maintenance, repair and replacement of all exterior project lighting and all street or exterior lighting fixtures, installations and equipment serving or being part of the Shared Facilities (solely or primarily) and/or which are part of an exterior lighting scheme applicable to more than one Parcel within the Podium which shall be performed consistent with the Podium Standard. In the event of doubt as to whether any particular street or exterior lighting serves or is part of the Shared Facilities solely or primarily, or is part of an exterior lighting scheme applicable to more than one Parcel within the Podium, the decision of the Association in such regard shall be final and conclusive. No Owner (or Unit Owner), shall make any change or modification to any exterior project lighting fixtures, installations and equipment serving or being part of the Shared Facilities (solely or primarily) and/or which are part of an exterior lighting scheme applicable to more than one Parcel within the Podium, or any change and/or modification which may affect the exterior project lighting scheme. Charges for electricity used by exterior lights billed to a Parcel shall be paid by the Owner thereof. Each Owner of a Parcel and each Owner of a Unit agrees to comply with the lighting criteria and requirements adopted by the Association with respect to interior lighting within any Parcel and/or Unit that is visible from the exterior of the Podium, which criteria and requirements are designed or intended to preserve a consistent and uniform appearance relative to lighting at the Podium.

6.9 Water, Sewer and Drainage Facilities. The maintenance obligations of the Association shall include, without limitation, (a) the duty and obligation to operate and maintain any portion of any private water and sanitary sewer facilities (regardless of where located within the Podium) serving the Shared Facilities and/or more than one Parcel in accordance with the Project Encumbrances, the requirements of the Water and Sewer Department (or equivalent thereof) for the City, and any other applicable Governmental Authority, and (b) the duty and obligation to (i) operate and maintain any portion of the surface water management system (regardless of where located with the Podium) serving the Shared Facilities and/or more than one Parcel in accordance with any permit(s) issued by the applicable water management district and the Project Encumbrances (as applicable), (ii) carry out, maintain, and monitor any required wetland mitigation tasks and (iii) maintain copies of all permitting actions and other documentation with regard to same.

6.10 Maintenance of Limited Shared Facilities and Limited Amenities Facilities.

Limited Shared Facilities. The Association shall maintain the Limited Shared Facilities and/or the Limited Amenities Facilities, as applicable, other than the personal property, equipment and other facilities located within such Limited Shared Facilities and/or the Limited Amenities Facilities, as applicable, which shall be solely maintained, repaired and replaced by the Specified Owner of the Benefited Parcel served exclusively by such Limited Shared Facilities and/or the Limited Amenities Facilities, as applicable, at its cost and expense (and neither any other Owner or the Association shall have any obligation for the maintenance, repair or replacement of same or the cost thereof). All such maintenance shall be performed consistent with the Podium Standard. In order to accommodate the foregoing, Declarant has reserved and granted the easements set forth in Article 3 in favor of all future Specified Owners of the Benefited Parcels (and their respective designees). The expenses of the Association to maintain (i) the Limited Shared

Facilities shall be a Shared Facilities Cost, and (ii) the Limited Amenities Facilities shall be a Shared Amenities Cost.

6.11 Master Life Safety Systems. The Association will maintain the Master Life Safety Systems for the Podium consistent with the Podium Standard.

6.12 Maintenance Generally. Notwithstanding anything contained herein to the contrary, the following general provisions shall govern with respect to maintenance obligations under this Declaration:

(a) Each Owner shall maintain its Parcel. All maintenance obligations must be undertaken by the party responsible therefor (including the Association and any Owner) in such a manner and as frequently as necessary to assure (at a minimum) that the portions being maintained are consistent with the provisions of this Declaration and the Podium Standard, including without limitation, the standards required by the Management Agreement, if any and in compliance with all Legal Requirements and the terms and conditions of the Development Approvals and the Project Encumbrances (where applicable).

(b) With respect to the maintenance obligations of the Owners set forth in this Declaration, and to assure that the maintenance is performed to the Podium Standard (or such higher standard as may be required hereunder), each Parcel Owner agrees (i) unless waived by the Association, to contract with the Association and/or a vendor first approved by the Association to perform such maintenance (i.e., no vendor shall be used by any Owner to perform maintenance work hereunder unless such vendor is pre-approved by the Association or its designee, including, without limitation, the Management Company), and (ii) to perform all maintenance and repairs to its Parcel (or any portion thereof) in accordance with the Construction Practices and the Podium Standard. The Association may waive its right to approve vendors hereunder at any time if, in the Association's sole discretion, it desires to do so. In addition, the Association's failure to enforce the requirements set forth in this subsection shall not be deemed a waiver of such right or restrict the Association's right to enforce same in the future, nor shall the Association be liable to any Owner or its Permitted Users or any third parties on account of such failure to enforce such requirements.

(c) In the event that any Owner requests the Association to maintain, repair or replace any portion of that Owner's Parcel, then the Association may (in its sole discretion) do so as long as all costs and expenses thereof are paid by the requesting Owner. Likewise, any repairs, replacements or other work to the Shared Facilities necessitated by the misuse, negligence or other action or inaction of an Owner or its Permitted Users (or any damage caused by any of them), ordinary wear and tear excepted, shall be paid for by the Owner causing the damage as Assessments pursuant to Section 15.5.

(d) The Association shall have the right to delegate, on an exclusive or non-exclusive basis, maintenance responsibilities for certain portions of Shared Facilities (such as, by way of example and not limitation, landscaping, signage, building exteriors and the like) located within, appurtenant to or designated for the use of any Parcel to the Owner of such Parcel, on a temporary or permanent basis as may be determined by the Association. Upon any such delegation, to the extent such maintenance responsibilities are shifted from the Association hereunder to another Parcel Owner, Shared Costs shall be reasonably adjusted and the Owner of the applicable Parcel shall perform the maintenance responsibility so delegated at its sole cost and expense in accordance with the requirements of this Declaration and the Podium Standard provided the CDD and CDD Parcel, while owned by the CDD, shall not be assessed for such expense and CDD shall not be required to maintain portions of the Shared Facilities (outside the CDD Parcel), unless CDD agrees thereto in writing. Nothing contained herein shall limit or restrict the right and ability of any Parcel Owner who has been delegated maintenance responsibilities hereunder for any Shared Facilities to agree to perform (or cause the performance of) such maintenance obligations jointly or on a cooperative basis. Any delegation made pursuant hereto may be modified or revoked by the Association at any time.

6.13 Right of Entry. In addition to such other remedies as may be available under this Declaration, in the event that an Owner, except for CDD Parcel Owner, while owned by the CDD fails to maintain a Structure, Parcel, Shared Facility, Limited Amenities Facility and/or Limited Shared Facility as required hereby, and such failure to maintain results in damage, or in the reasonable opinion of the Association, the possibility of damage, to another Parcel (e.g., leaks from water lines serving the Parcel that damage another Parcel or the Shared Facilities, etc.), the Association, or its designee (including, without limitation, the Management Company) shall have the right to enter upon the Parcel in question or the Shared Facility in question and perform such duties; provided, however, that other than in the event of an emergency (in which case no notice is required, though notice shall be provided within a reasonable time following an emergency), such entry shall be during reasonable hours and only after five (5) business days' prior written notice (or such longer time as may reasonably be required to effect such repair to the extent that said curative activity cannot reasonably be completed within such five (5) business day period). The Owner having failed to perform its maintenance duties shall be liable to the Association and/or its designee, as applicable, for the costs of performing such remedial work and shall pay a surcharge of not more than twenty-five percent (25%) of the cost of the applicable remedial work, all such sums being payable upon demand and to be secured by the lien provided for in Article 15 hereof. Without limiting the generality of the foregoing, the Association shall have all of the same rights to bring an action at law against the Owner having failed to perform its maintenance duties and to the extent permitted by law, to record a claim of lien against such Owner's Parcel, to foreclose such lien, and/or to exercise any and all other remedies under this Declaration or applicable law, as are available to the Association with respect to an Owner's failure to pay any Assessments under Article 15 hereof. No bids need be obtained for any of the work performed pursuant to this Section and the person(s) or company performing such work may be selected by the Association or its designee in its sole discretion. There is hereby created an easement in favor

of the Association and the Management Company, and its and/or their applicable designees over each Parcel for the purpose of entering onto the Parcel in the performance of the work herein described, provided that the notice requirements of this Section are complied with.

## 7. CERTAIN USES AND USE RESTRICTIONS.

7.1 Applicability. The provisions of this Article 7 shall be applicable to all of the Podium but shall not be applicable to the Association except as set forth in Sections 7.3, 7.8, 7.9, 7.10 and 7.13.

7.2 Uses of Parcels and Structures. All Parcels and Structures shall be used for the general purposes for which they are designed and intended and at all times used, operated and maintained in accordance with applicable zoning and other Legal Requirements, and any conditions and restrictions applicable to same (including, without limitation, any contained in the Development Approvals, Project Encumbrances or a deed or lease of the Parcel/Structure from Declarant, as same may be amended from time to time). NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE NAME OF THE PARCEL IS ASSIGNED ONLY FOR CONVENIENCE OF REFERENCE, AND IS NOT INTENDED, NOR SHALL IT BE DEEMED TO LIMIT OR OTHERWISE RESTRICT, THE PERMITTED USES THEREOF.

7.3 Nuisances and Noise. Nothing shall be done or maintained on any Parcel which may be or become an annoyance or nuisance to the occupants of other Parcels, and no use or operation will be made, conducted or permitted on any part of the Podium or Shared Facilities which use or operation is clearly incompatible or inimical to the development or operation of the Podium in accordance with the Podium Standard. Any activity on a Parcel which interferes with television, cable or radio reception on another Parcel shall also be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance or otherwise a violation hereof, such dispute or question shall be submitted to the Association, who shall render a decision in writing, which decision shall be dispositive of such dispute or question.

Notwithstanding anything herein contained to the contrary, each Owner, by acceptance of a deed or other conveyance of any portion of the Podium, shall be deemed to understand and agree that the Podium (and certain Parcels within it) is an active environment and may include (without creating any obligation) a hotel, retail, restaurants, outdoor activities, the Boat Show, parking and other operations that will likely attract a broad and diverse base from among the public (including transient guests) and conduct private and public functions. It is hereby confirmed generally that any and all activities typical of such an environment or in any way related to any and all such operations, including any associated noise, traffic congestion, fumes, odors and/or other inconveniences, shall not be deemed a nuisance hereunder.

EACH OWNER AND ITS PERMITTED USERS HEREBY AGREE AND ARE PUT ON NOTICE THAT THE BOAT SHOW TENANT HAS THE RIGHT OF ACCESS TO AND USE OF THE SHOW SITE DURING THE SHOW DATES DURING EACH YEAR DURING THE TERM OF THE BOAT SHOW LEASE TO OPERATE THE BOAT SHOW, WHICH SHALL INCLUDE, WITHOUT LIMITATION, THE STAGING, MOBILIZATION, RESTORATION, REPAIR AND CLEANING ACTIVITIES OF THE BOAT SHOW DURING THE SHOW DATES (AND THEREAFTER FOR RESTORATION OR REPAIRS, IF

NECESSARY), INCLUDING PROVIDING ACCESS TO THE SHOW SITE DURING THE SHOW DATES TO THEIR INVITEES, CONTRACTORS, AGENTS, EMPLOYEES, ETC. (COLLECTIVELY, THE "**BOAT SHOW ACTIVITIES**"). BY THE ACCEPTANCE OF A LICENSE, LEASE, DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE BAHIA MAR PROJECT, EACH SUCH GRANTEE, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES, AND AGREES BOAT SHOW ACTIVITIES (DURING THE SHOW DATES AS PROVIDED IN THE BOAT SHOW LEASE) AND RAHN, AS THE LESSEE, UNDER THE MASTER LEASE, HAS THE RIGHT TO CONDUCT SPECIAL FUNCTIONS AND OTHER EVENTS AND ACTIVITIES INCLUDING THE BOAT SHOW (INCLUDING PROVIDING ACCESS TO THE BAHIA MAR PROJECT, TO RAHN, ITS INVITEES, CONTRACTORS, AGENTS, EMPLOYEES, ETC.) AS PERMITTED BY APPLICABLE LAW (AND NOT OTHERWISE RESTRICTED BY RESTRICTIVE AGREEMENTS APPLICABLE TO SUCH PORTION OF THE PROPERTY). SUCH USES SHALL NOT BE DEEMED NUISANCES, NOXIOUS OR OFFENSIVE ACTIVITIES UNDER ANY APPLICABLE COVENANTS OR AT LAW GENERALLY. FURTHERMORE, THE ASSOCIATION, EACH OWNER AND ITS PERMITTED USER, AND ALL THOSE CLAIMING BY, THROUGH, OR UNDER THEM, INCLUDING, BUT NOT LIMITED TO, UNIT OWNERS AND THEIR PERMITTED USERS ARE ESTOPPED FROM OBJECTING TO AND/OR RESTRICTING SUCH ACTIVITY (INCLUDING, BUT NOT LIMITED TO, HOURS OF OPERATION, NOISE, CONGREGATION OF PEOPLE, AND OTHER IMPACTING RESULTING FROM ANY ALLOWABLE AND AUTHORIZED USE HEREIN, INCLUDING THE BOAT SHOW TO THE EXTENT SUCH BOAT SHOW ACTIVITY IS PERMITTED UNDER THE BOAT SHOW LEASE AND NO BOAT SHOW EVENT OF DEFAULT SHALL EXIST.

There are a number of existing buildings and potential building sites that may developed near the Podium. As such, the Association, Owners and their Permitted Users will be affected by construction noise during the construction of the Bahia Mar Project and/or other noise that exists in active environments including, but not limited to, vehicle and traffic noise (including loading and unloading of trucks), construction noise from other buildings or building sites, sirens and horns, noise from restaurants and clubs, the Fort Lauderdale International Boat Show, festivals or other gatherings, loud music, mechanical noise from the Structures within or neighboring the Podium and/or aircraft and boat noise. Additionally, due to the activities from the Hotel and other Parcels, the Podium may feature uses that attract transient guests and scheduled functions, including, without limitation functions open to the general public. Other operations at the Bahia Mar Project, such as restaurants, marina operations, cafes, bakeries and/or other food service operations from the Hotel Parcel and/or other portions of the Bahia Mar Project, may result in the creation of odors, noises and disruptions which may affect all portions of the Podium.

By acquiring any portion of the Podium, each Owner, for such Owner and its Tenants and other Permitted Users, and its and their successors and/or assigns, agrees (i) that none of the foregoing odors, noises or operations during the day or at night shall be deemed a nuisance hereunder, (ii) not to object to any of the foregoing odors, noises or operations or any other operations associated with the Parcels, and (iii) to release Declarant, the Association, Condominium Associations, and the Owners of and from any and all claims for damages, liabilities and/or losses suffered as a result of the existence of the operations from the various Parcels, and

the noises, inconveniences and disruption resulting therefrom; subject, however, to the provisions of this Declaration that require Owners and their Permitted Users to comply with Legal Requirements.

7.4 Master Life Safety Systems. No Owner shall make any additions, alterations or improvements to the Master Life Safety Systems, and/or to any other portion of the Podium which may impair the Master Life Safety Systems or access to the Master Life Safety Systems, without first receiving the prior written approval of the Association. In that regard, no lock, chain or other device or combination thereof shall be installed or maintained at any time on or in connection with any door on which panic hardware or fire exit hardware is required, unless performed by the Association in accordance with Legal Requirements. Stairwell identification and emergency signage shall not be altered or removed by any Owner or Unit Owner whatsoever. No barrier including, but not limited to, personalty, shall impede the free movement of ingress and egress to and from all emergency ingress and egress passageways.

7.5 Signs. No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Shared Facilities without the prior written consent of the Association.

7.6 Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted on the Shared Facilities, except in those areas expressly designed for same or as otherwise approved by the Association, and no odor shall be permitted to arise therefrom so as to render the Shared Facilities or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Parcel. Rubbish, trash, garbage, recyclable refuse or other waste materials within the Parcels shall be maintained in secure areas not visible to the public. The Trash Facility shall be a Limited Shared Expense of the Owners. Trash and recycling receptacles located in the public areas of any Parcel intended for public use shall be kept and maintained in a neat, clean and sanitary condition, and shall be emptied as often as necessary to prevent same from becoming unsightly and/or emitting unpleasant odors. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse shall be kept within the Parcels, except within an enclosed structure appropriately screened from view erected for that purpose, if any, and otherwise in accordance with the approval of the Association. All Owners and Permitted Users shall segregate and save for collection all recyclable refuse if required by (and in accordance with) Legal Requirements.

7.7 Temporary Structures. Except as may be used or permitted by the Association during periods of construction or renovation, no structure of a temporary nature (including, without limitation, trailers, tents, shacks or mobile homes or offices) shall be located or used within the Podium, provided that the foregoing shall not restrict temporary structures (such as tents) that are ancillary to entertainment and other permitted uses within the Podium so long as such temporary structures meet the Podium Standard and are approved by, and installed and maintained in accordance with rules, regulations and requirements adopted from time to time by, the Association.

7.8 Post Tension Restrictions. Notwithstanding anything herein to the contrary, inasmuch as the improvements constructed within the Podium have utilized post tension cables and/or rods (whether or not part of Shared Improvements), absolutely no penetration shall be made to any floor, roof or ceiling slabs without the prior written consent of the Association and review of the as-built plans and specifications for such improvements to confirm the approximate location

of the post tension cables and/or rods. The plans and specifications for such improvements shall be maintained by the Association. WITHOUT LIMITING THE FOREGOING, NO POST TENSION CABLES AND/OR RODS CONTAINED IN ANY SHARED IMPROVEMENTS CONSTRUCTED UPON THE PODIUM SHALL BE CONSIDERED A PART OF A PARCEL. AS SUCH CABLES AND/OR RODS ARE ESSENTIAL TO THE STRUCTURE AND SUPPORT OF THE SHARED IMPROVEMENTS, ALL SUCH POST TENSION CABLES AND/OR RODS SHALL BE DEEMED PART OF THE SHARED FACILITIES AND MAY NOT BE DISTURBED OR ALTERED WITHOUT THE PRIOR WRITTEN CONSENT OF THE ASSOCIATION UNDER ANY CIRCUMSTANCES. Each Owner, by accepting a deed or otherwise acquiring title to a Parcel or Unit shall be deemed to: (i) have assumed the risks associated with post tension construction, and (ii) agree that the penetration of any post tension cables and/or rods may threaten the structural integrity of the improvements. Each Owner hereby releases the Association, its Affiliates, partners, contractors, architects, engineers, and its and their officers, directors, shareholders, employees and agents, from and against any and all liability that may result from penetration of any of the post tension cables and/or rods.

7.9 Turtle Mitigation. The use of the Podium shall at all times comply with all conditions, restrictions and/or limitations imposed by any governmental agency regarding the preservation of turtles on or near the Podium.

7.10 Hurricane Evacuation Procedures. Upon notice of approaching hurricanes, all furniture, plants and other movable objects must be removed from any sidewalks, balconies, terraces and/or other outdoor areas. IN THE EVENT THAT AN EVACUATION ORDER IS ISSUED BY ANY APPLICABLE GOVERNMENTAL AGENCY, UNLESS AN EXEMPTION EXISTS, ALL OWNERS MUST PROMPTLY COMPLY WITH SAID ORDER. The Association shall have the right from time to time to establish hurricane preparedness and evacuation policies, and each Owner shall fully comply with same (and shall cause its Permitted Users to do so as well).

7.11 Variances. The Association shall have the right and power to grant variances from the provisions of this Article 7 and from the Association's rules and regulations for good cause shown, as determined in the reasonable discretion of the Association. Grounds for granting a variance may include, without limitation, changes in circumstances, Legal Requirements, other construction or uses on the Podium or nearby land, or bona fide good faith error in submission or review of documents or materials. In considering requests for variances, the Association may take into account the pattern of development, consistency in treatment of requests for variances, and the relationship between the cost to the Owner of the variance not being granted and the importance of the covenant from which a variance is being sought. The Association may require the submission of such documents and items (including, without limitation, written request for and a detailed description of the variance requested), as it reasonably considers appropriate, in connection with its consideration of a request for a variance. If the Association approves such request for a variance, the Association shall evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the portion of the Podium relative to which such variance has been requested, describing the applicable covenant(s) and the particular variance requested, expressing the decision of the Association to permit the variance, describing (when applicable) the conditions (which may be affirmative and/or negative in nature) on which the variance has been approved and signed by the Association. Any request for a

variance will be considered disapproved for the purposes hereof in the event of either (a) written notice of disapproval from the Association; or (b) failure by the Association to respond to the request for variance within thirty (30) days following its submission. Any variance granted or denied by the Association shall not preclude the Association from granting or denying a variance in any other circumstance, and no variance granted as aforesaid shall alter, waive or impair the operation or effect of the provisions of this Article 18 in any instance in which such variance is not granted, nor shall same alter, waive or impair the operation or effect of any restrictions, requirements or provisions contained in any Project Encumbrances then in effect (which shall remain in full force and effect unless and until a waiver or variance is granted in accordance with the provisions thereof). The Association shall not be liable to any Owner, Permitted User or any other party with regard to any variance granted hereunder, nor shall the Association be responsible for the failure of any Owner, Permitted User or any other party to comply with the provisions of this Article 7.

7.12 Declarant Exemption. In order that the development of the Podium may be undertaken and the Podium established as a fully occupied community, no Owner, Permitted User nor any Condominium Association shall do anything to interfere with Declarant's or Declarant's Affiliates' activities. Without limiting the generality of the foregoing, nothing in this Declaration shall be understood or construed to:

(a) Prevent any Declarant, Declarant's Affiliates, its successors or assigns, or its or their contractors or subcontractors, from doing on any property owned by them whatever they determine to be necessary or advisable in connection with the completion of the development of the Podium, including, without limitation, the alteration of its construction plans and designs as any Declarant (including the Future Land Owner when it commits portions of the Future Land to this Declaration) deems advisable in the course of development and/or enlargement (and in that regard, all models or sketches showing plans for development of the Podium; or

(b) Prevent any Declaration (including the Future Land Owner when it commits portions of the Future Land to this Declaration), its successors or assigns, or its or their contractors, subcontractors or representatives, from erecting, constructing and maintaining on any property owned or controlled by Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said development and establishing the Parcel as a community and disposing of the same by sale, lease or otherwise; or

(c) Prevent any Declarant, its successors or assigns, or its or their contractors or subcontractors, from conducting on any property owned or controlled by Declarant, or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements in the Podium and of disposing of Parcels and/or Structures therein by sale, lease or otherwise; or

(d) Prevent any Declarant, its successors or assigns or its or their contractors or subcontractors, from maintaining such sign or signs on any property owned or controlled by any of them as may be necessary in connection with the operation of its Parcels owned by such Declarant (or Declarant Affiliate) (its successors or assigns) or the sale, lease or other marketing of Parcels and/or Structures, or otherwise from taking such other actions deemed appropriate; or

(e) Prevent any Future Land Owner or its successors or assigns from filing Supplemental Declarations which modify or amend this Declaration, or which add the Future Land as otherwise provided in this Declaration; or

(f) Prevent any Declarant from subdividing any Parcel owned by it into more than one Parcel, or submitting any Parcel(s) owned by it (or any Parcel(s) created by such subdivision) and/or any improvements within any such Parcel(s) to the condominium or cooperative or other collective form of ownership; or

(g) Prevent any Declarant from modifying, changing, re-configuring, removing or otherwise altering any improvements located within its Parcel; or

(h) Prevent any Declarant or its Declarant's Affiliate marketing and/or selling its Parcel.

In general, each Declarant and Declarant's Affiliate shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any matter with Declarant (or Declarant's Affiliate's) plans for construction, development, use, sale or other disposition of its Parcel or any part thereof.

7.13 Public Uses. The Property is subject to the terms of the Master Declaration including the restrictions set forth in Section 2.5 of the Master Declaration. The CDD Parcel or other portions of the Podium that are available to the public and the public's use of any of the Podium is subject to rules and regulations which may be adopted by the Association from time to time, and such uses shall not be used for public forum, limited public forum, or any other type of public forum as may exist now or in the future for purposes of the exercise of rights pursuant to the First Amendment to the United States Constitution and any companion provision under the Florida Constitution, unless otherwise required for compliance of the CDD under State and Federal Law.

## 8. THE ASSOCIATION

8.1 Preamble. In order to ensure the orderly development, operation and maintenance of the Podium as a unified project, including the Parcels subject to the administration of the Shared Facilities by the Association or administrator of a Parcel by a Condominium Association, this Article has been promulgated for the purposes of (a) giving the Association certain powers to effectuate such goal, (b) providing for intended (but not guaranteed) economies of scale, (c) establishing the framework of the mechanism through which the foregoing may be accomplished,

and (d) requiring special types of covenants to accurately reflect the maintenance and use of Parcels where certain types of improvements are constructed within the Podium.

The Association shall have the right from time to time to retain and delegate to an affiliate or third-party entity the management of the operations of the Shared Facilities and certain administrative responsibilities of the Association under this Declaration, subject to and as described in any agreement between the Association and the third-party entity.

8.2 Cumulative Effect; Conflict. The covenants, restrictions and provisions of this Declaration shall be cumulative with those of the Condominium Declarations for Submitted Parcels and the Association may, but shall not be required to, enforce the latter; provided, however, that in the event of conflict between or among this Declaration and such Condominium Declarations, or any articles of incorporation, bylaws, rules and regulations, policies or practices adopted or carried out pursuant thereto, those of this Declaration shall control. As to any Condominium Association which is a condominium association, no duties of same hereunder shall be performed or assumed by the Association if same are required by Legal Requirements to be performed by the Condominium Associations.

8.3 Compliance with Declaration. Each Condominium Association shall:

(a) timely comply with each and every obligation under this Declaration applicable to the Owner of the Submitted Parcel; and

(b) cause each Unit Owner to comply with the terms and conditions of this Declaration and the applicable Condominium Declaration (to the extent not in conflict with the terms hereof), and take any and all action available to such Condominium Association under such Condominium Declaration, at law and in equity (including without limitation an action for specific performance and seeking injunctive relief) to ensure that each such Unit Owner complies with the terms and conditions of this Declaration and such Condominium Declaration (to the extent not in conflict with the terms hereof).

8.4 Collection of Assessments; Payment Priority. Upon request by the Association, the Condominium Association shall collect, on behalf of the Association as collection agent, all Assessments and other sums due to the Association and the applicable Condominium Association from the Unit Owners and/or other members of the Submitted Parcel. The Condominium Association will remit the assessments and other sums so collected to the respective payees pursuant to such procedures as may be determined by the Association. The sums so collected shall be applied first to the Assessments of the Association, and then to the assessments of the collecting Condominium Association. For the avoidance of doubt, any sums collected by a Condominium Association shall be applied in the foregoing order of priority irrespective of any other obligations or liabilities whatsoever of the Condominium Association.

Subject to the priority of disbursements of collected Assessments and other sums as by this Declaration, all regular and special assessments, interest, late charges, recovered costs of collection and other extraordinary impositions shall be remitted to the respective entity imposing same

separate and apart from the priorities established above. The Association shall notify the various Condominium Associations by written notice given at least sixty (60) days in advance, of any changes in the amounts of the Assessments due it or the frequency at which they are to be collected. The aforesaid notice period shall also apply to capital improvement Assessments, but may be as short as fifteen (15) days before the next due regular Assessment installment in the case of special Assessments of the Association.

To the extent that a Condominium Association has been requested to act as collection agent for the Association, the Condominium Associations shall not be required to record liens or take any other actions with regard to delinquencies in Assessments payable to the Association unless the Association gives them written notice of its election to have them do so. In the event that the Association does, however, make such election, then all of the Association's rights of enforcement provided in this Declaration shall be deemed to have automatically vested in the applicable Condominium Association, but all costs and expenses of exercising such rights shall nevertheless be paid by the Condominium Association (which shall be entitled to receive payment of any such costs and expenses which are ultimately recovered).

All fidelity bonds and insurance maintained by a Condominium Association shall reflect any duties performed by it pursuant hereto and the amounts to be received and disbursed by it and shall name the Association as an obligee/insured party for so long as its Assessments are being collected and remitted by the Condominium Association. The Association may, from time to time by sixty (60) days' prior written notice to the affected Condominium Association(s), change the procedures set forth in this Section 8.4 in whole or in part. In the event of any such change, the relative priorities of Assessment remittances and liens (i.e., the Association first, and the applicable Condominium Association last) shall nevertheless still remain in effect, as shall the Association's ability to modify or revoke its elections from time to time.

8.5 Additional Expense Allocations. In addition to the other expenses payable by each Condominium Associations hereunder, the Association may, by written notice given to the affected Condominium Association at least sixty (60) days prior to the end of the Condominium Association's fiscal year, allocate and assess to the Condominium Association a share of the expenses incurred by the Association which are reasonably allocable to the Condominium Association and/or the portion of the Podium within its jurisdiction (e.g., for utilities which are billed to the Association, but serve in certain instances only a Submitted Parcel). In such event, the expenses so allocated shall thereafter be deemed Shared Facilities Costs solely of the Submitted Parcel payable by the Condominium Association (with Assessments collected from the Unit Owners and/or other members of the Submitted Parcel under the Condominium Declaration) to the Association.

8.6 Non-Performance of Condominium Association. The following provisions shall apply in the event of non-performance by the Condominium Association of its duties hereunder:

(a) In the event of a failure of a Condominium Association to comply with any of its obligations hereunder, the Association shall have the same rights against the Condominium Association, any Unit Owners and/or other members of the Submitted Parcel, and its and their Permitted Users, as are

available to the Association with respect to other Owners and their Permitted Users under this Declaration.

(b) In the event of a failure of a Condominium Association to budget or assess the Unit Owners or other members of the Submitted Parcel for expenses as provided in this Declaration, or to remit to the Association all amounts collected by it for payment of such Condominium Association, then, in addition to (and without waiving) any other right or remedy available to the Association under this Declaration, at law or in equity, the Association shall be entitled to pursue and specially assess the Unit Owners or other members of the Condominium Association and their Units directly for the sums due (such special assessments, as all others, to be secured by the lien provided for in this Declaration).

(c) In addition to the foregoing, and subject to the provisions set forth in Section 8.2 of this Declaration, in the event that any Condominium Association fails to perform any duties delegated to, or required of, it under this Declaration, or to otherwise be performed by it pursuant to its own Condominium Declaration, articles of incorporation, by-laws or related documents, which, in the case of the Condominium Association (or related governing documents), constitutes a breach by the Condominium Association of its duties under this Declaration, and such failure continues for a period in excess of thirty (30) days after the Association giving notice thereof, then the Association may, but shall not be required to, assume such duties. In such event, the Condominium Association shall not perform such duties unless and until such time as the Association directs it to once again do so. Alternatively, the Association may apply for the appointment of a receiver in accordance with Legal Requirements to take control of the responsibilities of the Condominium Association, and the Association shall be entitled to the appointment of such a receiver as a matter of right, who shall perform the obligations of the Condominium Association under this Declaration and the Condominium Association as necessary to comply with the terms hereof. In such event, the receiver shall have all rights and powers permitted under the laws of the State of Florida and any other applicable Legal Requirements, subject to the approval of the court in any receivership proceeding.

(d) The Association shall be entitled to inspect the books and records of any Condominium Association, including without limitation ownership and financial records, as necessary or desirable to exercise and/or enforce its rights under this Section 8.6.

8.7 General Provisions Regarding Submitted Parcels. The following general provisions shall apply to Submitted Parcels:

(a) A single Parcel or Structure shall not lose its character as such for the purposes of this Declaration by virtue of being subdivided into

condominium, cooperative or other collective ownership Units by a Condominium Declaration. As also provided in Section 1.1, the Condominium Association for a Parcel/Structure submitted to Condominium form of ownership shall be deemed to be the Owner of such Submitted Parcel, even though same may not actually be the owner of the Parcel/Structure (or any portion thereof). Notwithstanding the fact that the Condominium Association of a Submitted Parcel shall be deemed to be the Owner of such Submitted Parcel, the easements of use and enjoyment granted hereunder to Owners shall be deemed to also be granted to the constituent members of the Submitted Parcel and the owners of the various portions of the applicable Submitted Parcel (and their Permitted Users as and to the extent permitted under this Declaration and the Condominium Declaration governing the Submitted Parcel).

(b) For the purposes of complying with and enforcing the standards of maintenance contained herein, the building(s) comprising the Submitted Parcel shall be treated as a Structure, with the applicable Condominium Association to have the maintenance duties of an Owner with respect to such Structure and any appurtenant facilities as set forth herein.

(c) Each Condominium Association shall be jointly and severally liable with the Unit Owners in its Submitted Parcel for any violation of the use restrictions set forth in this Declaration or of rules and regulations of the Association. Each Condominium Association shall also be liable and responsible for its compliance and the compliance by the Unit Owners in its Submitted Parcel (and its and their Permitted Users) with the covenants, restrictions and requirements of this Declaration. Accordingly, while the Association shall have the right (exercisable at its sole option) to proceed against each Unit Owner for a violation of this Declaration, it shall also have a direct right to do so against the applicable Condominium Association (even if the violation is not caused by the Condominium Association or by all of the Unit Owners).

(d) With respect to a Submitted Parcel that is a condominium, to the extent of any Assessments levied hereunder against such Submitted Parcel (in its entirety, as opposed to against each Unit therein) shall be but a single lien on the entirety of such Parcel and shall be payable by the Owner thereof (i.e., the Condominium Association therefor), but same shall not be deemed to be a common expense of such condominium. Notwithstanding the provisions of 718.121(3) of the Florida Statutes, inasmuch as this Declaration and the lien created hereby shall be recorded prior to the recording of any relevant Condominium Association, it is intended that 718.121(1) of the Florida Statutes shall not be operative as to such lien and each applicable Unit Owner of a Submitted Parcel that is a condominium shall be deemed to have ratified and confirmed same by the acceptance of the deed to such Unit.

8.8 Multiple Condominium Associations. To the extent that any portion of the Podium is subject to more than one Condominium Declaration, the rights of the Association hereunder shall be cumulative and shall apply with respect to each Condominium Associations under each Condominium Declaration.

In the event of conflict between this Article 8, as amended from time to time, and any of the other covenants, restrictions or provisions of this Declaration as amended from time to time, the provisions of this Article 8 shall supersede and control. To the extent that any portion of the Podium is subject to more than one Condominium Declaration, the rights of the Association hereunder shall be cumulative and shall apply with respect to each and every Condominium Association under its Condominium Declaration.

8.9 Multiple Parcel Building Provisions. To the extent that one or more Parcels is or becomes a Submitted Parcel, the following disclosures shall apply:

(a) Only the Parcels within the overall Podium submitted to Condominium pursuant to the Condominium Declaration shall be included in a Condominium created by a Condominium Declaration. The balance of the Podium, including the Shared Facilities and all other potions of the Podium, shall not be part of any Condominium.

(b) The "common elements" of a Submitted Parcel are only the portions of the Submitted Parcel that are not designated as a "unit" in the Condominium Declaration. Shared Facilities are not "common elements".

(c) The Association is the entity responsible for maintaining and operating the portions of the Podium which are Shared Facilities, which may include, but are not limited to, the roof, the exterior of the building, the windows, the balconies, the corridors and the utilities and utility systems, to the extent same are designated hereunder as part of the Shared Facilities. Notwithstanding the foregoing, certain items included in the foregoing list may not be Shared Facilities and may be maintained by other parties. See this Declaration and each Condominium Declaration for more details.

(d) Unless otherwise provided, the expenses for the maintenance and operation of the Shared Facilities and other expenses of the Association are to be apportioned based on the following criteria or a combination thereof: (i) the square footage of each Parcel in relation to the total square footage of any Parcel in the Podium and an agreed allocation of the Shared Expenses is allocated to Rahn and other Specified Owners who are allocated exclusive use of Limited Shared Facilities, and (ii) such other methods determined but the Association with the approval of a majority of the Voting Interests of the Owner from time to time.

(e) Unless such collection duties are delegated from time to time, the Association is the entity responsible for the collection of the expenses for the maintenance and operation of the Shared Facilities.

(f) In accordance with the provisions hereof, the Association has broad rights and remedies to enforce an Owner's obligation to pay for the maintenance and operation of the Shared Facilities Costs. Those remedies include, without limitation, the right to impose fines, charge late fees, impose penalties, suspend use rights and/or file liens and foreclosure actions.

Each Condominium Association and association named in a Condominium Declaration may inspect and copy the books and records upon which the costs for maintaining and operating the Shared Facilities are based and shall receive an annual budget with respect to such costs.

## 9. COMPLIANCE AND ENFORCEMENT

9.1 Compliance by Owners. Every Owner and its Permitted Users shall comply with the restrictions and covenants set forth herein and any and all reasonable rules and regulations which from time to time may be adopted by the Association (as to the Podium Facilities or with respect to the Podium).

9.2 Enforcement. If any Owner or its Permitted Users fails to comply with such restrictions, covenants or rules and regulations, such failure shall constitute an event of default hereunder if such failure continues (a) in the case of any monetary default, for more than five (5) days after written notice of default to such Owner, and (b) in the case any non-monetary default, for more than fifteen (15) days after written notice of default to such Owner; provided, however, that if the cure for a non-monetary default cannot reasonably be completed within said fifteen (15) day period, then the defaulting Owner shall have such additional time as may be reasonable under the circumstances to cure the default (but not to exceed sixty (60) days in the aggregate), so long as it has commenced the cure within said fifteen (15) day period and thereafter diligently pursues same to completion. Upon the occurrence of an event of default hereunder beyond the applicable notice and cure period provided above, the Association may take any action available at law and/or in equity, including, without limitation, an action to recover sums due for damages, an action for specific performance or seeking injunctive relief, or any combination thereof. In addition, following such event of default, the Association shall have the right to suspend such Owner's (and its Permitted Users') rights of use of Project Facilities; provided, however, that no Owner shall be denied (i) legal pedestrian access to and from the Owner's Parcel and/or Units, as applicable, (ii) in the case of a Specified Owner of a Benefited Parcel, its use of its Limited Shared Facilities and/or Limited Amenities Facilities, as applicable, (iii) use of any utility and/or mechanical, electrical, HVAC, plumbing, life safety, monitoring, information and/or other systems located in the Shared Facilities, the Limited Shared Facilities, and/or Limited Amenities Facilities, as applicable, serving said Owner's Parcel and/or Unit, as applicable, or (iv) the use and benefit of the easements of support granted herein (without otherwise providing equivalent substitutions for same). The offending Owner (whether such offense be caused by the Owner, a Unit Owner or its or their Permitted Users) shall be responsible for all costs of enforcement including attorneys' fees actually incurred and court costs (and including fees incurred in bankruptcy or probate proceedings, if applicable, and through any applicable appeals).

9.3 Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Association, a fine or fines may be imposed upon an Owner for failure of an

Owner, except for the CDD Parcel Owner, a Unit Owner or their respective Permitted Users to comply with any covenant, restriction, rule or regulation applicable to the Podium Facilities, if such failure continues for a period in excess of five (5) business days after giving written notice thereof to such Owner. In such event, the Association may impose a fine, relating back to the initial date of the breach, in the amount of $250.00/day from the initial occurrence of the breach for the first breach and $500.00/day from the initial occurrence of the subsequent breach for each subsequent breach; subject, however, to (and in all cases not to exceed) the maximum limits permitted by law from time to time. Fines shall be paid not later than five (5) days after written notice of the imposition or assessment of the penalties. Fines shall be treated as an Assessment subject to the provisions for the collection of Assessments, and the lien securing same, as set forth herein. All monies received from fines shall be allocated as directed by the Association. The foregoing fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise entitled under this Declaration, at law or in equity; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover under applicable Legal Requirements from such Owner.

9.4 Remedies Cumulative. The rights and remedies set forth in this Article are in addition to any and all rights and remedies available at law, in equity and/or permitted under any other provision of this Declaration, all of which are intended to be, and shall be, cumulative.

9.5 Proviso. Notwithstanding anything to the contrary, this Declaration shall be construed and interpreted to preserve to the Declarant and Declarant's Affiliates all rights, claims, powers, protections and defenses. Accordingly, (i) no waiver, release or disclaimer made or deemed made by an Owner (including without, limitation, a Unit Owner) under this Declaration shall be deemed to be made by Declarant or Declarant's Affiliates (even if Declarant or Declarant's Affiliate is or was an Owner, (including without, limitation, a Unit Owner)) (ii) no agreement to indemnify, defend and/or hold any party harmless made or deemed made by an Owner under this Declaration shall be deemed to be made by Declarant or Declarant's Affiliates (even if Declarant or Declarant's Affiliate is or was an Owner (including without, limitation, a Unit Owner)) and (iii) no waiver, release, disclaimer and/or agreement to indemnify, defend and/or hold any party harmless contained in this Declaration shall be deemed to limit, impair, mitigate, preclude or otherwise affect the rights of Declarant and/or Declarant's Affiliates to pursue, to the maximum extent lawful, any and all rights, claims, powers, protections and defenses, including, without limitation, claims, actions or other proceedings against other Owners (including without, limitation, a Unit Owner), contractors, sub-contractors, suppliers, architects, engineers and/or other design professionals. No provision of this Declaration shall be construed and/or interpreted and/or relied upon as a means to: (i) defend, preclude and/or affect the right of Declarant and/or Declarant's Affiliates from pursuing such claims and/or (ii) mitigate claims brought or sought by Declarant and/or Declarant's Affiliates.

## 10. MORTGAGEE PROTECTION

10.1 Mortgagee Protection. The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of this Declaration, these added provisions shall control):

(a) The Association shall be required to make available to all Owners and the holder of any mortgage (a "**Mortgage**") on any Parcel, and to insurers and guarantors of any such Mortgage, for inspection, upon written request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments).

(b) Any holder, insurer or guarantor of a Mortgage on a Parcel shall be entitled, upon written request, to receive notice from the Association of (i) an alleged material default by the Owner of such Parcel in the performance of such Owner's obligations under this Declaration, including without limitation the failure to pay Assessments on such mortgaged Parcel, which default is not cured within sixty (60) days after the Association has actual knowledge of such default, (ii) any condemnation or casualty loss affecting a substantial portion of the Shared Facilities, (iii) the occurrence of a lapse, cancellation or substantial modification of any insurance policy or fidelity bond maintained by the Association, and (iv) any proposed action which requires the consent of a specified number of Mortgage holders, if any.

(c) Any holder, insurer or guarantor of a Mortgage on a Parcel shall have the right (but not the obligation) to pay Assessments and/or other charges that are delinquent and have resulted or may result in a lien against any portion of such Parcel and receive reimbursement from its mortgagor.

(d) Subject to the terms of the applicable Mortgage and related documents (and to the extent permitted by Legal Requirements), any holder, insurer or guarantor of a Mortgage on a Parcel that is a Taxed Parcel shall have the right (but not the obligation) to pay the portion of Taxes and/or other Tax-related costs allocated to such Parcel and/or the other Taxes that are delinquent and have resulted or may result in a lien against such Parcel and, in any such case, receive reimbursement from its mortgagor and/or the Owners of the other Taxed Parcels (as applicable) to the extent any of such parties fail to pay same as and when required herein.

(e) Subject to the terms of the applicable Mortgage and related documents (and to the extent permitted by Legal Requirements), any holder, insurer or guarantor of a Mortgage on a Parcel shall have the right (but not the obligation) to procure the insurance required of the Owner of such Parcel under this Declaration and to perform such Owner's maintenance and other obligations hereunder, and to receive reimbursement of costs incurred in connection therewith from its mortgagor.

(f) Any holder, insurer or guarantor of a Mortgage on a Parcel shall be entitled, upon written request, to estoppel certificates as contemplated by Section 15.13.

(g) The Association agrees to cooperate with any reasonable requests for notice from any holder, insurer or guarantor of a Mortgage on a Benefited Parcel with respect to the Limited Shared Facilities and/or serving such Benefited Parcel, provided that such requests (for notice or otherwise) are comparable to the notices and information required to be provided by the Association under the foregoing provisions.

Nothing contained herein shall limit or restrict the rights and remedies of the Association under this Declaration in the event of a default by any Owner, Unit Owner or Condominium Association.

## 11. INSURANCE ON SHARED FACILITIES AND PARCELS

11.1 Insurance. Insurance obtained pursuant to the requirements of this Article 11 shall be governed by the provisions set forth in this Article.

11.2 Purchase, Custody and Payment.

(a) Purchase. All insurance policies required to be obtained by the Association hereunder shall be issued by an insurance company authorized to do business in Florida or by surplus lines carriers offering policies for properties in Florida, and shall be rated in the latest edition of *Best's Insurance Guide* (or its successor, and if such guide becomes unavailable, then a comparable rating guide selected by the Association) not less than A-:VIII (or its reasonable equivalent). Said policies must otherwise satisfy the requirements of the mortgage held by Declarant's Mortgagee on the date hereof as well as the ongoing insurance requirements under the Project Encumbrances that are the responsibility of the Association pursuant to the terms thereof or this Declaration.

(b) Named Insured. The named insured, if such insurance is purchased by the Association, or the additional insured, if such property insurance is purchased by any Condominium Association shall be the Association, (i) individually (or such designee as may be designated by the Association), but shall be payable to the Insurance Trustee (as to the property insurance), (ii) as agent for the Owners of the Parcels covered by the policies, with or without naming them, and (iii) as agent for the holders of any mortgage on a Parcel, with or without naming them, except as otherwise provided herein. Declarant and any applicable Declarant's Affiliates shall also be a named insured or additional insured, if such insurance is purchased by the Association or any Condominium Association, for so long as Declarant or any Declarant's Affiliate holds title to any Parcel or Structure affected by this Declaration. In addition, (i) Declarant's Mortgagee shall be named an

additional insured on all liability policies and a loss payee on all property insurance (including windstorm and flood) policies maintained by the Association and (ii) in the event the Association enters into a Management Agreement, the Association shall cause the Management Company to be named as an additional insured. The foregoing shall not, however, preclude the inclusion by the Association of others as additional insureds.

(c) Custody of Policies and Payment of Proceeds. All property insurance policies and endorsements on such policies obtained by or on behalf of the Association pursuant to this Article 11 shall (i) be for the benefit of the Association, the Owners and holders of any mortgage on a Parcel, and Declarant (for so long as Declarant or any Declarant's Affiliate holds title to any Parcel or Structure affected by this Declaration), as their interests may appear, and (ii) provide that payments for losses made by the insurer with respect to the Shared Facilities, including the Shared Improvements, and all insurance proceeds shall be paid to the Association or to a named insurance trustee (the "**Insurance Trustee**") (if the claim is less than $500,000.00 as provided in this Declaration. All insurance proceeds are to be paid to the Insurance Trustee unless the Association elects to be the Insurance Trustee as to a loss of $500,000.00 or less. The Insurance Trustee will be a commercial bank with trust powers authorized to do business in the State of Florida or another entity with fiduciary capabilities acceptable to the Association. The Insurance Trustee is not liable for the payment of premiums, nor the renewal or sufficiency of policies, except those policies required to be purchased and maintained by the Association pursuant to this Section. The duty of the Insurance Trustee is to receive such proceeds as are paid pursuant to such policies and to hold the same in trust for the purposes stated in this Declaration and in accordance with terms of this Declaration and all applicable Legal Requirements. If a mortgagee endorsement has been issued, any share for an Owner will be held in trust for the mortgagee and the Owner as their interests may appear; provided, however, that unless the Declarant's Mortgagee for the Podium requires it as to its mortgaged collateral only, no mortgagee has the right to determine or participate in the determination as to whether or not any damaged property is reconstructed or repaired, and no mortgagee has any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of such insurance proceeds made to the Owner and mortgagee pursuant to the provisions of this Declaration. Notwithstanding the foregoing, the mortgagee has the right to apply or have applied to the reduction of its mortgage debt any or all sums of insurance proceeds applicable to its mortgaged interest if the damaged property is not reconstructed or repaired as permitted under this Declaration.

(d) Copies to Mortgagees. One copy of each property insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the insurer upon written request by the policy holder to the holders of any mortgage on a Parcel or a Unit. Copies or certificates shall

be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days after the renewal of each preceding policy that is being renewed or replaced, as appropriate.

(e) Personal Property and Liability. Except as specifically provided herein, the Association shall not be responsible to Owners to obtain insurance coverage upon the property lying within the boundaries of their respective Parcels, including, but not limited to, any Owner's personal property, nor insurance for any Owners' personal liability and expenses, nor for any other risks not otherwise required to be insured in accordance herewith.

11.3 Coverage. The Association, as to Shared Facilities, including, without limitation, Shared Infrastructure, shall maintain insurance covering the following (or such other insurance as may be required by the Management Agreement, it being understood and agreed that in the event of any conflict between the provisions hereof and the insurance policy requirements in the Management Agreement, the insurance policy provisions of the Management Agreement shall control), but the disposition of such insurance proceeds shall be controlled by this Declaration.

(a) Property. The Buildings, including the Podium, and Shared Facilities, together with all fixtures, building service equipment, personal property and supplies constituting the Shared Facilities (collectively the "**Insured Property**"), shall be insured for the full replacement value thereof to the extent commercially practicable and available at commercially reasonable rates, subject to industry standard exclusions and excluding foundation and excavation costs; provided, however, that Windstorm, Flood, Earthquake and other insurance for extraordinary hazards shall be subject to customary sublimits that are less than full replacement value as may be determined from time to time by the Association. The Insured Property shall not include, and shall specifically exclude, any portions of the Units, and all furniture, furnishings, floor coverings, wall coverings, ceiling coverings and other interior build-out of the Parcels, other personal property owned, supplied or installed by Owners, Tenants or Permitted Users. Such policies may contain reasonable deductible provisions as determined by the Association. Such coverage shall afford protection against loss or damage by fire and other hazards covered by an all risks policy form, terrorism (as available under the Terrorism Insurance Act of 2002, as the same may be amended or replaced) and such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, other hazards, including vandalism and miscellaneous mischief, subject in all cases to industry standard exclusions.

(b) Liability. Subject in all cases to industry standard exclusions, commercial general liability and automobile liability insurance covering loss or damage resulting from any legal liability related to the Insured Property, with such coverage as shall be required by the Association or the Management Company, but in no event less than $2,000,000 each occurrence/$4,000,000

annual aggregate limit. The named insured, if such insurance is purchased by the Association, or the additional insured, if such insurance is purchased by the Management Company or another entity, will be the Association individually and as agent for the Owners collectively, without naming them individually, but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Podium including the Shared Facilities. The Association and Declarant shall not be responsible for any claims, losses, injuries or damages that result from the acts or omissions of the Owners, their Permitted Users that occur on the Podium or for claims, losses, injuries, or damages, that occur within a Parcel or a Unit.

(c) Worker's Compensation. Worker's Compensation and other mandatory insurance, when applicable, to the extent applicable to employees responsible for the maintenance, operation, repair or replacement of the Shared Facilities.

(d) Windstorm, Flood, Earthquake, Law and Ordinance and Debris Insurance. Windstorm, flood, earthquake, law and ordinance and debris removal insurance covering the Insured Property, and any other such exposures if so determined by the Association, in such amounts (and containing such deductibles) as the Association may determine from time to time, subject to industry standard exclusions. Coverage for flood, windstorm and earthquake insurance shall be in an amount not less than the probable maximum loss, or a 1 in a 1,000 year event, as determined by a recognized engineering firm or the insurance industry.

(e) Fidelity/Crime Insurance or Fidelity Bonds. Fidelity/Crime insurance or fidelity bonds covering funds in the custody of the Association hereunder if required by Legal Requirements, in such amounts (and containing such deductibles) as may be determined by the Association, but must be sufficient to cover the maximum funds that will be in the custody of the Association and/or its Management Company at any one time, including, without limitation, any funds in operating, reserve and investment accounts and in no event less than amounts required by Legal Requirements (if applicable). The premiums on such bonds and/or insurance shall be paid by the Association as a Shared Facilities Cost.

(f) Project Encumbrances. Any and all insurance required of the Declarant, the Association or its or their affiliates pursuant to the Project Encumbrances.

(g) Other Insurance. Such other or greater insurance, including, without limitation, boiler and machinery insurance and umbrella liability insurance, as and to the extent required by the mortgage held by Declarant's Mortgagee as of the date hereof, as well as such other insurance as the Association shall determine from time to time to be desirable, in its reasonable discretion, in connection with the Shared Facilities or as may be required by any Management Agreement.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) as to property insurance policies, subrogation against the Association, any Condominium Association and against the Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk (and the amount of the insurer's liability under such policies shall not be reduced by the existence of any other insurance), and (iii) avoid liability for a loss that is caused by an act of the Association or one or more Owners (or any of its or their respective employees, contractors and/or agents) or as a result of contractual undertakings. Additionally, each policy shall provide that the insurance provided shall not be prejudiced by any act or omissions of individual Owners that are not under the control of the Association. Nothing contained herein is intended to or shall restrict or curtail the ability of the insurer to settle claims.

11.4 Additional Provisions. All policies of insurance shall provide that such policies may not be canceled or materially modified without at least thirty (30) days' prior written notice to all of the express named insureds, including their respective mortgagees, provided that only ten (10) days' prior written notice shall be required for cancellation due to nonpayment of premium. Prior to obtaining any policy of property insurance or any renewal thereof, the Association may (and, not less than once every thirty-six (36) months, shall) obtain an appraisal from a competent appraiser, of the full insurable replacement value of the applicable Insured Property (exclusive of foundations and excavation costs), without deduction for depreciation, and recommendations from its insurance consultant as to limits/sublimits for such coverage, for the purpose of determining the amount of insurance to be effected pursuant to this Article. Notwithstanding anything contained herein to the contrary, the insurance coverage required of the Association pursuant to this Article 11 may be provided, at the option of the Association (in its sole discretion), through (i) with respect to property insurance only, a master policy that covers the Insured Property and property insurance required of the Owners (or any one of them) under this Declaration, provided that the cost of such master policy shall be reasonably allocated by the Association, with the assistance of the Association's insurance consultant, between the coverage required of the Association hereunder and such other coverage of the other Owners, and/or (ii) a blanket policy that covers the property and liability insurance set forth above as well as other insurance coverage benefitting the Association, provided that the cost of such blanket policy shall be reasonably allocated by the Association, with the assistance of the Association's insurance consultant, between the coverage required of the Association hereunder and such other coverage of its affiliates.

11.5 Premiums. Premiums upon insurance policies purchased by the Association pursuant to this Article 11 shall be allocated among the Owners in accordance with this Section 11.5 and included among Assessments under this Declaration. Such premiums shall be allocated among and assessed against the Owners (excluding the Association) by the Association, with the assistance of the Association's insurance consultant, at the Association's option, based on one or more of the following, depending on the type of insurance in question: (i) the relative replacement value that each Owner's Parcel bears to the total replacement value of all of the Parcels, or (ii) the square footage that each Owner's Parcel bears in relation to the overall square footage of all of the Parcels, or (iii) based on each Owner's share of Shared Facilities Costs, (iv) based on the Owner's

share of Shared Amenities Costs or (v) a combination thereof, or such other reasonable allocation as determined in the reasonable discretion of the Association from time to time, depending on the type of insurance in question and such other circumstances as the Association may, in its sole but reasonable judgement, consider to be appropriate. To the extent separate invoices are issued for premiums associated with the Association's insurance policies hereunder with respect to any of the Parcels, such invoices shall be deemed dispositive and the Owners of such Parcels shall be responsible for the portion of the premium reflected in the invoices applicable to it, with the remaining premiums (if any) to be allocated among the remaining Parcels not separately invoiced at the Association's option, consistent with the allocation methods provided above depending on the type of insurance. Any invoice to the Association for insurance shall be allocated among all of the other Parcels, at the Association's option, based on the allocation methods provided above depending on the type of insurance. Premiums may be financed in such manner as the Association reasonably deems appropriate. Without limiting the terms of this Declaration, Shared Facilities Costs and/or Shared Amenities Costs, as applicable, may include, from time to time and at any time, such amounts deemed necessary by the Association to provide the Association with sufficient funds to pay insurance premiums at least thirty (30) days before the date the same are due.

11.6 Share of Proceeds. All property insurance policies obtained by or on behalf of the Association pursuant to this Article 11 shall be for the benefit of the Association, the Owners and the holders of any mortgage on a Parcel, as their respective interests may appear. The duty of the Association or Insurance Trustee shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners and the holders of any mortgage on the subject Parcel(s) (or any leasehold interest therein). Any Insurance Trustee (if other than the Association itself or a qualified bank) will be a commercial bank with trust powers authorized to do business in Florida or another entity with fiduciary capabilities acceptable to the Association. The Insurance Trustee is not liable for the payment of premiums, nor the renewal or sufficiency of policies, except those policies required to be purchased and maintained by the Association pursuant to Section 11.3. The duty of the Insurance Trustee is to receive such proceeds as are paid and to hold the same in trust for the purposes stated in this Article, and for the benefit of each Owner, including Declarant, and such Owner's Mortgagee, if any. The Insurance Trustee must receive and hold any Insurance Proceeds in accordance with the Act and this Declaration.

11.7 Distribution of Proceeds. Proceeds of property insurance policies required to be maintained by the Association pursuant to this Article 11 shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

(a) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as provided in Article 12. Any proceeds remaining after defraying such costs shall be distributed to the Owners, with remittances to Owners and their mortgagees being payable jointly to them. Such proceeds shall be allocated in the same manner as the proceeds are allocated in subsection 11.7(b).

(b) Failure to Reconstruct or Repair. If it is determined pursuant to this Declaration that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be (i)

allocated among the Owners in proportion to the amount of loss suffered by the Parcels not reconstructed or repaired, and (ii) after deducting any delinquent assessments or other amounts due and owing from such Parcel Owner under this Declaration (which the Association is hereby authorized to deduct), distributed to the holders of any mortgage on such affected Parcel, as their interests may appear, to be applied towards the mortgages encumbering such affected Parcel (in the order of priority of such mortgages), with the balance, if any, to be paid to the applicable Owner(s); provided, however, that if the damage suffered affects fewer than all Owners, the percentage shares shall be pro rata allocated over only those Owners suffering damage from the applicable policies and proceeds in proportion to the amount of loss suffered by each affected Owner (the "**Allocated Interests**").

(c) Partial Reconstruction or Repair. If it is determined under Article 12 that any Condominium Parcel or other portions of the Podium shall not be reconstructed or repaired but other portions of the Insured Property will be reconstructed or repaired, the Owner of such Parcel that will not be reconstructed or repaired shall be entitled to its pro rata share of the proceeds in an amount equal to its Allocated Interest, which shall be applied and distributed in the same manner as proceeds under Section 11.7(b) above.

11.8 Disputes with Insurance Companies. In the event of any question or dispute (including litigation and other legal proceedings) with any insurance company or carrier with respect to the coverage afforded by any insurance policies maintained by the Association with respect to the Insured Property or any loss or claims covered thereby, the Association shall have the right to hire an insurance consultant and any other insurance expert (legal or otherwise) to assist with such question or dispute, as litigation counsel, an expert witness or in any other capacity, and all costs associated therewith shall be deemed Shared Facilities Costs, including attorneys' fees and court costs (at all trial and appellate levels).

11.9 The Association as Agent. The Association is hereby irrevocably appointed as the exclusive agent and attorney-in-fact for each Owner and for each owner of a mortgage or other lien upon a Parcel and for each owner of any other interest in the Podium, subject to the terms of any mortgage held by Declarant's Mortgagee, to manage and coordinate the adjustment and settlement of all claims arising under property insurance policies purchased by the Association and the execution and delivery of releases upon the payment of claims, in each case in conjunction with the Association's insurance and other consultants.

11.10 Owners' Personal Coverage. The insurance required to be purchased by the Association pursuant to this Article 11 shall not cover claims against an Owner due to occurrences occurring to or within its Parcel, nor casualty, theft or loss to the contents of or improvements to an Owner's Parcel. Such coverage obtained by the Association shall exclude the following, including, but not limited to, the personal property of the Specified Owner servicing its Limited Shared Facility and all improvements and betterments to the any Parcel, patios, balconies, plunge pools, floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating

equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of an Parcel and serve only one Parcel and all air conditioning compressors that service only an individual Parcel, whether or not located within the Parcel boundaries. It shall be the obligation of the individual Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance required to be carried by the Association hereunder, provided that each Owner, shall, at a minimum, obtain and maintain, or cause to be obtained and maintained, at such Owner's sole expense, the following insurance coverage:

(a) Property. Property insurance for fire and other hazards on an "all-risk" and "special causes of loss" basis for the replacement value of the improvements within the Parcel owned by it, on industry standard forms affording customary coverage and compliance with applicable law, subject to industry standard exclusions, customary deductibles and customary limits/sublimits, typically maintained by owners and required by mortgagees of projects comparable to the Podium.

(b) Liability. General liability insurance written on an "occurrence basis" (rather than a "claims basis") under which policy each Owner (but excluding individual Unit Owners), Declarant, the Association and any Condominium Association shall be named as an additional insured, on industry standard forms affording customary coverage, subject to industry standard exclusions, customary deductibles and customary limits/sublimits, typically maintained by owners and required by mortgagees of projects comparable to the Podium, but in no event less than $1,000,000 for each occurrence of injury or property damage and $2,000,000 in the annual aggregate.

(c) Umbrella Liability. Except as to individual Unit Owners, Umbrella or excess following form of insurance policy meeting the requirements of, but providing coverage in excess of, the policy in item (b) above with a limit of not less than $10,000,000 per occurrence and in the aggregate. With respect to individual Unit Owners only, Umbrella or excess following form of insurance policy meeting the requirements of, but providing coverage in excess of, the policy in item (b) above with a limit of not less than $1,000,000 per occurrence and in the aggregate.

(d) Worker's Compensation. Except as to individual Unit Owners, Worker's Compensation and other mandatory insurance, when applicable, covering all persons employed by such Owner in connection with any work done on or about the Parcel (or any part thereof) in such amounts and to the extent required by Legal Requirements.

(e) Project Encumbrances. Any and all insurance required of such Owner pursuant to the Project Encumbrances that encumber its Parcel, unless such insurance is being maintained by the Association.

(f) Builder's Risk; Construction. Except as to individual Unit Owners, during any period where alterations are made to a Parcel, builder's risk insurance, automobile liability insurance, general liability insurance with products and completed operations coverage and the other insurance required of Owner's under this Section 11.10, which shall be kept and maintained by the Owner performing the alteration or its contractor or other service provider. Each such policy of insurance shall name the Association and any other affected Owner and Condominium Association and for as long as Declarant owns any portion of the Podium, Declarant, and their respective designees, as an additional insured. If such Owner's contractor or other service provider provides the insurance required hereunder, then such insurance shall also name the Owner performing the alteration as additional insured and shall be primary and noncontributory for any and all Losses arising out of or in connection with the contractor's and/or service provider's work (excluding claims under liability policies arising out of the acts or omissions of the additional insured).

(g) Other Insurance. Such other or greater insurance as is typically maintained by owners and required by mortgagees of projects comparable to the Podium.

The amounts and types of insurance required herein shall be adjusted from time to time as necessary to comply with the foregoing requirements, the requirements of Declarant's Mortgagee, and/or market changes to insurance industry standards. All insurance required of or maintained by an Owner under this Article shall be procured from companies authorized to do business in the State of Florida and shall be rated in the latest edition of *Best's Insurance Guide* (or its successor, and if such guide becomes unavailable, then a comparable rating guide selected by the Association) not less than A-:VIII (or such other rating as may be approved by the Association). The insurance coverage required of each Owner pursuant to this Article may be provided through the coverage of (x) subject to the consent and agreement of the Association, a master policy carried by the Association as and to the extent contemplated under Section 11.4 hereof, and/or (y) a blanket policy carried by it, provided that the coverage afforded shall not be reduced by reason of the use of such blanket policy and provided that the requirements set forth herein are otherwise satisfied. In addition, two or more Owners may mutually agree to maintain a single policy or policies for their respective Parcels and interests (rather than separate and independent policies), provided that the requirements set forth herein are otherwise satisfied. Each Owner shall furnish to the Association, upon the recordation of this Declaration and thereafter prior to the expiration of each policy, certificates of insurance (and, if requested, copies of policies), evidencing that the insurance required hereunder is in full force and effect. The Condominium Association shall be responsible for obtaining and maintaining the foregoing insurance following submission of any Parcel to a Condominium Association. The amount of insurance required hereunder shall not be construed to be a limitation of liability on the part of any Owner or Unit Owner or their respective Permitted Users.

All such policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and the named insureds, including their respective mortgagees, provided that only ten (10) days' prior written notice shall be required for cancellation due to nonpayment of premium. All such policies shall further provide that the coverage afforded the additional insureds is on a primary and non-contributory basis with any other insurance available to the additional insureds, and if the additional insureds have other insurance that is applicable to the loss, such other insurance will be on an excess basis or contingent basis. Each Owner's insurance policies shall waive its insurer's right to: (i) as to property insurance policies, subrogation against the Association, any Condominium Association and against the other Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk (and the amount of the insurer's liability under such policies shall not be reduced by the existence of any other insurance), and (iii) avoid liability for a loss that is caused by an act of such Owner, the Association or any other Owner (or any of its or their respective employees, contractors and/or agents) or as a result of contractual undertakings; provided, however, that nothing contained herein is intended to or shall restrict or curtail the ability of the insurer to settle claims. In the event of any question or dispute as to whether any Owner's insurance policy complies with the requirements of this Article, such question or dispute shall be submitted to the Association, who, with the assistance of its insurance consultant, shall render a decision, which decision shall be dispositive of such question or dispute.

Notwithstanding anything contained to the contrary herein, while the Association shall use reasonable efforts to maintain copies of the insurance certificates and/or policies received by it, the Association shall have no obligation to request and/or maintain same, nor shall the Association have any obligation to take any affirmative action in the event that an Owner (including any Condominium Association) fails to maintain adequate insurance or any insurance specifically required hereunder, including without limitation binding policies on behalf of such Owner (or Condominium Association, as applicable) or taking any other ordinary or extraordinary measures. Each Owner, by acceptance of a deed or other conveyance of a Parcel, holds the Association, Declarant and Declarant's Affiliates harmless and agrees to indemnify the Association, Declarant and Declarant's Affiliates from and against any and all claims made by any other Owner, any Unit Owner and its or their Permitted Users, on account of any property damage, personal injury and/or any other Losses of any kind or nature, including without limitation any and all costs and expenses associated with such claims, including inconvenience, relocation and/or moving expenses, lost time, business opportunities or profits, and attorneys' fees and other legal and associated expenses (through and including all appellate proceedings), arising out of, related to, caused by, associated with or resulting from the failure of such Owner (including any Condominium Association's) to maintain adequate insurance or the insurance coverages required to be maintained by an Owner pursuant to this Section 11.10.

Each Owner hereby waives any and all claims and rights of action it may have against Declarant, the Association and the other Owners, and their respective directors, officers, employees, contractors, agents or affiliates, with respect to any Losses arising out of any damage to its Parcel covered by property insurance required under this Section 11.10, whether or not such insurance was actually in effect, and whether or not such damage was caused by the negligence or other act or omission of Declarant, the Association, the other Owners or their respective directors, officers, employees, contractors, agents or affiliates. The Association shall not be responsible for any claims, losses, injuries or damages that result from the acts or omissions of the Owners, their agents, tenants, invitees, or guests that occur on the Podium or for claims, losses, injuries, or damages, that occur within a Parcel or Unit.

11.11 Benefit of Mortgagees. Certain provisions in this Article 11 are for the benefit of mortgagees of Parcels and may be enforced by such mortgagees.

## 12. DAMAGE TO THE STRUCTURE

12.1 Repair and Restoration.

(a) Repair and Restoration; Mandatory Repair and Restoration by an Owner in Occurrences Involving No Damage Affecting Shared Facilities or Other Parcels. If any portion of a Parcel is damaged by fire or other casualty and there is no damage to any facility serving and/or contained in any other Parcel and there is no damage to any improvements located in any Shared Facilities, then the portion of the Parcel so damaged (except for furniture, furnishings, equipment, any and all other personal property and fixtures in the Condominium Units contained in the Parcel) shall be repaired and restored as promptly as is reasonable by the Owner of such Parcel in accordance with the then existing Building Plans (with such changes as are permitted by Section 5) and in accordance with the Podium Standard.

(b) Mandatory Repair and Restoration of Damage Affecting More than One Parcel and/or Shared Facilities. If any portion of a Building (including any Shared Facility) is damaged, and if the provisions of the preceding paragraph of this Section 12.1 are not applicable, then the repair and restoration of such damage shall be performed by the Association on behalf of all the Owners in accordance with the Podium Standard. The Association shall, in accordance with the provisions of this Article 12 be entitled to withdraw any insurance proceeds derived from either the Association's or any Owners' policies of insurance (provided that the insurance proceeds derived from the Owners' policies of insurance are directly attributable to that portion or those portions of the Parcel to be repaired and restored by the Association) and which are held by the Insurance Trustee by reason of such damage for application to the cost and expense of such repair and restoration performed by the Association. To the extent necessary, such repair and restoration shall include installation in the Building of such

fixtures and appliances of the same kind and quality as originally found in the said Building, or if such are unavailable then such fixtures and appliances as shall commonly be found in similar units in other similar first-class condominiums.

(c) Self-Help. If at any time any Owner (hereinafter referred to in this paragraph as the "**Non-Performing Owner**") shall not be proceeding diligently with any work of repair and restoration required of it hereby, then any other Owner who would be benefited by such repair and restoration shall give written notice simultaneously to both the Non-Performing Owner and the Association specifying the manner in which such repair and restoration is not proceeding diligently. If, upon expiration of thirty (30) days after the giving of notice, the work of repair and restoration is not proceeding diligently, then, subject to the Non-Performing Owner's right to dispute as set forth below, the Association may perform such repair and restoration in accordance with the then existing Building Plans and Podium Standard (thereby releasing the Non-Performing Owner from any liability for the quality of such repair or restoration performed by the Association) and may take all appropriate steps to carry out the same, including, without limitation, entry onto the Parcel of any Owner to the extent necessary to perform such repair and restoration. The Association, in order to perform such repair and restoration shall, in accordance with Article 12, be entitled to withdraw any insurance proceeds derived from said Non-Performing Owner's policies of insurance and which are held by the Insurance Trustee by reason of such damage, for application to the cost and expense of such repair and restoration. If at any time an Owner disagrees as to whether the work of repair and restoration is proceeding diligently, then such dispute shall be settled by arbitration in accordance with Article 19, and the Association shall not perform such repair and restoration until the dispute shall have been settled. Any Owner who is diligently negotiating in good faith the settlement of any insurance claim under a policy held by it pursuant to Article 11, which is required to fund repair of a casualty insured by the policy in question, shall not be regarded as failing to proceed diligently with any repair or restoration required of it.

12.2 Repair and Restoration Procedures. The plans and specifications for any repair or restoration to be performed under Section 12 shall be prepared by the Architect. Unless the Owners shall otherwise agree in writing, plans and specifications for any repair or restoration shall be developed consistent with the then existing Building Plans. The Architect shall assist the Owner responsible for performing the repair or restoration in question in obtaining bids therefor from responsible contractors. Such contractor shall be chosen in the manner provided in Article 16 hereof. The contractor shall work under the administration of the Architect and the Owner responsible under Sectio 12.1 for causing such repair and restoration to be performed. The Architect for a given repair or restoration is hereby authorized and directed to deliver such certifications and instructions as may be required by Article 17 to the Insurance Trustee, from time to time as such repair and restoration progress, to obtain disbursement for application to the cost and expense of such repair and restoration of (a) the insurance proceeds and (b) any other monies

for such repair or restoration, which may have been deposited with the Insurance Trustee pursuant to Section 12.3. All instructions to the Insurance Trustee shall be made available by the Architect at reasonable times for inspection by any Owner who will benefit from the repair or restoration being made.

12.3 Application of Insurance Proceeds and other Funds to Repair and Restoration.

(a) Insufficient Insurance Proceeds. All insurance proceeds paid in connection with a casualty shall be used to their full extent to fund restoration and repair hereunder. If the cost and expense of performing any repair and restoration provided for in Section 12.1 shall exceed the amount of insurance proceeds paid under policies maintained by the Owners by reason of the damage being repaired and restored, then such excess cost and expense shall be borne (subject to Section 12.5(b)) by the Owners in proportion to the cost and expense of repairing and restoring the improvements within each of their respective Parcels, which proportion shall be determined by the Board. For the purpose of determining such proportions, the cost and expense of repairing and restoring any Shared Facility shall be allocated by the Architect to the Owners in the proportion which shall be determined pursuant to Article 15 and Exhibit K-1 for the Limited Amenities Facilities and Exhibit K-2 as to all other Shared Facilities. In any such instance of repair or restoration which is to be performed pursuant to Section 12.1, if the Architect's estimate of the cost and expense of performing such repair or restoration (or, if a fixed cost construction contract shall have been executed providing for the performance of such repair and restoration, then the fixed costs so provided for, plus all other expenses estimated by the Architect) exceeds the amount of insurance proceeds paid by reason of the damage which shall have necessitated such repair and restoration, then the Association shall impose an Assessment upon each Owner for its proportionate share of the amount of such excess cost and expense which shall be borne as provided above in this Section 12.3(a), whereupon, each Owner shall so deposit with the Insurance Trustee the amount of such Owner's Assessment. If any Owner shall fail to pay, or, as the case may be, deposit, its Assessment in accordance with this paragraph, then said Owner's obligation to pay or deposit if required may be enforced, and the lien on said Owner's Parcel securing payment of the Assessment may be foreclosed, in accordance with Article 15 hereof.

(b) Limitations on Repair or Restoration of the Parcels. In the event that a casualty occurs, and all Buildings within the Podium are totally destroyed or Substantially Damaged, as hereinafter defined in Section 12.3, and seventy-five percent (75%) or more of the Owners vote not to proceed with repair or restoration of the Buildings ("**Casualty Decision**"), then the Buildings and Parcels, or any portion or portions thereof, shall not be repaired or restored. If, however, seventy-five percent (75%) or more of the Owners fail to make a Casualty Decision, then the Buildings shall be repaired and restored as provided in Section 12.1.

(c) Excess Repair and Restoration Funds. Upon completion of the repair and restoration in accordance with this Article of any damage to the Buildings, any insurance proceeds and any Assessments paid to the Insurance Trustee by reason of such damage in excess of the cost and expense of performing such repair and restoration shall be refunded to the Owners in the respective proportions by which each Owner contributed funds to the funds held by the Insurance Trustee, attributing to each Owner as its contribution of the proceeds paid into the Insurance Trustee fund by the insurer under any insurance policy maintained by such Owner, plus any Assessment paid by such Owner for such repair and restoration, or, in the absence of any Assessment or Owner insurance proceeds, in accordance with each Owner's portion of Shared Expenses.

(d) Substantial Damage. For the purpose of Section 12.3 and generally in this Declaration, Substantial Damage to all Buildings within the Podium shall be defined as follows: (i) If greater than or equal to 50% of the replacement value of the Buildings within the Podium is destroyed by such a casualty or loss occurring during the period commencing with the initial recordation of this Declaration and terminating thirty (30) years thereafter ("**Initial Period**"); (ii) If greater than or equal to 35% of the replacement value of the Buildings is destroyed by a casualty or loss occurring at any time during the period commencing with the end of the Initial Period and terminating ten (10) years thereafter ("**Second Period**"); (iii) If an amount greater than or equal to 25% of the replacement value of the Buildings is destroyed by a casualty or loss occurring at any time during the period commencing with the end of the Second Period.

12.4 Limitations on Repair or Restoration by the Association. In the event that any casualty or loss results in the total destruction or Substantial Damage to all Buildings within the Podium and seventy-five percent (75%) or more of the Owners properly make their Casualty Decision, then no repair or restoration shall take place, notwithstanding any obligation the Association might otherwise have to make such repairs under Section 12.1(b). The Owners shall make their Casualty Decision on or before the one hundred eightieth (180th) day following the date such casualty or loss occurred, and shall deliver written notice of the Casualty Decision to the other Owners, the Association and the Insurance Trustee. In the event an Owner does not make its Casualty Decision within said one hundred eighty (180) day time period, then the Owner shall be deemed to have exercised the option to proceed with the repair or restoration. In the event three or more Owners make a Casualty Decision in accordance with this Declaration, then any insurance funds available shall be paid to the Insurance Trustee for the benefit of the Owners and their respective mortgagees, as their interest may appear.

12.5 Legal Variances. If, to perform any repair or restoration provided for in Section 12.1, it shall be necessary to obtain a variance, special permit or exception to or change in zoning or other laws ("**variance**") in order to repair or restore the Buildings to its condition as described in the Building Plans immediately prior to such damage, and if an Owner believes it is possible to obtain the variance, and so notifies the other Owners in writing, then the other Owners shall cooperate to obtain the variance. If architectural and/or legal services shall be necessary to obtain

the variance, then the Owner responsible for requiring such variance shall retain an Architect and/or attorney to perform such services. The legal and architectural fees and all other costs and expenses of applying for and obtaining the variance, shall be considered as a part of the cost and expense of carrying out the repair and restoration. There shall be no obligation to commence any repair or restoration while an Owner is diligently attempting to obtain a variance under this Section.

If any repair or restoration to be performed pursuant to Section 12.1 hereof cannot be carried out in compliance with the law, and if the variance is not obtained pursuant to the immediately preceding paragraph within six (6) months of the date of the casualty, then necessary adjustments shall be made in the plans and specifications for such repair and restoration so that the Buildings, as repaired and restored, shall comply with law. However, no substantial reduction in the floor area contained within any Parcel or serving the Parcel shall be made without the consent of the Owner who shall be affected by such reduction. If said Owner shall be unwilling to so consent, and if it shall not be feasible to make such adjustments without substantially reducing said floor areas, then such repair and restoration shall not be performed pursuant to Section 12.1. Subject to the provisions of the following paragraph, any insurance proceeds, less costs and expenses paid or incurred in applying for the variance, shall be paid out by the Insurance Trustee to the Owners in proportion to the amount such proceeds shall have been paid by the insurers for damage to improvements within the respective Parcels of each of the Owners.

If, pursuant to the immediately preceding paragraph, repair and restoration is not to be performed pursuant to Section 12.1, then the improvements within each Parcel shall be demolished or secured, as the Owner of each Parcel shall elect, to such extent, if any, as may be necessary to comply with all laws, rules, orders, ordinances, regulations and requirements of any government or municipality or any agency thereof having jurisdiction. Such demolition or securing of the improvements, shall be mandatory and shall be performed by the Owner of the damaged Parcel, who shall be entitled to withdraw any insurance proceeds attributable to its policies of insurance held by the Insurance Trustee by reason of such damage. The cost and expense of such demolition and/or securing of improvements shall be allocated among the Owners in proportion with the cost and expense of demolishing and securing the improvements within each of their respective Parcels, except that for the purpose of determining such proportions, the cost and expense of demolishing or securing any Shared Facility located within one Parcel alone, shall be allocated to the Owners in the proportions which shall be determined pursuant to Article 15 with respect to the Shared Expenses for the Shared Facilities.

12.6 Disputes. If any dispute shall arise pursuant to the provisions of this Article XII then the dispute shall be settled by arbitration in accordance with Article XIX hereof, but the arbitrators shall have no power or authority to vary the provisions of this Article XII without the consent of each Owner effected by such dispute.

## 13. CONDEMNATION

13.1 Effect of Taking. The taking of portions of the Shared Facilities by the exercise of the power of eminent domain shall be deemed to be a casualty, and, subject to the terms of this Declaration, the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to Owners, the Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Association, a charge shall be made against a defaulting Owner in the amount of such Owner's award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

13.2 Determination Whether to Reconstruct. The effect of the taking shall be addressed in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty and the provisions of Article 12 shall apply as though fully set forth herein (including without limitation the provisions thereof relating to disbursements of excess proceeds and Assessments for deficits in proceeds), provided that (a) any decision to reconstruct or repair shall be to restore the affected improvements to the nearest whole architectural structure taking into consideration the nature and extent of the condemnation, and (b) the plans and specifications for the affected improvements may be modified as necessary, in the discretion of the Association, to effectuate such reconstruction and repair.

## 14. PROPERTY TAXES

14.1 Separate Assessment. Each Parcel Owner shall cooperate with the Association in efforts to have the County Property Appraiser issue separate Tax folio numbers to each of the Parcels within the Podium. Since the Podium consist of multiple Parcels (with Buildings thereon) containing separate ownership Parcels that are vertically located, in whole or in part, over and include a portion of the common land, the value of the land underlying the Parcels shall be allocated to and included in each Parcel in the same proportion that the assessed value of the improvements comprising each Parcel bears to the total assessed value of all improvements comprising all of the Parcels in the Podium, as determined by the County Property Appraiser, unless a different method of valuing the land underlying the Parcels in a project consisting of multiple parcel buildings is required by Legal Requirements (in which case, such method shall be followed). To the extent that separate Tax folios are created for each of the Parcels, each Owner shall be solely responsible for payment of the Tax bill issued with respect to its Parcel. If a separate Tax folio number is created for the Shared Facilities, Taxes assessed against the Shared Facilities shall be handled and paid for as provided in Section 14.5. If the Tax folio number for any Parcel erroneously includes portions of another Parcel, the Owners of such Parcels shall work cooperatively and in good faith to correct such error with the County Property Appraiser.

14.2 No Separate Assessment. In the event that separate Tax folios are not established for each of the Parcels, but rather any Parcel is included and taxed as part of another Parcel (such Parcels herein referred to as the "**Taxed Parcels**"), then the Tax values of each Taxed Parcel shall be determined in accordance with the following:

(a) Within ten (10) business days of any Parcel Owner's receipt of the real estate Tax bill for its Parcel that includes one or more other Parcels, such Owner shall endeavor to give notice to the Association and the other Owners of the Taxed Parcels, together with a copy of the Tax bill. While each Parcel Owner of a Taxed Parcel shall endeavor to provide such notice to the Association and the other Owners of the Taxed Parcels, the failure to do so shall not be a default hereunder since each Parcel Owner has the ability to obtain a copy of the applicable Tax bill through the County Property Appraiser's office. Under no circumstances shall the Association be obligated to determine whether any Parcels are Taxed Parcels; it being agreed that the obligations of the Association under this Section 14.2 shall arise if, and only if, a Parcel Owner provides the Association with a copy of the Tax bill that includes more than one Parcel. Following receipt of such Tax bill, the Association shall (i) engage a Florida licensed and MAI certified real estate appraiser or qualified tax consultant (herein, the "**tax consultant**") having at least ten (10) years' experience in real estate Tax protest work in the County to appraise the Taxed Parcels and provide the allocation of the Tax bill based on the relative value of the Taxed Parcels as provided in subsection (b) below, or (ii) allocate the Tax bill among the Tax Parcels based on (x) the square footage that each Owner's Parcel bears in relation to the overall square footage of all of the Parcels, (y) each Parcel's share of Shared Facilities Costs, or (z) another allocation method as may be reasonably determined by the Association with the assistance of a tax consultant.

(b) The tax consultant shall be engaged by the Association to value each of the Parcels included in the Taxed Parcels using the criteria that the County Property Appraiser is eligible to use under the Florida Statutes in determining ad valorem Tax values (and, if more than one method of valuation is available, the tax consultant shall select the method to be applied, in its reasonable discretion), and shall allocate the value of the Taxed Parcels, as disclosed in the applicable Tax bill, among the individual Parcels included in the Taxed Parcels. The tax consultant shall be directed to deliver a report to the Association indicating the allocation of value among the Parcels included in the Taxed Parcels and calculating (and setting forth) the percentage that each such valuation bears to the total value of the Taxed Parcels, as disclosed in the Tax bill (each such percentage being the "**Tax Value Percentage Share**"), together with an invoice showing the tax consultant's fees and expenses. The land value associated with the Taxed Parcels shall be allocated based on the value of each Taxed Parcel relative to the value of all Taxed Parcels, as determined by the tax consultant. Each Owner shall, within ten (10) business days following the Association's notice of such determination by the tax consultant, (i) remit to the County Tax Collector its portion of the Tax bill based on the Tax Value Percentage Share multiplied by the total Taxes then due for the Taxed Parcels under the Tax bill, (ii) provide to the Association and the other Taxed Parcel Owners evidence of such payment, and (iii) pay to the Association its portion of the

tax consultant's fee and expenses based on the Tax Value Percentage Share multiplied by the total tax consultant's fees and expenses. The Association shall not have any liability for any failure of the Taxed Parcels Owners to receive the benefit of discounts associated with the early payment of real estate Taxes or penalties, interest or other charges that may accrue on Taxes for the Taxed Parcels due to the foregoing valuation process or otherwise, all of which shall be shared among the Taxed Parcel Owners based on the same allocation as the Tax Value Percentage Share provided herein; provided, however, that any loss of discounts, penalties, interest or other charges resulting from any Taxed Parcel Owner's failure to pay or perform its obligations when required hereunder shall be borne solely by such defaulting Taxed Parcel Owner.

(c) As soon as reasonably possible (but in any event no later than five (5) business days) following any Parcel Owner's receipt of the TRIM notice from the taxing authority for its Parcel that includes one or more other Parcels, such Owner shall endeavor to give notice to the Association and the other Owners of the Taxed Parcels. While each Parcel Owner of a Taxed Parcel shall endeavor to provide such notice to the Association and the other Owners of the Taxed Parcels, the failure to do so shall not be a default hereunder since each Parcel Owner has the ability to obtain a copy of the applicable TRIM notice through the County Property Appraiser's office. The Owners of the Taxed Parcels shall reasonably cooperate with each other and work in good faith to enable the timely protest of the valuation of the Taxed Parcel if any Taxed Parcel Owner desires to protest same, provided that the costs shall be paid initially by the Owner(s) electing to pursue the protest, but deducted from any refund of Taxes as hereinafter provided. In the event that any Taxed Parcel Owner(s) file a timely protest of the valuation of the Taxed Parcel as disclosed in the TRIM notice prior to issuance of the Tax bill, the Taxed Parcel Owners and the Association shall still undertake the valuation procedure outlined above without delay, and in the event of any refund of Taxes based on the Tax protest, such amount shall be shared among the Owners of the Taxed Parcels based on the same allocation as the Tax Value Percentage Share provided for above, after deducting the reasonable costs of the protest.

(d) Notwithstanding the foregoing, the Taxed Parcels Owners (or any of them) shall have the right to request a "split" or "cutout" of its respective Taxed Parcel from the other Taxed Parcels pursuant to Section 197.373 of the Florida Statutes (or any successor or other provision), as amended, or any rules promulgated with respect to same, and to obtain a separate Tax value and assessment for each such Taxed Parcel. Any Taxed Parcel Owner so requesting a split or cutout of its Taxed Parcel shall provide a copy of such request to the Association and the other Taxed Parcel Owners simultaneously with the delivery of same to the County Tax Collector. If any Taxed Parcel Owner is successful in obtaining from the County Tax Collector and/or Property Appraiser the amount of the assessment on its

Taxed Parcel, such Taxed Parcel Owner shall notify the Association and the Owners of the other Taxed Parcels. The determination by the County Property Appraiser shall be conclusive with respect to the Tax value and assessment for the Taxed Parcel in question absent manifest error (notwithstanding any different determination or valuation by a tax consultant), and the Taxed Parcel Owners shall be entitled to pay Taxes for their respective Taxed Parcel based on such determination. Should any Taxed Parcel Owner successfully obtain from the County Tax Collector and/or Property Appraiser separate Tax values and/or assessments for one or more Taxed Parcels, the Taxed Parcel Owners shall thereafter pursue a determination of the Tax values and assessments for each of the Taxed Parcels under this subsection 14.2(d) prior to the Association commencing the allocation procedures through the tax consultant set forth above, unless the Association reasonably determines that separate allocation of values and/or assessments from the Property Appraiser for two or more of the Taxed Parcels may be necessary.

14.3 Reference to Taxes in Other Documents. For purposes of this Declaration and any documents or instruments, such as leases and Condominium Associations, referring to the allocation of Taxes (or any component thereof) pursuant to this Declaration, Taxes allocated to a portion of the Podium shall mean those Taxes assessed and payable with respect to each Parcel as if each such Parcel are or were separately assessed and taxed, and if at any time there are no separate assessments, Taxes shall be allocated pursuant to the allocations and in the manner set forth in Section 14.2. Notwithstanding anything to the contrary contained in this Declaration, except for Taxes assessed against the Shared Facilities, Taxes assessed against or relating to any Parcel (whether through separate Tax folio numbers or the allocations set forth herein) shall not be included in the Shared Facilities Costs, and each Owner shall be obligated to pay such Taxes with respect to its Parcel without contribution from any other Owner.

14.4 Failure to Pay Taxes. With respect to any Taxes obligated to be paid pursuant to this Article 14, if an Owner shall fail to pay any portion of the Taxes or any other charge levied against that Owner's Parcel prior to the date such Taxes become delinquent, and if (i) such unpaid Taxes are a lien or encumbrance on any portion of the Podium not owned by the delinquent Owner and/or on any Project Facilities serving any other Parcel, and (ii) any lawful authority would thereafter have the right to sell Tax certificate(s) or issue Tax warrants or deed(s), or (iii) any lawful authority would thereafter have the right to otherwise foreclose against such portion of the Podium, or (iv) any lawful authority would thereafter have the right to impair or extinguish any easement benefitting any Owner by reason of such nonpayment, then any affected Owner shall have the following rights (but not the obligation) upon the expiration of ten (10) days after notice of non-payment to the defaulting Owner (or such shorter period of time, but not less than three (3) days, if such Taxes have become delinquent): (a) to pay such Taxes, or share thereof, together with any interest and penalties thereon, whereupon the Owner obligated to make such payment shall, upon demand, reimburse such affected Owner who made such payment for the amount thereof, and/or (b) to pursue any and all rights and remedies available at law or in equity against the delinquent Owner failing to make such payment. Interest shall accrue on the amount of any such reimbursement obligation not paid within ten (10) days after demand at the Default Rate.

14.5 Taxes Against Shared Facilities. It is intended that any and all Taxes against the Shared Facilities shall be (or have been, because the purchase prices of the Parcels and Structures have already taken into account the value of the Shared Facilities), assessed against and payable as part of the Taxes of the applicable Parcels within the Podium. However, in the event that, notwithstanding the foregoing, any such Taxes are assessed directly against the Shared Facilities, the Association shall have the exclusive right to protest or appeal same (or cause same to be protested or appealed) including Taxes on any improvements and any personal property located thereon. In such event, all such Taxes (and any costs of any protest or appeal thereof) shall be included as part of the expenses of the Shared Facilities which are levied by the Association against each of the Parcels and shall be shared among the Parcels based on the assessed or appraised value of each Parcel relative to the total assessed or appraised value of all Parcels, as determined by the County Property Appraiser (with respect to Parcels that have separate Tax folio numbers or assessed values) and/or a tax consultant selected by the Association in accordance with the valuation process set forth above (with respect to Parcels which are not separately assessed). Further, if Taxes are assessed directly against the Shared Facilities, without limiting the terms of this Declaration, Shared Facilities Costs may include such amounts deemed necessary by the Association to provide it with sufficient funds to pay such Taxes at least thirty (30) days before the date the same are due.

## 15. PROVISIONS REGARDING SHARED FACILITIES COSTS

15.1 Maintenance Expenses. All management, maintenance, repairs and other work and obligations performed by the Association pursuant to this Declaration, including, without limitation, Article 6 hereof, or with respect to the Podium Facilities shall be paid for through Assessments (either general or special) imposed in accordance herewith. In furtherance thereof, the Association shall have the power to incur, by way of contract or otherwise, expenses general to all or applicable portions of the Podium, or appropriate portions thereof, and the Association shall then have the power to allocate portions of such expenses as Assessments among the Owners and/or the Condominium Associations, based on an equitable pro rata share determined by the Association in its reasonable discretion or as otherwise provided in this Declaration or any Supplemental Declaration. The portion so allocated to a Condominium Association shall be deemed a general expense thereof, collectible through its own assessments. No Owner may waive or otherwise escape liability for Assessments to the Association by non-use (whether voluntary or involuntary) of the Shared Facilities or abandonment of the right to use same. Notwithstanding anything herein contained to the contrary, the Association shall be excused and relieved from any and all maintenance, repair and/or replacement obligations under this Article to the extent that the funds necessary to perform same are not available through the Assessments imposed and actually collected. The Association shall have no obligation to fund and/or advance any deficit or shortfall in funds needed by the Association in order to properly perform the maintenance, repair and/or replacement obligations described herein.

15.2 Ongoing Declarant Obligations. Without limiting the generality of the obligations of the Association, the Association shall assume or otherwise be responsible for Declarant's and its affiliates' ongoing responsibilities to the County, the City and any other Governmental Authority with respect to the Podium as a whole or more than one Parcel thereof or the Shared Facilities, including without limitation such obligations under the Project Encumbrances (except with respect to the obligations under the Project Encumbrances that are the responsibility of an

Owner thereunder or under this Declaration, which shall remain with the applicable Owner). Any and all costs and/or expenses incurred by the Association in assuming and/or performing any of such obligations shall be part of the Shared Facilities Costs assessed against all Parcel Owners (including Unit Owners) in the manner provided by this Article. In the event of doubt as to whether obligations under the Project Encumbrances (or any particular obligation thereunder) is the responsibility of the Association or any Owner, the decision of the Association in such regard shall be final and conclusive, absent manifest error.

15.3 Assessment to the Association; Allocations; Budget. Declarant (and Rahn and each other Owner, except for the CDD, or party joining in any Supplemental Declaration) hereby covenants and agrees, and Rahn and each Owner, except for the CDD (including, without limitation, a Unit Owner) or any portion thereof, by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, and each Condominium Association, by its agreement to administer a Submitted Parcel, shall be deemed to covenant and agree, to pay to the Association all Assessments and all charges for the operation and insurance of, and for payment of utilities and all other expenses (and real estate and personal property Taxes) allocated or assessed to or through or otherwise incurred by the Association, of and/or for the ownership, maintenance, repair, replacement, management, operation and insurance of, and the provision of services to, the Shared Facilities in accordance with the Podium Standard, the establishment of reasonable reserves for the replacement of same, the establishment of a fund to pay legal costs and expenses of the Association, capital improvement Assessments, special Assessments and all other charges and Assessments hereinafter referred to or imposed by the Association in connection with the repair, replacement, improvement, maintenance, management, operation and insurance of, and the provision of services to, and taxes on, the Shared Facilities other than a portion of such expenses which the Association determines should be reasonably allocated as Shared Amenities Costs whereupon such Shared Amenities Costs shall be separately assessed as provided in Section 15.3(e) (collectively, the "**Shared Facilities Costs**"), all such Assessments to be fixed, established and collected from time to time as herein provided.

(a) Shared Facilities Costs or Shared Expenses. The Shared Facilities Costs or Shared Expenses shall also be deemed to include any and all costs and expenses for Maintenance of the Shared Facilities (including the Limited Shared Facilities) and all costs relating to or incurred by the Association under the Project Encumbrances, reasonable rent incurred by the Association (whether directly or by reimbursement to third party managers) for property management offices located within or outside the Podium and used or occupied by the Association or other property manager(s) providing services to the Shared Facilities, any and all costs and expenses (including without limitation reasonable attorneys' fees in all legal proceedings commenced by or against the Association) incurred by the Association in connection with the performance of its obligations under this Declaration, a commercially reasonable management fee payable to the Association (or its designee) and, in connection with any construction performed by or under the supervision of the Association, a construction administration fee in the amount provided in this Declaration to reimburse the Association for such

services. Without limiting the generality of the foregoing, Shared Facilities Costs may include the following:

(i) to the extent applicable, any lease agreement and other payments required under lease agreements for artwork, sculptures, and/or art installations within the Shared Facilities, if same is leased by the Association rather than being owned by the Association;

(ii) any and all costs, fees and expenses in connection with any Management Agreement entered into by the Association, including, without limitation, management, branding and/or licensing fees and any and all costs associated with operating, managing, maintaining, repairing the Podium and providing services at the Podium in accordance with the Podium Standard;

(iii) to the extent the Association enters into any valet parking agreements for off-site parking services, the costs associated with same,

(iv) the costs and expenses of any stormwater credits and/or maintaining, repairing and/or replacing as necessary any public improvements (such as, without limitation, sidewalks, medians, landscaping, open space, etc.) located upon or adjacent to (even if beyond the legal boundaries of) the Podium, if any, and/or any art, mural, sign, historic plaque and/or other decorative feature of the Podium, existing and/or to the extent required, maintained or imposed by the Development Approvals and/or Project Encumbrances and/or any agreement, permit, approval or other instrument recorded against the Podium or in connection with, or as a condition of obtaining, the permits and/or approvals for development and operation of the Podium;

(v) costs resulting from damage to the Podium or any portion thereof which are necessary to satisfy any deductible and/or to effect necessary repairs which are in excess of insurance proceeds received as a result of such damage;

(vi) if applicable, any costs in connection with the Association's obtaining any software and/or other technology for the integrated provision of services and/or access to the front desk, concierge service, maintenance personnel, and/or any other shared facilities and/or shared services available to Owners within the Podium;

(vii) any and all costs, expenses, obligations (financial or otherwise) and/or liabilities running with the Land, including, without limitation, those arising, directly or indirectly, pursuant to the Project Encumbrances and/or any restriction, covenant, condition, limitation, agreement, reservation and easement now or hereafter recorded in the public records and/or required by

a governmental or quasi-governmental agency, all of which are expressly assumed by the Association;

(viii) any and all costs, expenses, obligations and/or liabilities which may arise pursuant to the CDD Documents (except only for those which are assessed directly against an Owner or a Unit Owner by the CDD) and excluding the CDD obligations to the Association under this Declaration;

(ix) any ad valorem taxes assessed against Shared Facilities, if any; and

(x) to the extent that, at the request of the Association or under the express provisions of this Declaration, any Owner performs services and incurs costs or expenses in connection with the maintenance, management, repair, operation of the Shared Facilities that would constitute Shared Facilities Costs if incurred by the Association (including, without limitation, personnel payroll costs for property management services; accounting engineering and security services; operators; public/recreational area attendants; concierge services; etc.), and charges the Association for such costs and expenses, which costs may be determined by such Owner in its reasonable discretion, then the aggregate amount of such charges.

(b) Reserve; Reserve Studies and Inspections. The Association shall establish a capital expense reserve account for repairs, replacements and additions for the Shared Facilities in accordance with Project Standard, the cost of which is normally capitalized under generally accepted accounting procedures. No later than the end of the third (3rd) full year of operations of the Shared Facilities and thereafter from time to time and at least once every three (3) years, the Association will commission a third-party study to evaluate the reserve obligations for the Shared Facilities and the adequacy of the contributions to the reserve. In addition, the Association will obtain the following types of inspections and studies, as to the Shared Facilities, substantially around the time that such inspections or studies are to be obtained for any Parcel: (i) a report equivalent to a milestone inspection described under Section 553.899, Florida Statutes, and (ii) a report substantially equivalent to a structural integrity reserve study described under Section 718.112(2)(f), Florida Statutes, as and to the extent applicable to any Parcel. The amount to be reserved for an item is determined by most recent reserve studies for structural items or other items to the extent included therein. If an amount to be reserved for an item is not in the most recent reserve studies or any reserve study has not been completed, the amount of reserves will be computed on a formula based upon the estimated remaining useful life and the estimated replacement cost of the reserve item. The Association may adjust replacement and reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. The cost of any such study or inspection obtained as set forth in this Section 15.3(b) shall be a

Shared Facilities Cost paid for by Owners or, as applicable, a Shared Amenities Cost to be paid by the Specified Owners for such Limited Amenities Facilities.

(c) Determination of Shared Facilities Costs and Fixing Assessments Therefor; Budget. The Association shall, from time to time, determine the amount of Assessments payable by each Owner (including, without limitation, a Unit Owner) to meet the Shared Facilities Costs and/or Shared Amenities Costs, as applicable, and allocate and assess such costs among the Owners (including, without limitation, Unit Owners) in accordance with the provisions of this Declaration, and prepare a budget of estimated revenues and expenses for the Shared Facilities in accordance with such determinations. The budget for each year will include (i) the estimated Shared Facilities Costs and/or Shared Amenities Costs, as applicable, for such year, (ii) amounts in the reserve account and amounts required for capital expenditures and deferred maintenance, and (iii) allocation of costs and expenses to the Parcels as set forth in subsection (e) below.

The Association shall advise each Owner (including, without limitation, a Unit Owner), within thirty (30) days following completion of the budget, in writing of the amount of the Assessments payable by each of them as determined by the Association as aforesaid and shall furnish copies of the budget, on which such Assessments are based, to each Owner (including, without limitation, a Unit Owner), and (if requested in writing) to their respective mortgagees. The Shared Facilities Costs and/or Shared Amenities Costs, as applicable, shall include the expenses of and reserves the operation, maintenance, repair and replacement of the Shared Facilities, costs of carrying out the duties of the Association and any other expenses designated as Shared Facilities Costs and/or Shared Amenities Costs, as applicable, by this Declaration or by the Association. Incidental income to the Association or its designee, if any, and/or initial contributions (whether collected as working capital contributions or otherwise) may, subject to Legal Requirements, be used to pay regular or extraordinary Shared Facilities Costs and/or Shared Amenities Costs, as applicable, to fund reserve accounts, or otherwise as the Association shall determine from time to time and need not be restricted or accumulated.

(d) Charge Upon Parcel. Each annual Assessment, capital improvement Assessment and special Assessment, together with such interest thereon and costs of collection thereof (including any costs of any collection agency) and costs of protecting the lien, shall be a charge on each Parcel, and shall be a continuing lien upon each Parcel and upon all improvements thereon, from time to time existing as herein provided. Each such Assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of all persons who own any fee interest in any Parcel (or any portions thereof), at the time when the Assessment fell due and all subsequent Owners and fee owners and Unit Owners thereof until paid, except as provided in Section 15.8. Reference

herein to Assessments shall be understood to include reference to any and all of said charges whether or not specifically mentioned. To the extent required by Florida law, the Association shall not have a lien against the CDD Parcel.

(e) Share of Shared Facilities Costs and Shared Amenities Costs. Shared Facilities Costs allocable to the Shared Facilities (including for Limited Shared Facilities) shall be allocated among the Owners as set forth on Exhibit K-2, subject to reasonable adjustments by the Association from time to time. Shared Amenities Costs allocated to the Limited Amenities Facilities shall be allocated to the Specified Owners of the Limited Amenities Facilities as set forth on Exhibit K-1, subject to reasonable adjustments by the Association from time to time.

(f) Allocations. The foregoing allocations under subsection (e) shall be subject to reasonable adjustments by the Association and/or Owners impacted by such allocation from time to time (based on, inter alia, relative or intensity of use of the Shared Facilities by the Owners and their respective Permitted Users, actual consumption or expense and/or other relevant factors), which adjustments shall be made by Supplemental Declaration executed by the Association and/or Owners impacted by such allocation. Notwithstanding the foregoing or the allocations set forth above, (a) to the extent any utility or other charges are part of the costs attributable to the Shared Facilities and those charges are separately metered to particular Parcels or otherwise can reasonably be allocated to the particular Parcels based upon actual consumption as determined by the Association's engineer or consultant, then in such event, such utility or other charges shall be allocated based upon actual consumption, rather than by the percentage allocations described above, (b) premiums for insurance policies purchased by the Association pursuant to this Declaration shall be allocated among the Parcels as provided in Section 11.5, (c) if Taxes are assessed directly against the Shared Facilities (rather than being paid as part of the Taxes applicable to the other Parcels), Taxes with respect to the Shared Facilities shall be allocated and assessed as provided in Section 14.5, (d) if special elements or architectural features added to a Parcel increase the Shared Facilities Costs and/or Shared Amenities Costs, as applicable, in excess of the costs that would be incurred without such elements or features, then in such event, such excess costs shall be allocated to and paid solely by the Parcel Owner whose Parcel contains such special element or architectural feature, (e) with respect to personnel providing services in connection with the maintenance, management and operation of the Shared Facilities who also provide services for the benefit of particular Parcel(s) or portions thereof that are not part of the Shared Facilities, the costs and expenses of such personnel in providing such services to such Parcel(s) shall be allocated to such Parcel(s), and (f) if, under any other provision of this Declaration, any other costs are allocated to the Parcel Owners (or any one or more of them) on a basis other than the manner set forth in this Section, then such costs shall be

allocated by the Association to such Parcel Owners as so provided in such other provisions. All such charges, premiums, Taxes and other costs nevertheless are and shall remain Assessments (irrespective of how same are allocated among the Parcels), subject to the Association rights and remedies set forth in this Article 4 in the event any Owner fails to pay same as required herein.

In the event that any then-existing Parcel is subdivided into more than one Parcel (other than by virtue of submission to the condominium form of ownership), which may be done by Supplemental Declaration executed by the applicable Parcel Owner and the Association alone, then the percentage allocated to the subdivided Parcel shall remain the same, but the portions thereof allocated to each of the subdivided portions of the Parcel shall equal that of the Parcel prior to subdivision, and shall otherwise be determined by the Association in its sole and absolute discretion.

To the extent that a Parcel is a Submitted Parcel, then the Assessment obligation of the Submitted Parcel shall be further allocated among the Units therein, with each Unit bearing the percentage of the Parcel's Assessment obligation equal to that Unit's percentage ownership in the applicable Submitted Parcel (e.g., based on percentage interest in common elements for a condominium). To the extent that only certain Units within a Parcel that is a Submitted Parcel are obligated to pay all or a portion of an Assessment, then the Assessment obligation responsibility for such Units shall be allocated among the applicable Units responsible for such payment only, with each applicable Unit bearing the percentage of the Assessment obligation equal the portion of the Assessment obligation which is equal to a fraction which has as its numerator, the applicable Units "Unit Area" as set forth in the Condominium Association of which the Unit is a part and the denominator of such fraction shall be equal to the aggregate of all of the "Unit Areas" of all similarly situated Units that are also responsible for such payment.

15.4 Levying Assessments/Date of Commencement. The Association shall budget and adopt Assessments for the Association's general expenses for the Shared Facilities Costs and/or Shared Amenities Costs, as applicable, based in part, upon the Association's reasonable projections of the intensity of use of the applicable Shared Facilities for the period subject to the budget. In addition to the regular and capital improvement Assessments which are or may be levied hereunder, the Association shall have the right to collect reasonable reserves for the replacement of the applicable Shared Facilities (or any components thereof) and to levy special Assessments to fund expenses which the Association does not reasonably anticipate having sufficient funds to cover, or special Assessments or impose other charges against an Owner(s) to the exclusion of other Owners for the repair or replacement of damage to any portion of the applicable Shared Facilities (including, without limitation, improvements and landscaping thereon) caused by the misuse, negligence or other action or inaction of an Owner or its Tenants or Permitted Users. Any such special Assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure procedures (except as to the CDD Parcel during the period of time the CDD is the Owner of the CDD Parcel) and late charges and interest. Any special Assessment levied hereunder shall be due within the time specified by the Association in the action imposing such Assessment. Further, funds which

are necessary or desired by the Association for the addition of capital improvements (as distinguished from repairs, maintenance, replacement and/or relocation) relating to the applicable Shared Facilities and which have not previously been collected as reserves or are not otherwise available to the Association (other than by borrowing) shall be levied by the Association as Assessments against the applicable Parcel Owners entitled to use of (or benefiting from) the particular component of the applicable Shared Facilities.

The annual Assessments provided for in this Article shall commence on the date of recordation of this Declaration in the Public Records of the County and shall be applicable through December 31 of such year. Each subsequent annual Assessment shall be imposed for the year beginning January 1 and ending December 31. The annual Assessments shall be payable in advance in monthly installments, or in annual, semi- or quarter-annual installments if so determined by the Association (absent which determination they shall be payable monthly). The Assessment amount (and applicable installments) may be changed at any time by the Association from that originally stipulated or from any other Assessment that is in the future adopted by the Association. The original Assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, at any appropriate time during the year), but the amount of any revised Assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year. The Association shall fix the date of commencement and the amount of the Assessment against the Owners for each Assessment period, to the extent practicable, at least sixty (60) days in advance of such date or period, and shall, at that time, prepare a roster of the Owners, Parcels and Assessments applicable to each Owner thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the Assessment shall thereupon be sent to every Owner subject thereto twenty (20) days prior to payment of the first installment thereof, except as to special Assessments. In the event no such notice of the Assessments for a new Assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

15.5 Special Assessments. In addition to the regular and capital improvement Assessments and capital special Assessments which are or may be levied hereunder, the Association shall have the right to levy special Assessments against an Owner(s) or Unit Owner(s) to the exclusion of other Owners or Unit Owner(s) (a) for the repair or replacement of damage to any portion of the Shared Facilities (including, without limitation, improvements and landscaping thereon) or Shared Infrastructure caused by the misuse, negligence or other action or inaction of an Owner or Unit Owner , its tenants and each of their respective guests and invitees, and (b) for the costs of work performed by the Association in accordance with Section 6 of this Declaration (together with any surcharges collectible thereunder). Further, the Association shall have the right to levy special Assessments to obtain funds for a specific purpose(s) which is of a non-recurring nature, for which no reserve funds (or inadequate reserve funds) have been collected or allocated, and which is not the appropriate subject of a capital improvement Assessment and/or for any other purpose (including, without limitation, to raise operating funds). Any such special Assessment shall be subject to all of the applicable provisions of this Section including, without limitation, lien

filing and foreclosure procedures (except as to the CDD Parcel during the period of time the CDD is the Owner of the CDD Parcel) and late charges and interest. Any special Assessment levied hereunder shall be due within the time specified by the Association.

15.6 Capital Improvement Assessments. Funds which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance relating to the Shared Facilities and which have not previously been collected as reserves or are not otherwise available to the Association other than by borrowing) may be levied by the Association as Assessments. Any such capital improvement Assessment shall be subject to all of the applicable provisions of this Section including, without limitation, lien filing and foreclosure procedures (except as to the CDD Parcel during the period of time the CDD is the Owner of the CDD Parcel) and late charges and interest. Any capital improvement Assessment levied hereunder shall be due within the time specified by the Association.

15.7 Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Association. If the Assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such Assessments (or installments) shall become delinquent and shall, together with late charges, interest on the late amount at the Default Rate and the cost of collection thereof (including any costs of any collection agency) and any costs for protection of the lien, as herein provided, thereupon become a continuing lien on the Parcel and all improvements thereon which shall bind such property in the hands of the then Owner, the Owner's heirs, personal representatives, successors and assigns (except during the period of time the CDD is the Owner of the CDD Parcel), the Association shall not lien CDD Parcel nor attempt to foreclose on CDD Parcel). Except as provided in Section 15.8 to the contrary, the personal obligation of an Owner to pay such Assessment shall pass to such Owner's successors in title and recourse may be had against either or both. If any installment of an Assessment is not paid within ten (10) days after the due date, at the option of the Association a late charge not greater than the amount of twenty-five percent (25%) of such unpaid installment may be imposed (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges; provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid) and the Association may bring an action at law against Rahn or the Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Parcel of an Owner on which the Assessments and late charges are unpaid and all improvements thereon, may foreclose the lien against the applicable portion of the Parcel and all improvements thereon on which the Assessments and late charges are unpaid in like manner as foreclosure of a mortgage lien, or may pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same (including costs of any collection agency), in such action shall be added to the amount of such Assessments, late charges and interest secured by the lien, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels (and including fees incurred in bankruptcy or probate proceedings, if applicable). Failure of the Association (or any collecting entity) to send or deliver bills or notices of Assessments shall not relieve Owners from their obligations hereunder. The Association shall

have such other remedies for collection and enforcement of Assessments as may be permitted by applicable law. All remedies are intended to be, and shall be, cumulative.

15.8 Subordination of the Lien. The lien of the Assessments provided for in this Article shall be subordinate to real property Tax liens, CDD assessment liens, and the lien of any mortgage on a Parcel; provided, however, that any such mortgage lender when in possession, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid assessment which cannot be collected as a lien against any Parcel by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Parcels subject to assessment by the Association, including the Parcels as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

15.9 Curative Right. Rahn and each Owner of any Parcel by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to acknowledge and agree, that it shall be the obligation of the Association to maintain, repair and replace the Shared Facilities in accordance with the provisions of this Declaration. Notwithstanding anything herein contained to the contrary, in the event (and only in the event) that the Association fails to maintain the applicable Shared Facilities as required under this Declaration, any affected Owner shall have the right to perform such duties; provided, however, that, except in the case of an emergency (in which case such notice as is reasonable under the circumstances shall be required), an Owner may exercise the above self-help right if, and only if, (i) such failure continues for a period of thirty (30) business days following written notice to the Association of the default; provided, however, that if the cure cannot reasonably be completed within said thirty (30) day period, then the Association shall have such additional time as may be reasonable under the circumstances to cure the default so long as it has commenced the cure within said thirty (30) day period and thereafter diligently pursues same to completion, and (ii) the Association receives an additional written notice after the expiration of the cure period referenced in clause (i) which additional notice shall include the contents of the original notice and a cover letter to the Association stating the following at the top of the first page in bold face capital letters (14 pt font): "FAILURE TO CURE THE DEFAULT SET FORTH IN THIS NOTICE WITHIN TEN (10) CALENDAR DAYS FROM THE DATE HEREOF WILL RESULT IN AN EVENT OF DEFAULT BY THE ASSOCIATION UNDER SECTION 15.9 OF THIS DECLARATION AND GIVE THE UNDERSIGNED THE RIGHT TO SELF-HELP". To the extent that an Owner must undertake maintenance responsibilities as a result of the Association's failure to perform same, then in such event, but only for such remedial actions as may be necessary, the Owner shall be deemed vested with the Assessment rights of the Association hereunder for the limited purpose of obtaining reimbursement from the Owners for the costs of performing such remedial work and the easement rights of the Association for the limited purpose of carrying out such remedial actions.

15.10 Priority of Assessments. Notwithstanding anything herein contained to the contrary, any Assessment sums collected shall be applied first to the Assessments of the Association, and then to those of the collecting Condominium Association.

15.11 Declarant's Assessments. Notwithstanding any provision to the contrary contained in this Declaration, any Declarant (or any of Declarant's Affiliates) is the Owner of any Parcel or Unit (or any portion thereof), Declarant shall have the option, in its sole discretion, to (a) pay Assessments on the Parcels and/or Units owned by it in like manner as paid by other Owners and/or Unit Owners; or (b) not paying Assessments on Parcels and/or Units owned by such Declarant, and in lieu thereof, funding any resulting deficit in the Shared Facilities Costs and/or Shared Amenities Costs, as applicable, (exclusive of any capital costs and reserves) not produced by Assessments receivable from Owners and/or Unit Owners other than such Declarant and any other income receivable by the Association which is expressly required to be used to offset Shared Facilities Costs and/or Shared Amenities Costs, as applicable. The deficit to be paid under option (b) above shall be the difference between (i) actual Shared Facilities Costs and/or Shared Amenities Costs, as applicable, incurred (exclusive of capital improvement costs and reserves) and (ii) the sum of all monies receivable by the Association (including, without limitation, Assessments, interest, late charges, fines and incidental income which is expressly required to be used to offset Shared Facilities Costs and/or Shared Amenities Costs, as applicable) and any surplus carried forward from the preceding year(s). Each Declarant may from time to time change the option stated above under which such Declarant is making payments to the Association by written notice to such effect to the Association. When all Parcels and Units are sold and conveyed to purchasers by such Declarant (or any of Declarant's Affiliates), neither such Declarant, nor its Affiliates, shall have further liability of any kind for the payment of Assessments, deficits or contributions.

15.12 Financial Records. The Association shall maintain financial books and records showing its actual receipts and expenditures with respect to the maintenance, operation, repair, replacement, alteration and relocation of the Shared Facilities, including the then current budget and any then proposed budget (the "**Facilities Records**"). The Facilities Records need not be audited or reviewed by a Certified Public Accountant; provided that the Association or Management Company may obtain an audit or review, and the cost of any such audit or review will be a Shared Facilities Cost and/or Shared Amenities Costs, as applicable. In addition to the rights of inspection otherwise set forth in this Declaration, any Owner shall have the right to inspect the Facilities Records once per calendar year at the offices of the Association, upon not less than thirty (30) days' prior written notice to the Association, provided that any such inspection shall be limited to the Facilities Records pertaining to the immediately preceding and current calendar year only (and not any other calendar years).

> Within a reasonable period of time following the end of the fiscal year, the Association shall prepare and complete, or contract for the preparation and completion of a financial report for the preceding fiscal year (the "**Financial Report**"). Within a reasonable period of time after the final Financial Report is completed by the Association, or received from a third party, the Association shall provide notice of the availability of the most recent Financial Report to each Owner (and Unit Owner) and the means by which to access same and shall provide a copy of the most recent Financial Report (which may be so provided electronically and/or by mail or hand delivery) to the Owners.

15.13 Estoppel Certificates. Upon the request of any Owner or its mortgagee, the Association shall furnish an estoppel certificate confirming such information as may be reasonably

requested by such parties, such as the amount and status of payment of Assessments, whether this Declaration has been amended or supplemented (and, if so, identifying the amendments and/or supplements), and whether such Owner or its Permitted Users are in compliance with this Declaration. The estoppel certificate shall be based on the actual knowledge of the Association without independent investigation. The Association may establish a reasonable fee to be charged to reimburse it for the cost of preparing any certificates hereunder.

15.14 The Association Consent; Conflict. The provisions of this Article 15 shall not be amended, modified or in any manner impaired and/or diminished, directly or indirectly, without the prior written consent of the Association. In the event of any conflict between the provisions of this Article 15, and the provisions of any other Section of this Declaration addressing the same subject matter, the provisions of this Article 15 shall prevail and govern.

15.15 Institutional Mortgages. Notwithstanding the foregoing provisions of this Article 15, the liability of an Institutional Mortgagee or its successor or assignees who acquire title to a Parcel by foreclosure or by deed in lieu of foreclosure for the unpaid Assessments (or installments thereof) that became due prior to the Institutional Mortgagee's acquisition of title is limited to the lesser of:

(a) The Parcel's unpaid Common Assessments and/or Assessments which accrued or came due during the twelve (12) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or

(b) One percent (1%) of the original mortgage debt.

The provisions of this Section 15.15 shall not apply unless the Institutional Mortgagee joins the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the Institutional Mortgagee.

The Institutional Mortgagee or its successor or assignees acquiring title shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a Claim of Lien against the Parcel and proceed in the same manner as provided in this Article XV for the collection of unpaid Assessments. An Institutional Mortgagee acquiring title to a Parcel as a result of foreclosure or deed in lieu thereof shall not, during the period of its ownership of such Parcel, whether or not such Parcel is occupied, be excused from the payment of Assessments coming due during the period of such ownership.

15.16 Each Claim Separate. Each claim arising under this Declaration shall be separate and distinct, and no defense, set-off or counterclaim arising against the enforcement of any lien or other claim shall thereby be or become a defense, setoff or counterclaim against the enforcement of any other lien or claim.

## 16. SELECTION OF CONTRACTORS OR THE ARCHITECT

16.1 Selection of Contractor. When any repair, restoration, reconstruction, demolition, removal of debris or filling required to be performed pursuant to Article 12 and/or Article 15 is to be funded with funds attributable to the insurance policies, condemnation awards and/or Assessments of a single Owner, such Owner may choose the contractor who shall perform such work, provided that the Architectural Committee shall have the right to approve any such contractor chosen by the Owner, which approval shall not be unreasonably withheld, conditioned or delayed. In each event wherein a contractor is needed to perform any repair, restoration, demolition, removal of debris or filling required to be performed pursuant to Article 5, Article 12, and/or 13, and such work is to be funded under the terms of this Declaration with funds attributable to the insurance policies, condemnation awards and/or Assessment of more than one Owner, then the Association shall invite all of the contractors nominated by itself to submit bids for the work to be performed. The terms of bidding shall require that all bids be for a fixed cost and submitted at a particular place or places by a specified time and date. The Association shall allow the contractors a reasonable time, following the announcement of the invitation to bid, to review any plans and specifications and to prepare estimates. The conditions of bidding shall require, unless such requirement is waived by the Association, that the successful contractor post a performance bond and a labor and material payment bond, issued by a company authorized to engage in the business of issuing such bonds in the State of Florida (and which is acceptable to the Association), in an amount equal to the amount of such contract. The bond shall name the Association and Owners, and the holder or holders of the first mortgage upon each Parcel or upon the leasehold interest of such lessee, as joint and individual obligees, shall provide that all amounts which may be payable to the obligees thereunder shall be paid to the Insurance Trustee, and shall be conditioned on the completion of and payment for the work to be performed. Unless the Owners on whose behalf such work is to be performed otherwise instructs the Association in writing, the Association shall select the lowest bidding responsive and responsible contractor, and shall, in the name of and for the account of the Owners to be benefited by the work to be performed, enter into a construction contract with such contractor providing for the completion of and payment for such work.

16.2 Selection of the Architect. The Architect shall be the preparer of the Building Plans, to wit, Arquitectonica whose address is 2800 Oak Avenue, Miami, Florida 33133, Attn: Sherri Gutierrez, Office Director, unless, either due to the aforementioned firm no longer being in practice or to a choice not to utilize such firm by persons herein empowered to make such choice, in which case, another practitioner or firm shall be chosen as hereafter provided. In all instances where no affirmative action to the contrary is taken by persons so authorized as hereafter provided in this Section 16.2, the Architect shall be as specified in the preceding sentence. The Association shall have the power to appoint an Architect for purposes of any repair, restoration, reconstruction, and the like, under this Declaration concerning only the Shared Facilities. Each Owner, respectively, shall have the power to appoint an Architect for purposes of any repair, restoration, reconstruction, and the like, under this Declaration concerning only its Parcel and provided that no Shared Facility shall be a part of any such repair, restoration or reconstruction. In all other cases of repair or restoration, the Association shall have the right to select an Architect, and shall give written notice of such choice to the Owners.

## 17. DISBURSEMENT OF FUNDS BY INSURANCE TRUSTEE

17.1 Insurance Trustee. The Insurance Trustee shall be a bank or trust company authorized to do business in the State of Florida. The bank or trust company named by the Association in a written notice given to the Owners, shall act as Insurance Trustee. The Insurance Trustee may retain free of trust, from the monies held by it, the Insurance Trustee's reasonable fees and expenses for acting as Insurance Trustee.

The Insurance Trustee shall have no obligation to pay interest on any monies held by it unless the Insurance Trustee shall have given an express written undertaking to the Association to do so. However, if the monies on deposit are not held in an interest bearing account pursuant to agreement among the Insurance Trustee and the Association, then the Insurance Trustee, within thirty (30) days after request from any Owner given to the Insurance Trustee, the Association and to the other Owners, shall purchase with such monies, to the extent feasible, United States Government securities payable to bearer and of the most practicable maturities, not in excess of one year, except insofar as it would, in the good faith judgment of the Insurance Trustee, be impracticable to invest in such securities by reason of any disbursement of such monies which the Insurance Trustee expects to make shortly thereafter, and the Insurance Trustee shall hold such securities in trust hereunder. Any interest paid or received by the Insurance Trustee on monies or securities held in trust, and any gain on the redemption or sale of any securities, shall be added to the monies or securities so held in trust by the Insurance Trustee. Unless the Insurance Trustee shall have undertaken to pay interest thereon, monies received by the Insurance Trustee pursuant to any of the provisions of this Declaration shall not be mingled with the Insurance Trustee's own funds and shall be held by the Insurance Trustee in trust for the use and purposes herein provided.

The Insurance Trustee shall have the authority and duty to disburse funds held by it pursuant to this Declaration in the manner, to the persons, and at the times provided in this Declaration. The Insurance Trustee shall not be liable or accountable for any action taken or suffered by the Insurance Trustee, or for any disbursement of monies by the Insurance Trustee, in good faith in reliance on advice of legal counsel. The Insurance Trustee shall have no affirmative obligation to make a determination of the amount of, or to effect the collection of, any insurance proceeds or condemnation award, unless the Insurance Trustee shall have given an express written undertaking to do so, which shall otherwise be the obligation of the Owners.

The Insurance Trustee may rely conclusively on any Architect's certificate furnished to the Insurance Trustee in accordance with the provisions of Section 17.2 hereof and shall not be liable or accountable for any disbursement of funds made by it in reliance upon such certificate.

17.2 Architect's Certificate. In any instance when, pursuant to any provision of this Declaration, the Insurance Trustee shall be required to disburse insurance proceeds, condemnation awards or other funds for application to the cost of repair, restoration and/or demolition, the Insurance Trustee shall not be required to make disbursements more often than at thirty (30) day intervals, and each request for disbursement shall be made in writing at least five (5) days in advance. Each request for disbursement shall be accompanied by a certificate of the Architect, dated not more than ten (10) days prior to the request for disbursement, setting forth the following:

(c) That the sum then requested to be disbursed either has been paid by or on behalf of an Owner or Owners (in which case the certificate shall name such Owner or Owners) or is justly due to contractors, subcontractors, materialmen, engineers, architects

or other persons (whose names and addresses shall be stated) who have rendered or furnished, or agreed to render or furnish, certain services, equipment, and materials and the principal subdivisions or categories thereof and the respective amounts so paid or due to each person in respect thereof and stating the progress of the work up to the date of the certificate;

(d) That the sum then requested to be withdrawn, plus all sums previously withdrawn, does not exceed the cost of the work actually accomplished up to the date of such certificate plus the cost of materials supplied and actually stored on-site (which materials shall be adequately insured against fire, theft and other casualties for the benefit of all Owners);

(e) That no part of the cost of the services and materials described in the foregoing paragraph (i) which is being counted as a basis for the then pending application has been the basis of the withdrawal of any funds in any previous application; and

(f) That following the making of the requested advance, the funds remaining with the Insurance Trustee shall be sufficient to complete the repair and restoration based upon the Architect's estimate of such cost to complete.

Upon compliance with the foregoing provisions of this Section 17.2, the Insurance Trustee shall, out of the monies held by the Insurance Trustee, pay or cause to be paid to the Owners, contractors, subcontractors, materialmen, engineers, architects and other persons named in the Architect's certificate the respective amounts stated in the certificate to be due them.

17.3 No Reliance by Contractors. No contractor, subcontractor, mechanic, materialman, laborer or any other person whatsoever, other than the Owners and any mortgagee or lessee to whom an Owner's rights shall have been assigned as permitted in this Declaration, shall have any interest in or rights to or lien upon any funds held by the Insurance Trustee. The Owners and pursuant to such assignment any such mortgagees and lessees by agreement among themselves, may at any time provide for a different disposition of funds than that provided for in this Declaration, without the necessity of obtaining the consent of any contractor, subcontractor, mechanic, materialman, laborer or any other person whatsoever. If at any time the Owners, and such mortgagees and lessees, if any, shall jointly instruct the Insurance Trustee with regard to the disbursement of any funds held by the Insurance Trustee, then the Insurance Trustee shall disburse said funds in accordance with said instructions. The Insurance Trustee shall have no liability to anyone by reason of having so disbursed said funds in accordance with said instructions.

## 18. FORCE MAJEURE

18.1 Force Majeure. A Non-Performing Owner shall not be deemed to be in default in the performance of any obligation of such Non-Performing Owner under this Declaration, other than an obligation requiring the payment of a sum of money, if and so long as non-performance of such obligation shall be directly caused by fire or other unavoidable casualty, national emergency, laws, governmental or municipal restrictions, enemy action, civil commotion, strikes, inability to obtain labor or materials (except where due to the economic inability of such Non-Performing

Owner for reasons other than the failure of the Insurance Trustee to disburse funds), war or national defense preemptions, pandemic, acts of God or other similar causes beyond the control of such Non-Performing Owner. Within fifteen (15) days after the giving of any written notice by another Owner (hereafter in this Section 18.1 referred to as the "Other Owner") to the Non-Performing Owner describing the non-performance by such Non-Performing Owner of any such obligation, the Non-Performing Owner shall notify the Other Owner in writing of the existence and nature of any such cause for non-performance which is beyond the control of the Non-Performing Owner, and the steps, if any, which the Non-Performing owner shall have taken to eliminate the cause for non-performance. Thereafter, the Non-Performing Owner shall from time to time on written request of the Other Owner keep the Other Owner fully informed in writing of all further developments concerning such cause for nonperformance and the efforts, if any, being made by the Non-Performing Owner to end the cause for non-performance.

## 19. ARBITRATION

19.1 Notice to Arbitrate. If a dispute shall arise between or among any of the Owners, and if, pursuant to any provision of this Declaration, the dispute is to be settled by arbitration, then the Association, any Owner may serve upon the Association, other Owner or Owners involved in the dispute a written notice demanding that the dispute be arbitrated pursuant to this Article 19.

19.2 Appointment of Arbitrators and Procedure. The arbitrators shall be appointed pursuant to the then applicable rules of the American Arbitration Association, or any organization successor thereto, and the proceeding shall follow said rules and shall take place in the County. Judgment upon the determination rendered by the arbitrators may be entered in any court having jurisdiction thereof. The fees and expenses of the arbitrators shall be divided equally between or among such Owners. If any Owner shall fail to pay its share of any fees or expenses of the arbitrators it shall be deemed to be a Defaulting Owner, and any other Owner or Owners may pay the same and become a Creditor Owner. The Defaulting Owner shall upon demand reimburse the Creditor Owner for such payment, which the failure of the Defaulting Owner to do so, shall permit the Creditor Owner all of the right and remedies afforded to Creditor Owners set forth in this Declaration. If in connection with any arbitration it shall be necessary to determine the value of any Parcel or portion thereof, the arbitrators who shall be selected shall be disinterested persons of recognized competence in the field of real estate appraisal.

## 20. GENERAL PROVISIONS

20.1 Duration. The covenants and restrictions of this Declaration shall run with and bind the Podium, and shall inure to the benefit of and be enforceable by the Association, Declarant (at all times), Declarant Affiliates and any Owner, and their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by all of the then Owners subject hereto and of 100% of the mortgagees thereof has been recorded, agreeing to revoke said covenants and restrictions; provided, however, that no such agreement to revoke shall (i) eradicate the easements granted herein, or (ii) be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any signatures being obtained.

20.2 Notice. Any notice, demand, request, consent, approval or other communication to be sent to any Owner under the provisions of this Declaration shall be in writing and shall be given or made or communicated by (i) personal delivery, or (ii) a national and reputable overnight carrier, with a request that the addressee sign a receipt evidencing delivery, or (iii) United States registered or certified mail, return receipt requested with postage prepaid, or (iv) such other means as may be determined from time to time by the Association, addressed to the last known address of the person who appears as Owner on the records of the Association at the time of such delivery. Each Owner shall have the right to designate a different address from time to time by notice similarly given to the Association, with a specific direction to update the records of the Association, at least thirty (30) days before the effective date thereof. Any notice, demand, request, consent, approval or other communication which any Owner is required or desires to give or make or communicate to Declarant or the Association shall be in writing and shall be given or made or communicated by (i) personal delivery, or (ii) a national and reputable overnight carrier, with a request that the addressee sign a receipt evidencing delivery, or (iii) United States registered or certified mail, return receipt requested with postage prepaid, or (iv) such other means as may be determined from time to time by the Association, addressed to the following address:

PRH/TRR BM TOWER 1, LLC
2850 Tigertail Ave, Suite 800
Miami, FL 33133
Attn: Kurt Drstvensek

And

PRH/TRR BM CONDO, LLC
2850 Tigertail Ave, Suite 800
Miami, FL 33133
Attn: Kurt Drstvensek

And

RAHN BAHIA MAR, L.L.C.
1175 N.E. 125th Street

North Miami, FL 33161
Attn: J. Kenneth Tate

And

BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT
5385 N. Nob Hill Road
Sunrise, Florida 33351
Attn: District Manager

And

BM PODIUM ASSOCIATION, INC.
2850 Tigertail Ave, Suite 800
Miami, FL 33133
Attn: Kurt Drstvensek

And

PRH/TRR BM HOTEL, LLC
1175 N.E. 125th Street
North Miami, FL 33161
Attn: J. Kenneth Tate

Declarant and the Association shall have the right to designate a different address from time to time by notice given to Owners in the manner set forth above.

20.3 Enforcement. Without limiting the generality of Article 9, enforcement of these covenants and restrictions shall be accomplished (i) as set forth in this Declaration, and/or (ii) if not specified in this Declaration, then by either (a) any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, or (b) against the defaulting Parcels or Units to enforce any lien created by these covenants. The failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

20.4 Interpretation. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions and interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter genders shall each include the others. All references to Articles, Sections, paragraphs, articles and Exhibits mean the Articles, Sections, paragraphs and Exhibits in (and, in the case of Exhibits, attached to) this Declaration unless another agreement is referenced. All Exhibits attached hereto are hereby incorporated herein by reference and made a part of this Declaration.

20.5 Severability. If any term or provision of this Declaration, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Declaration, or the application of such terms or provision, to persons or circumstances other

than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Declaration shall be deemed valid and enforceable to the extent permitted by law.

20.6 Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.

20.7 Amendment. The covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, or added to in the following manners: (a) in any manner expressly prescribed herein, (b) by Declarant alone, for so long as it or any of Declarant's Affiliates holds title to any Parcel or Structure affected by this Declaration, (c) by the Association and the Owners responsible for more than sixty-six and two-thirds (66 2/3) of the Board (but no such amendment shall adversely affect an Owner in any material respect without the written consent of such Owner) of the Voting Interests Costs, as provided that so long as Declarant or its affiliates is the Owner of any Parcel affected by this Declaration, each Declarant's consent must be obtained if such amendment, in the sole opinion of the Declarant whose interest is affected, or (d) to commit any portion of the Future Land into this Declaration on such terms agreed to by the Future Land Owner and the Association.

Notwithstanding anything herein contained to the contrary, (i) the provisions of this Declaration affecting the Association or the Shared Facilities (as determined in the sole discretion of the Association) shall not be amended, modified or, as to any rights granted to the Association, impaired and/or diminished, directly or indirectly, without the prior written consent of the Association, (ii) any provisions of this Declaration which are for the benefit of a Parcel and/or Owner (or any of them) may not be amended without the written consent of such Parcel or Owner, as applicable, and (iii) wherever in the Declaration there is a higher percentage vote of the Owners required in connection with such matter, then as to such matter, the required vote of the Members set forth in the Declaration to address such matter may only be amended with such required percentage vote of the Member with respect to such matter (by way of example, if any proposed amendment shall address revising the Podium Standard of the Association performing repairs and/or maintenance requiring a vote of seventy-five percent (75%) of the Members, then such amendment would require the written approval of seventy-five percent (75%) of the Members.

20.8 Cooperation. Rahn and each other Owner, by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to cooperate in, and support and not publicly oppose, without imposing any fees or other charges therefor, any and all zoning, building, administrative, governmental and/or quasi-governmental filings, applications, requests, submissions and other actions necessary or desirable (as determined by Declarant or the Association) for development and/or improvement of the Podium and/or incorporating any legally permissible uses therein, including, without limitation, signing any required applications, plats, authorizations, consents, approvals and the like as the owner of any portion of the Podium owned or controlled thereby when necessary or requested.

20.9 Standards for Consent, Approval and Other Actions of the Association. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action the Association, such consent, approval or action may be withheld in the commercially reasonable discretion of the Association, unless otherwise expressly provided herein, and shall not be deemed given unless granted in writing by the Association. Without limiting the foregoing, no consent or approval shall be granted if the matter or action that is the subject of the consent or approval is not consistent with the Podium Standard in the reasonable judgment of the Association.

20.10 Standards for Consent, Approval and Other Actions. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by any Declarant or its affiliates, such consent, approval or action may be withheld in the sole and unfettered discretion of the party requested to give such consent or approval or take such action, unless otherwise expressly provided herein, and shall not be deemed given unless granted in writing by the party receiving the request, and all matters required to be completed or substantially completed by such Declarant or its affiliates shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of such Declarant.

20.11 Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association and Owners as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easements and the Owners designate hereby the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Each Owner by its execution of this Declaration and additionally by acceptance of a deed or other conveyance of title to any portion of the Podium, the grantee shall be deemed to have accepted any grant of easement created hereunder, and any obligations associated with the grant of easement, all subject to the terms hereof and the grantor shall automatically be deemed to have regranted, recreated and/or restored any such easements and reinstates same as if restated in the deed or other conveyance instrument (whether or not expressly stated). Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

20.12 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift, dedication, or grant of use rights of all or any part of the Shared Facilities to the public, or for any public use.

20.13 Constructive Notice and Acceptance. Every Owner and every person or entity who owns, occupies or acquires any right, title, estate or interest in or to any Parcel and/or Unit or other property located on or within the Podium, shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition, lien and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in, or rights with respect to, such Parcel, Structure or other property.

20.14 Covenants Running With The Land. Notwithstanding anything herein to the contrary, and without limiting the generality (and subject to the limitations) of Section 20.1 hereof, it is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with the Podium and with title to the Podium. Without limiting the generality of Section 20.5 hereof, if any provision or application of this Declaration would prevent this Declaration from running with the Land comprising the Podium as aforesaid, such provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with the Land comprising the Podium. In the event such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties (that these covenants and restrictions run with the Podium as aforesaid) be achieved.

20.15 Development Rights. Notwithstanding anything in this Declaration to the contrary, nothing shall restrict, modify or impact the Development Rights or other right of any Future Land Owner to develop its Future Land in accordance with applicable law.

20.16 CPI. Whenever specific dollar amounts are stated in this Declaration or any exhibits hereto, unless limited by Legal Requirements or the specific text hereof (or thereof), such amounts shall increase from time to time (as may be determined by the Association) by application of a nationally recognized consumer price index chosen by the Association (rounded, in the case of insurance, to the closest $1,000 increment), using the date this Declaration is recorded as the base year. In the event no such consumer price index is available, the Association shall choose a reasonable alternative to compute such increases. In no event shall increases under this provision occur more frequently than the fifth ($5^{th}$) anniversary of the recording of this Declaration and each fifth ($5^{th}$) anniversary thereafter.

20.17 Time of Essence. Time shall be of the essence with respect to all matters contemplated by this Declaration.

20.18 Release on Conveyance. In the event that any Owner ("**Seller**") who owns all or any portion of any Parcel conveys to a Successor Owner all of the right, title and interest of such Seller in such Parcel or portion thereof, then the Seller shall from the time of such conveyance and notice of same to the Association and the other Owners entirely relieved from the obligation arising from and after such conveyance to observe and perform all covenants and obligations which the Seller would otherwise be liable hereunder to observe and perform by virtue of ownership of the interest conveyed. In the event of any such conveyance by a Seller of all of its interest in a Parcel or portion thereof, the Successor Owner shall from the time of such conveyance be deemed to have assumed the liability to observe and perform all the covenants and obligations imposed by this Declaration on the person owning the interest conveyed. No Seller shall be released by virtue of this Section 20.18 from liability incurred under any covenant or obligation in this Declaration prior to the time of its conveyance of all of its interest and the delivery of the notice pursuant to Section 20.2. In any case in which a transfer or conveyance of title occurs by reason of eminent domain, and such taking is only for a temporary period, or for only a portion of a Parcel, the Seller in such instance shall be relieved from performance of its covenants and obligations hereunder only to the

extent prescribed elsewhere in this Declaration, and to the extent not so prescribed herein, as may be prescribed by such legal or equitable principles then applicable in the State of Florida.

20.19 Remedies. The remedies provided in this Declaration shall not be exclusive and, in the event of a breach of any of the terms, covenants and conditions hereof, the Owners shall be entitled to pursue any remedies available at law or in equity, including specific performance, in addition to and not in lieu of any of the remedies provided herein.

20.20 Limitation on Powers. Anything in this Declaration to the contrary notwithstanding, the existence or exercise of any easement, right, power, authority, privilege or duty of the Association as the same pertains to any condominium located within the Buildings which would cause the Association to be subject to Chapter 718, Florida Statutes, shall at the option of the Association be null, void and of no effect to the extent, but only to the extent, that such existence or exercise is finally determined to subject the Association to the provisions of said Chapter 718. It is the intent of this provision that the Association not be deemed to be a condominium association, and that the fee interest of an Owner which is not within a declared condominium (or any other portion of the Buildings not expressly declared to be a part of a condominium) not be deemed to be common elements of any such condominium, within the meaning of applicable laws or administrative rules for any purpose.

## 21. WATER MANAGEMENT DISTRICT PROVISIONS

21.1 Water Management System. In furtherance of the obligations of the Association to operate and maintain the water management system serving the Project, the following provisions shall govern:

(a) Except only as limited in this Declaration, the Association shall expressly, have the following powers: (a) to own and convey property; (b) to operate and maintain Shared Facilities, including the surface water management system as permitted by the water management district governing the Project (the "**District**"), including all lakes, retention areas, culverts and related appurtenances; (c) to establish rules and regulations; (d) to assess Owners and enforce said Assessments; (e) to sue and be sued; and (f) to contract for services (if the Association contemplates employing a maintenance company) to provide services for operation and maintenance.

(b) As and to the extent set forth herein, each Owner shall be governed by this Declaration and subject to Assessments as otherwise provided by this Declaration.

(c) Notwithstanding anything to the contrary set forth in this Declaration, if the Association shall be dissolved, the property consisting of the surface water management system will be conveyed to an appropriate agency of local government; provided, however, that if such conveyance is not accepted, the surface water management system will be conveyed to an entity performing similar functions as are ascribed to the Association hereunder.

(d) The surface water management system serving the Project shall be deemed part of the Shared Facilities, and as such, the Association is responsible for the operation and maintenance of the surface water management system serving the Project.

(e) The Shared Facilities Costs shall include any and all costs of stormwater credits (now or in the future) and any and all costs for the operation, maintenance and, if necessary, replacement of the surface water management system, and the costs for same shall be assessed against all Owners.

(f) Any amendment to this Declaration which would affect the surface water management system, conservation areas or water management portions of the Shared Facilities will be submitted to the District for a determination of whether the amendment necessitates a modification of the existing permit for the surface water management system (the "**Permit**").

(g) As set forth in this Declaration, all provisions of this Declaration and any applicable rules and regulations, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the land and with every part thereof and interest therein.

(h) If wetland mitigation or monitoring is required, the Association shall be responsible to carry out such obligations successfully, including, without limitation, meeting all Permit conditions associated with wetland mitigation, maintenance and monitoring.

(i) Copies of the Permit and any future permit actions shall be maintained by the Association for the Shared Facilities Parcel Owner's benefit.

(j) The District has the right to take enforcement action, including a civil action for an injunction and penalties against the Association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas, if any, under the responsibility or control of the Association.

## 22. DISCLAIMERS AND NO REPRESENTATIONS

22.1 DISCLAIMER OF LIABILITY. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN ANY OTHER DOCUMENT GOVERNING OR BINDING THE PODIUM (COLLECTIVELY, THE "**GOVERNING DOCUMENTS**"), NEITHER DECLARANT, DECLARANT'S AFFILIATES, OWNER OR ASSOCIATION SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PODIUM INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) IT IS THE EXPRESS INTENT OF THE GOVERNING DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH GOVERN OR REGULATE THE USES OF THE PODIUM HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PODIUM AND THE VALUE THEREOF;

(b) NEITHER DECLARANT, DECLARANT'S AFFILIATES, ANY OWNER OR ASSOCIATION IS EMPOWERED NOR ESTABLISHED TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LEGAL REQUIREMENTS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY, THE CITY AND/OR ANY OTHER GOVERNMENTAL AUTHORITY OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c) ANY PROVISIONS OF THE GOVERNING DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE RECIPIENT OF SUCH ASSESSMENT FUNDS TO PODIUM OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PODIUM (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST DECLARANT, DECLARANT'S AFFILIATES OR THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE

AFOREMENTIONED PARTIES HAS BEEN DISCLAIMED IN THIS ARTICLE.

22.2 NO REPRESENTATIONS OR WARRANTIES. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT, DECLARANT'S AFFILIATES, THE ASSOCIATION OR ITS OR THEIR MANAGERS, AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE SHARED FACILITIES OR ITS OR THEIR PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LEGAL REQUIREMENTS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT (A) AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION AND (B) AS OTHERWISE REQUIRED BY LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH OWNER RECOGNIZES AND AGREES THAT IN STRUCTURES THE SIZE OF THOSE WITHIN THE PODIUM, IT IS TYPICAL TO EXPECT BOWING AND/OR DEFLECTION OF MATERIALS. ACCORDINGLY, INSTALLATION OF FINISHES MUST TAKE SAME INTO ACCOUNT. FURTHER, EACH OWNER RECOGNIZES AND AGREES THAT THE EXTERIOR LIGHTING SCHEME FOR THE BUILDING MAY CAUSE EXCESSIVE ILLUMINATION. ACCORDINGLY, INSTALLATION OF WINDOW TREATMENTS SHOULD TAKE SAME INTO ACCOUNT. AMONG OTHER ACTS OF GOD AND UNCONTROLLABLE EVENTS, HURRICANES AND FLOODING HAVE OCCURRED IN SOUTH FLORIDA AND THE PODIUM IS EXPOSED TO THE POTENTIAL DAMAGES FROM FLOODING AND FROM HURRICANES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FROM STORM SURGES AND WIND-DRIVEN RAIN. WATER OR OTHER DAMAGES FROM THIS OR OTHER EXTRAORDINARY CAUSES SHALL NOT BE THE RESPONSIBILITY OF DECLARANT, DECLARANT'S AFFILIATES THE ASSOCIATION OR ANY OTHER PARTY. TO THE MAXIMUM EXTENT LAWFUL DECLARANT, FOR ITSELF AND AS THE INITIAL OWNER OF ALL OF THE PARCELS, HEREBY DISCLAIMS ANY AND ALL AND EACH AND EVERY EXPRESS OR IMPLIED WARRANTIES, WHETHER ESTABLISHED BY STATUTORY, COMMON, CASE LAW OR OTHERWISE, AS TO THE DESIGN, CONSTRUCTION, SOUND AND/OR ODOR TRANSMISSION, EXISTENCE AND/OR DEVELOPMENT OF MOLDS, MILDEW, TOXINS OR FUNGI, FURNISHING AND EQUIPPING OF ANY PORTION OF THE PODIUM AND/OR SHARED FACILITIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, COMPLIANCE WITH PLANS, ALL WARRANTIES IMPOSED BY STATUTE AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES OF ANY KIND OR CHARACTER. FURTHER, GIVEN THE CLIMATE AND HUMID CONDITIONS IN SOUTH FLORIDA, MOLDS, MILDEW, TOXINS AND FUNGI MAY EXIST AND/OR DEVELOP WITHIN THE PARCELS, UNITS AND/OR OTHER PORTIONS OF THE PODIUM AND MOSQUITOS AND OTHER INSECTS ARE OFTEN PREVALENT. EACH OWNER IS HEREBY ADVISED THAT CERTAIN MOLDS, MILDEW, TOXINS AND/OR FUNGI MAY BE, OR IF ALLOWED TO REMAIN FOR A SUFFICIENT PERIOD MAY BECOME, TOXIC AND POTENTIALLY POSE A HEALTH RISK. EACH OWNER, SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH THE PRESENCE OF MOSQUITOS AND OTHER INSECTS AND MOLDS, MILDEW, TOXINS AND/OR FUNGI AND TO HAVE RELEASED

DECLARANT, DECLARANT AFFILIATES, OTHER OWNERS AND THE ASSOCIATION FROM ANY AND LIABILITY RESULTING FROM SAME.

AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED. ALL OWNERS AND THE PERMITTED USERS SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.

LASTLY, EACH OWNER UNDERSTANDS AND AGREES THAT THERE ARE VARIOUS METHODS FOR CALCULATING THE SQUARE FOOTAGE OF A PARCEL AND/OR UNIT. ADDITIONALLY, AS A RESULT OF IN THE FIELD CONSTRUCTION, OTHER PERMITTED CHANGES TO THE PARCEL AND/OR UNIT, AND SETTLING AND SHIFTING OF IMPROVEMENTS, ACTUAL SQUARE FOOTAGE OF A PARCEL AND/OR UNIT MAY ALSO BE AFFECTED. BY ACCEPTING TITLE TO A PARCEL, THE APPLICABLE OWNER(S) SHALL BE DEEMED TO HAVE CONCLUSIVELY AGREED TO ACCEPT THE SIZE AND DIMENSIONS OF THE PARCEL. DECLARANT DOES NOT MAKE ANY REPRESENTATION OR WARRANTY AS TO THE ACTUAL SIZE, DIMENSIONS OR SQUARE FOOTAGE OF ANY PARCEL, AND EACH OWNER SHALL BE DEEMED TO HAVE FULLY WAIVED AND RELEASED ANY SUCH WARRANTY AND CLAIMS FOR LOSSES OR DAMAGES RESULTING FROM ANY VARIANCES.

22.3 ADDITIONAL DISCLAIMERS.

(a) Each Owner and its Permitted Users, for itself, its guests, tenants and invitees, acknowledges and agrees that a portion of the Podium including the Shared Facilities may be constructed below-grade ("**In-Ground Improvements**"). As such, each Owner and its Permitted Users understand and agree that the In-Ground Improvements (i) may produce moisture and condensation on the surface areas of the In-Ground Improvements and any objects contained therein that would not exist if the In-Ground Improvements were constructed above-grade, (ii) are susceptible to leaks through the slabs, concrete or sheet pile walls, and (iii) are subject to damages from flooding or from excessive exposure to moisture. Additionally, as more particularly set forth in the Master Declaration, each Owner has been advised that certain portions of the Improvements under the Master Declaration may be subject to flooding and that certain Parcels under the Master Declaration may be situated on or below grade (below the adjacent street) and therefore, during periods of heavy rain, may flood. Without limiting the limitations on liability and waivers included in the Master Declaration, by acquiring title to, or taking possession of, a Parcel and/or a Unit, or accepting use rights within any In-Ground Improvements, Each Owner, Condominium Association and Unit Owners for such itself

and its Permitted Users, hereby expressly assumes any responsibility for loss, damage or liability resulting therefrom and waives any and all liability of the Declarant, Declarant's Affiliates, Owners and/or the Association with respect thereto.

(b) Each Owner, Condominium Association and Unit Owner agrees that the Fort Lauderdale International Boat Show is conducted annually upon portions of the Bahia Mar Property, and that such event, along with the Marina Village Activities (as defined in the Master Declaration) will attract customers, patrons and/or guests from the general public and all over the world. Any such additional traffic upon or around the Podium shall not be deemed a nuisance hereunder. Additionally, inasmuch as the CDD will own and maintain the CDD Parcel using the Public Parking Spaces within the Podium (which will be open to serve the general public), such public use shall not be deemed a nuisance hereunder.

IN WITNESS WHEREOF, this Declaration has been duly executed and delivered by Declarant, Owners and the Association on the day and year first above written.

Signed, sealed and delivered
in the presence of:

**BM PODIUM ASSOCIATION, INC.**, a Florida corporation

_____
Print Name:_____

Address: _____
_____

By: _____
Print Name: _____
Title: _____

_____
Print Name:_____

Address: _____
_____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, by _____, as _____ of **BM PODIUM ASSOCIATION, INC.**, a Florida corporation, freely and voluntarily under authority duly vested in him/her by said entity. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 202_.

_____
Notary Public
Print Name:_____
My Commission Expires:_____

Signed, sealed and delivered
in the presence of:

**PRH/TRR BM CONDO, LLC**, a
Delaware limited liability company

_____
Print Name:_____

Address: _____
_____

By: _____
Print Name: _____
Title: _____

_____
Print Name:_____

Address: _____
_____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, by _____, as _____ of **PRH/TRR BM CONDO, LLC**, a Delaware limited liability company, freely and voluntarily under authority duly vested in him/her by said entity. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 202_.

_____
Notary Public
Print Name:_____
My Commission Expires:_____

Signed, sealed and delivered
in the presence of:

**PRH/TRR BM TOWER 1, LLC**, a Delaware limited liability company

_____
Print Name:_____

Address: _____
_____

By: _____
Print Name: _____
Title: _____

_____
Print Name:_____

Address: _____
_____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, by _____, as _____ of **PRH/TRR BM TOWER 1, LLC**, a Delaware limited liability company, freely and voluntarily under authority duly vested in him/her by said entity. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 202__.

_____
Notary Public
Print Name:_____
My Commission Expires:_____

Signed, sealed and delivered
in the presence of:

**BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**, a community development district

_____
Print Name:_____

Address: _____
_____

By: _____
Print Name: _____
Title: _____

_____
Print Name:_____

Address: _____
_____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, by _____, as _____ of **BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT**, a community development district, freely and voluntarily under authority duly vested in him/her by said entity. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 202__.

_____
Notary Public
Print Name:_____
My Commission Expires:_____

Signed, sealed and delivered
in the presence of:

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

_____
Print Name:_____

Address: _____
_____

By: _____
Print Name: _____
Title: _____

_____
Print Name:_____

Address: _____
_____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, by _____, as _____ of **RAHN BAHIA MAR L.L.C.**, a Delaware limited liability company, freely and voluntarily under authority duly vested in him/her by said entity. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 202__.

_____
Notary Public
Print Name:_____
My Commission Expires:_____

Signed, sealed and delivered
in the presence of:

**PRH/TRR BM HOTEL, LLC**, a
Delaware limited liability company

_____
Print Name:_____

Address: _____
_____

By: _____
Print Name: _____
Title: _____

_____
Print Name:_____

Address: _____
_____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, by _____, as _____ of **PRH/TRR BM HOTEL, LLC**, a Delaware limited liability company, freely and voluntarily under authority duly vested in him/her by said entity. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 202__.

_____
Notary Public
Print Name:_____
My Commission Expires:_____

**JOINDER OF MORTGAGEE**

_____, as mortgagee under that certain [*insert description of Mortgage dated as of _____, 202__ and recorded on _____, 202__ in Official Records Book _____, at Page _____ of the Public Records of Broward County, Florida*] (as previously assigned and amended, the "Mortgage"), hereby consents to the execution and recordation of the foregoing Declaration of Air Rights, Covenants, Easements & Restrictions for BD Podium (the "Air Rights Declaration"), and agrees that the lien (but not the terms) of the Mortgage shall be and is subject and subordinate to the Master Declaration.

Executed as of the day and year of the Air Rights Declaration.

[*insert name of mortgagee*]

By: _____
Name: _____
Title: _____

STATE OF _____ )
) ss:
COUNTY OF _____ )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 202___, by _____, as _____ of [*insert name of mortgagee*], on behalf of said lender. He/she is personally known to me or produced _____ as identification.

_____
Name: _____

Notary Public, State of _____
My commission expires: _____
Commission No. _____

SCHEDULE OF EXHIBITS

| | |
|---|---|
| Exhibit A | Description of the Bahia Mar Property |
| Exhibit B | Description of the CDD Parcel |
| Exhibit C | Description of the Hotel Tower Condominium Parcel |
| Exhibit D | Description of Condominium 1 Parcel |
| Exhibit E | Description of Future Land |
| Exhibit F-1 | Description of the Hotel Parcel |
| Exhibit F-2 | Description of the Hotel Tower Shared Facilities Parcel |
| Exhibit G | Description of Shared Facilities |
| Exhibit G-1 | Valet Stand Area(s) and Parking Area(s)<br>- Hotel Parcel<br>- Condominium 1 Parcel<br>- Rahn |
| Exhibit G-2 | Limited Amenities Facilities |
| Exhibit H | Description of Phase 1 Land – Condominium 1 Parcel |
| Exhibit I | Description of Phase 2 Land |
| Exhibit J | Description of Phase 3 Land |
| Exhibit K-1 | Allocation of Shared Amenities Costs |
| Exhibit K-2 | Allocation of Shared Facilities Costs |
| Exhibit L | Articles of Incorporation of Association |
| Exhibit M | Bylaws of Association |

# EXHIBIT A

## PREMISES

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 West right of way line of Seabreeze Boulevard, excepting therefrom Parcel No. 1 and also excepting the North 80 feet of Parcel No. 34.

EXHIBIT B
Description of the CDD Parcel

EXHIBIT C
Description of the Hotel Tower Condominium Parcel

EXHIBIT D
Description of the Condominium 1 Parcel

EXHIBIT E
Description of Future Land

EXHIBIT F-1
Description of Hotel Parcel

EXHIBIT F-2
Description of the Hotel Tower Shared Facilities Parcel

EXHIBIT G
Shared Facilities

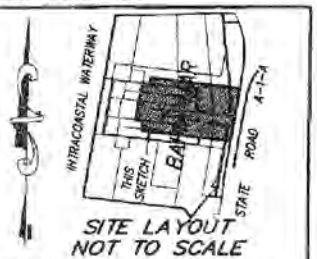
**Legal Description**

CONTROL POINT ASSOCIATES, FL, LLC.
LB #8137
TRADITIONAL METHODS | MODERN APPROACHES
1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
PHONE: (954) 753-7611 * EMAIL: DDONAHOE@CPASURVEY.COM

## SKETCH AND DESCRIPTION
## SURPLUS AIRSPACE
## ABOVE PODIUM
## SHEET 1 OF 2 SHEETS

LEGAL DESCRIPTION:

A portion of the Parcels and those certain 10.00 foot Walkways adjacent thereto and within said Parcels, BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, **above an elevation, starting at Elevation= 22.5 feet, North American Vertical Datum 1988**, more fully described as follows:




SITE LAYOUT
NOT TO SCALE

Commencing at the Northeast corner of Parcel 32, of said BAHIA MAR; thence South 05°40'45" East, a distance of 80.22 feet; thence North 88°35'36" East, a distance of 116.79 feet, to a point on a line 29.00 feet West of and parallel with the centerline of State Road A-1-A (Seabreeze Boulevard) and to a point on a curve; thence Southerly on said West right-of-way line of State Road A-1-A (Seabreeze Boulevard) and on said curve to the right, whose radius point bears South 71°39'34" West, with a radius of 882.51 feet, a central angle of 26°06'26", an arc distance of 402.11 feet to a point of tangency; thence South 07°46'00" West, on said West right-of-way line, a distance of 188.88 feet to the Point of Beginning; thence continuing South 07°46'00" West, on said West right-of-way line, a distance of 478.34 feet; thence North 82°14'00" West, a distance of 685.51 feet; thence North 07°46'00" East, a distance of 86.67 feet; thence North 82°14'00" West, a distance of 42.35 feet; thence North 08°00'23" East, a distance of 304.77 feet; thence South 82°14'00" East, a distance of 41.07 feet; thence North 07°46'00" East, a distance of 86.90 feet; thence South 82°14'00" East, a distance of 685.51 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County Florida and containing 340,618 square feet or 7.8195 acres more or less.

NOTES:
1) This sketch reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by Control Point Associates, FL, LLC.
2) Legal description prepared by Control Point Associates, FL, LLC.
3) This drawing is not valid unless sealed with an appropriate surveyors seal.
4) THIS IS NOT A BOUNDARY SURVEY.
5) Bearings shown refer to the tangent, portion of the West right-of-way, State Road A-1-A as South 07°46'00" West.

**CERTIFICATION**

Certified Correct. Dated at Fort Lauderdale, Florida this 12th day of November, 2024.

James McLaughlin Jr.

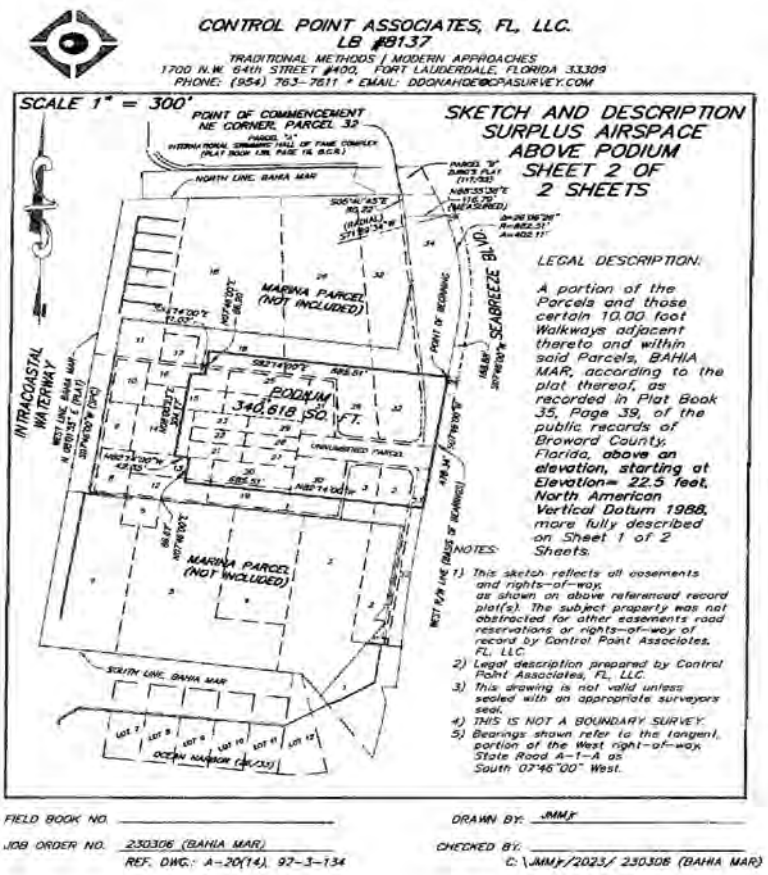
CONTROL POINT ASSOCIATES, FL, LLC

JAMES M. McLAUGHLIN JR
Registered Land Surveyor No. LS4497
State of Florida.

FIELD BOOK NO. _____ DRAWN BY: JMMJr

JOB ORDER NO. 23030E (BAHIA MAR) CHECKED BY: _____

REF. DWG.: A-20(14), 97-3-1.34




LESS the CDD Parcel shown on Exhibit B, LESS the Hotel Tower Condominium Parcel shown on Exhibit C, LESS the Condominium 1 Parcel shown on Exhibit D, and LESS the Future Land shown on Exhibit E.

The Limited Shared Facilities set forth below are a portion of the Shared Facilities.

The Limited Shared Facilities are as described below

| | |
|---|---|
| Hotel Parcel: | Two (2) Valet Stand Areas containing two (2) valet stands as shown on Exhibit G-1 and Parking Area shown on Exhibit G-1 |
| Condominium 1 Parcel: | Valet Stand Area shown on Exhibit G-1 and Parking Area shown on Exhibit G-1 |
| Rahn: | Two (2) Valet Stand Areas shown on Exhibit G-1 and Parking Area shown of Exhibit G-1 |
| Unit PH-1 and PH-2 which are within the Hotel Tower Condominium Parcel | Parking Area shown on Exhibit G-1 |

The Limited Amenities Facilities set forth below are a portion of the Shared Facilities.

| | |
|---|---|
| Residential Unit Owners of Condominium 1 Parcel, PH-1, and PH-2 (as such Specified Owners may be added to and/or otherwise modified from time to time by Supplemental Declaration) | The pool, pool deck, bathrooms, bar, kitchen area, playground, padel court and other amenities shown on Exhibit G-2 |

EXHIBIT G-1
Valet Stand Area(s) and Parking Area(s)

EXHIBIT G-2
Limited Amenities Facilities

EXHIBIT H
Phased 1 Land

EXHIBIT I
Description of Phase 2 Land

EXHIBIT J
Description of Phase 3 Land

EXHIBIT K-1
Allocation of Shared Amenities Costs

1. Allocation of Common Assessments. As provided in Article 15 of the foregoing Declaration, all Assessments for Shared Amenities Costs which are levied under the Declaration shall, subject to the provisions of Section 4 below, be allocated equally among the Residential Units and such other parties designated as Specified Owners with respect to the Limited Amenities Facilities pursuant to this Declaration, as same may be modified by Supplemental Declaration.

The total assessment obligation of the Residential Units within Condominium 1 Parcel shall then be allocated amount the individual Residential Units therein, with each such Residential unit responsible for the portion of the Condominium 1 Parcel's total assessment obligation that corresponds to that Residential Unit's proportionate share of the common elements or residential limited common elements of the Condominium 1 Parcel, as established in the condominium declaration thereof.

Unless and until additional parties are designated as permitted users of the Limited Amenities Facilities, the allocation of Shared Amenities Costs to each applicable Parcel is as follows:

| | | |
|---|---|---|
| a. | Condominium 1 Parcel: | 78/80% |
| b. | PH-1: | 1/80% |
| c. | PH-2 | 1/80% |

2. Allocation of Cost of Repair and Reconstruction and of Reconstruction Assessments. The costs of repairing and reconstructing Limited Amenities Facilities and the Reconstruction Assessments therefor shall be allocated as provided in Section 12.3 (a) and Article 13 of the Declaration, provided that the cost included in any Reconstruction Assessment for reconstructing or repairing any Limited Amenities Facility shall be allocated based upon the formulas described in paragraph 1 above.

3. Special Charges. Special Charges shall be allocated 100% to any Owner against whom such an Assessment is levied.

4. Changes Upon Addition of Future Land. The Future Land Owner has reserved the right to modify the foregoing allocations based upon the size of Future Land being committed as Parcels to this Declaration and such committed Parcel's and/or applicable users right to use Limited Amenities Facilities pursuant to a Supplemental Declaration.

EXHIBIT K-2
Allocation of Shared Facility Costs

1. Allocation of Common Assessments. As provided in Article 15 of the foregoing Declaration, Common Assessments shall include all Shared Expenses, costs and expenses of the Association in the performance of its duties under the Declaration and all costs and expenses of improving and maintaining the Shared Facilities. All Assessments which are levied under the Declaration shall be allocated to each Parcel as follows:

| | | |
|---|---|---|
| a. | Hotel Parcel: | ____% |
| b. | Condominium 1 Parcel: | ____% |
| c. | Hotel Tower Condominium Parcel: | ____% |
| d. | Rahn: | ____% |
| e. | CDD Parcel (during the period of time the CDD Parcel is wholly owned by the CDD) | 0% |
| f. | CDD Parcel (during the period of time the CDD Parcel is wholly owned by a third party) (not the CDD as reasonably determined by the Association and the percent of the other Parcels shall be equitable reduced by the Association to reflect that the CDD is now paying a portion of Assessments) | ____% |

2. Allocation of Cost of Repair and Reconstruction and of Reconstruction Assessments. The costs of repairing and reconstructing Shared Facilities and the Reconstruction Assessments therefor shall be allocated as provided in Section 12.3 (a) and Article 13 of the Declaration, provided that the cost included in any Reconstruction Assessment for reconstructing or repairing any Shared Facility shall be allocated based upon the formulas described in paragraph 1 above.

3. Special Charges. Special Charges shall be allocated 100% to any Owner against whom such an Assessment is levied.

4. Changes Upon Addition of Future Land. The Future Land Owner has reserved the right to modify the foregoing allocations based upon the size of the Future Land being committed as Parcels to this Declaration and such committed Parcel's right to use Limited Shared Facilities pursuant to a Supplemental Declaration.

EXHIBIT L

ARTICLES OF INCORPORATION
OF
PD PODIUM ASSOCIATION, INC.
(A Florida Corporation Not for Profit)

In order to form a corporation not for profit under and in accordance with the provisions of Chapter 617 of the Florida Statutes, the undersigned hereby incorporates this corporation not for profit for the purposes and with the powers hereinafter set forth and, to that end, the undersigned, by these Articles of Incorporation, certifies as follows:

ARTICLE I
DEFINITIONS

The following words and phrases when used in these Articles of Incorporation (unless the context clearly reflects another meaning) shall have the following meanings:

"Articles" means these Articles of Incorporation and any amendments hereto.

"Assessment" means any charges which may be assessed under the Declaration from time to time against an Owner.

"Association" means the PD Podium Association, Inc., a Florida corporation not-for-profit, which shall have as its initial members, Rahn and the Owners of the Hotel Tower Condominium Parcel, Condominium 1 Parcel, CDD Parcel and Hotel Parcel.

"Building(s)" means the improvements which are located in the Shared Facilities, Hotel Tower Condominium Parcel, Condominium 1 Parcel, CDD Parcel, and Hotel Parcel, as described in the Declaration.

"Bylaws" means the Bylaws of the Association and any amendments thereto.

"CDD Parcel" means the property legally described in **Exhibit B** attached to the Declaration together with all improvements now or hereafter located therein.

Class A Member shall have the meaning set forth in Article V. C. hereof.

Class B Member shall have the meaning set forth in Article V. C. hereof.

"Condominium 1 Parcel" means the property legally described in **Exhibit D** attached to the Declaration, together with all improvements now or hereafter located therein.

"Condominium Act" means Chapter 718, Florida Statutes, in effect on the date a Residential Condominium Declaration and/or an Office Condominium Declaration (whichever occurs first) is filed in the Public Records of the County.

"Hotel Tower Condominium Parcel" means the property legally described in **Exhibit C** attached to the Declaration, together with all improvements now or hereafter located therein.

"County" means Broward County, Florida.

"Declaration" means the Declaration of Air Rights Covenants, Easements & Restrictions for PD Podium to be recorded amongst the Public Records of the County, as it may be amended or supplemented from time to time.

"Declarants" have the meaning set forth in the Declaration.

"Future Land(s)" shall mean all or any portions of the Future Land set forth in Exhibits F of the Declaration.

"Hotel Parcel" means the real property legally described in **Exhibit F-1** attached to the Declaration, together with all improvements now or hereafter located thereon, generally.

"Phase 1 Land" means the land owned by Declarants on which Declarant has caused or shall cause the Buildings to be constructed, which Phase 1 Land is being submitted to the Declaration, and which is the real property described in the legal description which is attached as **Exhibit H** to the Declaration.

"Land" means the Phase 1 Land and the Future Land committed to the Declaration.

"Limited Amenities Facilities shall have the meaning set forth in the Declaration.

"Limited Shared Facilities" shall have the meaning set forth in the Declaration.

"Maintenance" means, and shall include with regard to any particular component of the Buildings and the Land, the maintenance (including, but not limited to, painting and other decorating), operation, inspection (including, but not limited to, inspection for the purpose of meter reading), testing, repair, preservation, replacement and/or cleaning (including, but not limited to, dusting, washing, mopping and vacuuming) thereof, as well as any other action commonly or customarily regarded as maintenance.

"Mortgagee" means any holder of a first mortgage lien on a Parcel, which mortgage is security for a loan advanced in good faith to finance the purchase of rights in and/or construction of the Parcel or Unit in question or to refinance a loan of such nature, provided that such holder shall give notice, as prescribed in §17.4 of the Declaration, to the parties prescribed in such §17.4, that it is the holder of such mortgage prior to being considered a Mortgagee for purposes hereof.

"Condominium Association" means the not-for-profit corporation formed or to be formed to operate any Parcel committed to a Condominium Declaration. For purposes of the Declaration, the Condominium Association shall be deemed the Owner of the applicable Parcel upon the recording of the Condominium Declaration for such Parcel; it being acknowledged, however, that the Condominium Association will not have or hold actual title to the Parcels which it administers.

"Condominium Declaration" means the Declaration of Condominium which may be recorded by Declarant submitting any Parcel to the provisions of the Condominium Act, together with all exhibits to the Condominium Declaration, as such Condominium Declaration and exhibits thereto may be amended from time to time.

"Limited Amenities Facilities" shall have the meaning set forth in the Declaration.

"Limited Shared Facilities" shall have the meaning set forth in the Declaration.

"Owner(s)" or "Member(s)" means Rahn and the other Owner(s) of the Parcels. For purposes of the Podium Documents, once a Condominium Declaration is recorded amongst the public records of the County with respect to a Parcel, the Condominium Association governing such condominium shall be deemed to be the Owner of such Parcel.

"Parcel(s)" means the CDD Parcel, the Hotel Tower Condominium Parcel, the Hotel Parcel, the Commercial 1 Parcel, and any Parcels created on the Future Land as provided in the Declaration, as the context shall require.

"Podium Documents" means the Declaration, these Articles and the Bylaws.

"Rahn" shall mean Rahn Bahia Mar, L.L.C., its successors and assigns.

"Shared Amenities Costs" shall have the meaning set forth in the Declaration.

"Shared Facilities Cost or Shared Expenses" means the actual and estimated cost of Maintenance of the Shared Facilities as described in the Declaration (including unpaid "Assessments" [as defined in the Declaration] not paid by the Owner responsible for payment); all costs of the Association incurred in the performance of its duties; the costs of management and administration of the Shared Facilities, including, but not limited to, costs incurred for the services of managers, accountants, attorneys and employees; costs of providing services, personnel or equipment for the Shared Facilities; costs of all cleaning and other services benefiting the Shared Facilities; costs of comprehensive general liability insurance for the Shared Facilities, workmen's compensation insurance and other insurance covering or connected with the Shared Facilities; real and personal property taxes for the Shared Facilities, if any; costs of funding any reserve funds established for replacement, deferred maintenance, repair and upgrading of the Shared Facilities and personal property thereon; and costs of all other items or services incurred by the Association for any reason whatsoever in connection with the Shared Facilities or for the benefit of the Owners.

"Shared Facilities" means those portions, components, features or systems of the Podium which by purpose, nature, intent or function afford benefits to or serve more than one Owner, rather than a single Parcel exclusively, including those which are declared to be Shared Facilities in the Declaration.

"Units" means the condominium units constructed upon the any Parcels committed to a Condominium Declaration, and any additions or replacements thereto.

"Voting Interests" shall have the meaning set forth in Article V.G. hereof.

"Voting Member" shall have the meaning set forth in in Article V.G. hereof.

Unless otherwise defined herein, the terms defined in the Declaration are incorporated herein by reference and shall appear in initial capital letters each time such terms appears in these Articles.

## ARTICLE II
## NAME

The name of this corporation shall be BM PODIUM ASSOCIATION, INC., a Florida corporation not for profit, whose principal address and mailing address is _____. [

## ARTICLE III
## PURPOSES

The purpose for which the Association is organized is to take title to, operate, administer, manage, lease and maintain the Shared Facilities within the Buildings in accordance with the terms of, and purposes set forth in, the Declaration and to carry out the covenants and enforce the provisions of the Declaration. It is not intended that this Association become a condominium association within the meaning of the Condominium Act.

## ARTICLE IV
## POWERS

The Association shall have the following powers and shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not for profit.

B. The Association shall have all of the powers granted to the Association in the Podium Documents. All of the provisions of the Declaration and Bylaws which grant powers to the Association are incorporated into these Articles.

C. The Association shall have all of the powers reasonably necessary to implement the purposes of the Association, including, but not limited to, the following:

1. To perform any act required or contemplated by it under the Podium Documents.

2. To make, establish, amend and enforce reasonable rules and regulations governing the use of the Shared Facilities.

3. To make, levy and collect Assessments for the purpose of obtaining funds from its "**Members**" (as hereinafter defined) to pay Shared Expenses, Shared Amenities Costs and other costs defined in the Declaration and costs of collection, and to use and expend the proceeds of Assessments in the exercise of the powers and duties of the Association.

4. To maintain, repair, replace and operate the Shared Facilities in accordance with the Podium Documents.

5. To enforce by legal means the obligations of the Members and the provisions of the Podium Documents.

6. To employ personnel, retain independent contractors and professional personnel, and enter into service contracts to provide for the maintenance, operation, administration and management of the Shared Facilities and to enter into any other agreements consistent with the purposes of the Association, including, but not limited to, agreements with respect to professional management of the Shared Facilities and to delegate to such professional manager certain powers and duties of the Association.

7. To enter into the Declaration and any amendments thereto and instruments referred to therein.

8. To provide, to the extent deemed necessary by the Board, any and all services and do any and all things which are incidental to or in furtherance of things listed above or to carry out the Association mandate to keep and maintain the Buildings in a proper and aesthetically pleasing condition and to provide the Owners with services, amenities, controls and enforcement which will enhance the quality of life at the Buildings, in accordance with Podium Documents.

9. To take such other acts as a not-for-profit corporation shall be permitted to take under applicate law.

## ARTICLE V
## MEMBERS AND VOTING

The qualification of Members of the Association, the manner of their admission to membership, the manner of the termination of such membership and the manner of voting by Members shall be as follows:

A. Each and every Owner of a Parcel and Rahn (its successors and assigns), shall be a Member and exercise all of the rights and privileges of a Member provided as to any Parcel submitted to a Condominium Declaration the Condominium Association created under such Condominium Declaration shall be deemed the Owner and the Member of such Parcel.

B. Membership in the Association for Owners shall be Rahn and as to the other Members by the acquisition of ownership of fee simple title to a Parcel as evidenced by the recording of an instrument of conveyance amongst the Public Records of the County. Where title

to a Parcel is acquired by conveyance from a party by means of sale, gift, inheritance, devise, judicial decree or otherwise, the person, persons or entity thereby acquiring such Parcel shall not be a Member unless or until such Owner shall deliver a true copy of a deed or other instrument of acquisition of title to the Association. If Rahn assigns in writing its rights as an Owner (and such assignee assumes Rahn's obligations as Owner) such transferee shall become the Owner and Member of the Association and Rahn shall have no further obligations as an Owner under the Declaration. Upon the recording of a declaration of condominium with respect to a Parcel, the Condominium Association responsible for the operation of such condominium shall be deemed the Owner of such Parcel for purposes of these Articles. The CDD is a member of the Association only for the purposes set forth in the Declaration and without being entitled to a seat on the board or to pay routine assessments as provided in the Declaration for as long as the CDD owns the CDD Parcel. If the CDD no longer owns the CDD Parcel, the subsequent CDD Parcel Owner shall be required to pay all assessments based on a percentage reasonably determined by the Association and be provided voting rights as set forth below.

C. The Association shall have two (2) classes of voting membership with the following ("**Voting Interests**"):

1. "**Class A Members**" shall be the Owner of the CDD Parcel who shall not be entitled to a vote while any of the CDD Parcel is owned by the CDD and if the CDD no longer owns the CDD Parcel then the Owner of the entire CDD Parcel (who is not the CDD) shall be entitled to one (1) vote assigned to such Owner (who is not the CDD) for its CDD Parcel as set forth in the Declaration.

2. "**Class B Members**" shall be all Members (other than the Owner of the CDD Parcel whereby each Class B Member shall each be entitled to three (3) votes.

D. The designation of different classes of membership are for purposes of establishing the number of votes applicable to certain Parcels, and nothing herein shall be deemed to require voting solely by an individual class on any matter which requires the vote of Members, unless otherwise specifically set forth in the BM Podium Documents.

E. No Member may assign, hypothecate or transfer in any manner its membership in the Association except as an appurtenance to its Parcel.

F. Any Member who conveys or loses title to a Parcel by sale, gift, devise, bequest, judicial decree or otherwise shall, immediately upon such conveyance or loss of title, no longer be a Member with respect to such Parcel and shall lose all rights and privileges of a Member resulting from ownership of such Parcel.

G. There shall be only the assigned Voting Interest with respect to the Owners as set forth herein. If there is more than one Member with respect to a Parcel as a result of the fee interest in such Parcel being held by more than one person, such Members collectively shall be entitled to only the Voting Interests assigned to such Parcel. The vote of the Owners of a Parcel owned by more than one natural person or by a corporation or other legal entity shall be cast by the person named in a certificate signed by all of the Owners of the Parcel, or, if appropriate, by properly designated officers, partners or principals of the respective legal entity ("**Voting Member**"), and

filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not filed with the Secretary of the Association, the vote of such Parcel shall not be considered for a quorum or for any other purpose.

H. A quorum shall consist of persons entitled to cast at least a majority of the total Voting Interests of the Members.

## ARTICLE VI
## TERM

The term for which this Association is to exist shall be perpetual. In the event of dissolution of the Association (unless same is reinstated), other than incident to a merger or consolidation, all of the assets of the Association shall be conveyed to a similar not for profit corporation or a public agency having a similar purpose, or any Member may petition the appropriate circuit court of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and its properties in the place and instead of the dissolved Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties.

## ARTICLE VII
## INCORPORATOR

The name and address of the Incorporator of these Articles is:

_____
_____
_____
_____

The affairs of the Association shall be managed by the President of the Association, assisted by the Vice President(s), Secretary and Treasurer, and, if any, by the Assistant Secretary(ies) and Assistant Treasurer(s), subject to the directions of the Board. Officers must be Members, or the parents, children, spouses, officers, directors, shareholders, employees, partners, or members of Members.

The Board shall elect the President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall, from time to time, determine. The President shall be elected from amongst the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, the office of President and a Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

ARTICLE VIII
FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

| | |
|---|---|
| President | _____ |
| Vice-President | _____ |
| Secretary | _____ |
| Treasurer | _____ |
| Assistant Secretary | _____ |

ARTICLE IX
BOARD OF DIRECTORS

A. The names and addresses of the persons who are to serve as Directors on the first Board are as follows:

| NAMES | ADDRESSES |
|---|---|
| _____ | _____ |
| | _____ |
| _____ | _____ |
| | _____ |
| _____ | _____ |
| | _____ |

B. As to the Phase 1 Land, each Member shall appoint the number of Directors as follows:

| PARCEL | NUMBER OF DIRECTORS |
|---|---|
| Hotel Parcel | 3 |
| Hotel Tower Condominium Parcel | 3 |
| Condominium 1 Parcel | 3 |
| CDD Parcel (while owned by the CDD) | 0 |
| CDD Parcel (if the CDD no longer owns any portion thereof) | 1 |
| Rahn | 3 |

The foregoing number of Directors is based upon the initial Phase 1 Land subject to the Declaration. In the event portions of the Future Land are subject to the Declaration, the number of Directors to be appointed by each Member (Parcel Owner) shall be as follows:

| PARCEL | NUMBER OF DIRECTORS |
|---|---|

| | |
|---|---|
| Hotel Parcel | 3 |
| Hotel Tower Condominium Parcel | 3 |
| Condominium 1 Parcel | 3 |
| CDD Parcel (while owned by the CDD) | 0 |
| CDD Parcel (if the CDD no longer owns any portion of the CDD Parcel) | 1 |
| Rahn | 3 |
| Phase 2 Land | 3 |
| Phase 3 Land | 3 |

C. The Board shall continue to be so designated, as described in Paragraph B above, at each subsequent "Annual Members' Meeting" (as defined in the Bylaws).

A Director may be removed from office only by the Member who appointed such Director.

## ARTICLE X
## INDEMNIFICATION

Each and every Director and officer of the Association shall be indemnified by the Association against all costs, expenses and liabilities, including attorney and paralegal fees at all trial and appellate levels and post judgment proceedings, reasonably incurred by or imposed upon him in connection with any negotiation, proceeding, arbitration, litigation or settlement in which he becomes involved by reason of his being or having been a Director or officer of the Association, and the foregoing provision for indemnification shall apply whether or not such person is a Director or officer at the time such cost, expense or liability is incurred. Notwithstanding the above, in the event of any such settlement, the indemnification provisions provided in this Article XI shall not be automatic and shall apply only when the Board approves such settlement and reimbursement for the costs and expenses of such settlement as being in the best interest of the Association, and in the event a Director or officer admits that he is or is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, the indemnification provisions of this Article XI shall not apply. The foregoing right of indemnification provided in this Article XI shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or officer of the Association may be entitled under statute or common law.

## ARTICLE XI
## BYLAWS

The Bylaws shall be adopted by the first Board, and thereafter may be altered, amended or rescinded in the manner provided for in the Bylaws. In the event of any conflict between the provisions of these Articles and the provisions of the Bylaws, the provisions of these Articles shall control.

## ARTICLE XII
## AMENDMENTS

A. These Articles may be amended solely by a majority vote of the Board, without the prior consent of the Members, at a duly called meeting of the Board, provided, however, wherever in the Declaration there is a higher percentage vote of the Members required in connection with

such matter, then as to such matter, the required vote of the Members set forth in the Declaration to address such matter may only be amended pursuant to these Articles with such required percentage vote of the Members with respect to such matter (by way of example, if any proposed amendment shall address revising the Podium Standard of the Association performing repairs and/or maintenance requiring a vote of seventy-five percent (75%) of the Members, then any amendment to these Articles pertaining to such amendment would require the written approval of seventy-five percent (75%) of the Members).

An amendment may be adopted by a written statement (in lieu of a meeting) signed by all Directors setting forth their intention that an amendment to the Articles be adopted.

B. Notwithstanding any provisions of this Article XIII to the contrary, these Articles shall not be amended in any manner which shall prejudice the rights of: (i) any Declarant, without the prior written consent thereto by such Declarant, for so long as such Declarant holds at least one (1) Parcel or any portion thereof; and (ii) any Mortgagee without the prior written consent of such Mortgagee.

C. Any instrument amending these Articles shall identify the particular article or articles being amended and shall provide a reasonable method to identify the amendment being made. A certified copy of each such amendment shall be attached to any certified copy of these Articles, and a copy of each amendment certified by the Secretary of State shall be recorded amongst the Public Records of the County.

ARTICLE XIII
REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is _____ **[FILL IN]** and the initial registered agent of the Association at that address shall be CT Corporation System.

IN WITNESS WHEREOF, the Incorporator has hereunto affixed his signature, this _____ day of _____, 202__.

_____

Print Name: _____

The undersigned hereby accepts the designation of Registered Agent as set forth in Article XIV of these Articles of Incorporation, and acknowledges that he is familiar with and accepts the obligations imposed upon registered agents under the Florida Not for Profit Corporation Act.

_____

_____
Print Name: _____
Dated: _____

STATE OF _____ )
)ss:
COUNTY OF _____ )

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by means of ☐ physical presence or ☐ online notarization, by _____, the person described as the Incorporator of these Articles who executed the foregoing Articles of Incorporation, who is personally known to me.

_____
Notary Public
My Commission Expires: Print Name: _____

EXHIBIT M

# BYLAWS
# OF
# BM PODIUM ASSOCIATION, INC.

Section 1. Identification of Association

These are the Bylaws of BM Podium Association, Inc. ("Association") as duly adopted by its Board of Directors ("Board"). The Association is a corporation not for profit, organized pursuant to Chapter 617, Florida Statutes.

1.1. The office of the Association shall be for the present at _____ **[FILL IN]** and thereafter may be located at any place designated by the Board.

1.2. The fiscal year of the Association shall be the calendar year.

1.3. The seal of the Association if any shall bear the name of the Association, the word "Florida" and the words "Corporation Not For Profit."

Section 2. Explanation of Terminology

The terms defined in the Articles of Incorporation of the Association ("**Articles**") as well as in the Amended and Restated Declaration of Master Covenants, Easements & Restrictions for Podium ("**Declaration**") are incorporated herein by reference and shall appear in initial capital letters each time such terms appear in these Bylaws.

Section 3. Membership; Members' Meetings; Voting and Proxies

3.1. The qualification of Members, the manner of their admission to membership in the Association, the manner of termination of such membership and the voting by Members shall be as set forth in the Articles.

3.2. The Members shall meet annually ("**Annual Members' Meeting**"). The Annual Members' Meeting shall be held at the office of the Association or at such other place in the County as the Board may determine and on such day and at such time as designated by the Board in the notice of such meeting commencing with the year following the year in which the Articles are filed with the Secretary of State. The purpose of the Annual Members' Meeting shall be to hear reports of the officers, receive designations by Members as to appointments to the Board (as determined by the provisions of the Articles) and transact any other business authorized to be transacted at such Annual Members' Meeting.

3.3. Special meetings (meetings other than the Annual Members' Meeting) of the Members shall be held at any place within the County whenever called by the President or by a

majority of the Board. A special meeting must be called by the President upon receipt of a written request from Members having the right to vote at least one third (1/3) of the total number of votes entitled to be cast by Members at any such special meeting.

3.4. Except as otherwise provided in the Articles, a written notice of each Members' meeting, whether an Annual Members' Meeting or a special meeting (collectively "**Meeting**"), shall be given to each Member entitled to vote thereat at its last known address as it appears on the books of the Association and shall be mailed to the said address not less than fourteen (14) days nor more than forty five (45) days prior to the date of the Meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any notice given hereunder shall state the time and place of the Meeting and the purposes for which the Meeting is called. Notwithstanding any provisions hereof to the contrary, notice of any Meeting may be waived before, during or after such Meeting by a Member or by the person entitled to vote for such Member by signing a document setting forth the waiver of such notice.

3.5. The Members may, at the discretion of the Board, act by written response in lieu of a Meeting provided written notice of the matter or matters to be agreed upon is given to the Members or duly waived in accordance with the provisions of these Bylaws. Unless some greater number is required under the Podium Documents and except as to the selection of Directors, the decision of a majority of the Voting Interests cast by Members as to the matter or matters to be agreed or voted upon shall be binding on the Members provided a quorum is either present at such Meeting or submits a response if action is taken by written response in lieu of a Meeting, as the case may be. The notice with respect to actions to be taken by written response in lieu of a Meeting shall set forth the time period during which the written responses must be received by the Association.

3.6. (a) A quorum of the Members shall consist of Members entitled to cast two-thirds (2/3) of the total Voting Interests of the Members. Limited "Proxies" and general "Proxies" (as hereinafter defined in Paragraph 3.8) may be used to establish a quorum.

(b) When a quorum is present at any Meeting and a question which raises the jurisdiction of such Meeting is presented, the holders of a majority of the Voting Interests present in person or represented by written Proxy shall be required to decide the question. However, if the question is one upon which a vote other than the majority vote of a quorum is required by express provision of the Podium Documents or by law, then such express provision shall govern and control the required vote on the decision of such question.

3.7. Minutes of all Meetings shall be kept in a businesslike manner and be available for inspection by the Members and Directors at all reasonable times. The Association shall retain minutes for at least seven (7) years subsequent to the date of the meeting the minutes reflect.

3.8. Rights of Members shall be as stated in the Articles with respect to the selection of all Boards other than the First Board. Proxies may be used to vote on other agenda items at Meetings at which Directors are to be announced, and may also be used to establish a quorum. "**Proxy**" is defined to mean an instrument containing the appointment of a person who is substituted in the place and instead of the person or authorized representative of an entity entitled

to vote. Proxies shall be in writing signed by the person or authorized representative of an entity giving the same and shall be valid only for the particular Meeting designated therein and, if so stated in the Proxy, any adjournments thereof, provided, however, any proxy automatically expires ninety (90) days after the date of the Meeting for which it was originally given. A Proxy must be filed with the Secretary of the Association before the appointed time of the Meeting in order to be valid. Any Proxy may be revoked prior to the time a vote is cast in accordance with such Proxy.

3.9. The voting on any matter at a Meeting shall be by secret ballot upon request of any Member if such request is made prior to the vote in question.

Section 4. Board; Directors' Meetings

4.1. The business and administration of the Association shall be by the Board.

4.2. The selection of Directors shall be conducted in accordance with the Articles. Except for Declarant appointed Directors, Directors must be Members or the parents, children, spouses or officers, directors, partners, shareholders or members of Members.

4.3. (a) Any person designated as a Director shall have all the rights, privileges, duties and obligations of a Director of the Association.

(b) The term of a Director's service shall be as stated in the Articles and, if not so stated, shall extend until the next Annual Members' Meeting and thereafter until his or her successor is duly elected and qualified or until he or she resigns or is removed in the manner elsewhere provided.

4.4. The organizational meeting of a newly selected Board shall be held within ten (10) days of its selection at such place and time as shall be fixed by the Directors at the Meeting at which they were announced. Provided the organizational meeting is held directly following the Annual Members' Meeting, no further notice of the organizational meeting shall be necessary; if not, however, notice of the organizational meeting shall be given in accordance with Section 617.303(2) of the Florida Statutes.

4.5. Regular meetings of the Board may be held at such times and places in the County as shall be determined from time to time by a majority of the Directors. Special meetings of the Board may be called at the discretion of the President. Special meetings must be called by the Secretary at the written request of at least one third (1/3) of the Directors. Any such special meeting may be held in the County at such time and place as determined by the Director(s) requesting such meeting or in such other place as all of the Directors shall agree upon.

4.6. Notice of the time and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail or telephone at least three (3) days prior to the day named for such meeting unless such notice is waived before, during or after such meeting. Any Director may waive notice of the meeting in writing before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director.

4.7 Notice of all Board meetings shall be given to the Members in accordance with Section 617.303(2) of the Florida Statutes.

4.8. A quorum of the Board shall consist of the Directors entitled to cast two-thirds (2/3) of the votes of the entire Board. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as may be otherwise specifically provided by law, by the Articles or elsewhere herein. At any meeting that takes place on account of a previously adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by the Board.

4.9. The presiding officer at all Board meetings shall be the President. In the absence of the President, the Directors shall designate any one of their number to preside.

4.10. Directors' fees, if any, shall be determined by the Members.

4.11. Minutes of all meetings of the Board shall be kept in a businesslike manner and be available for inspection by Members and Directors at all reasonable times.

4.12. Meetings of the Board shall be open to all Members on such terms as the Board may determine. The Board may also hold closed meetings to the extent permitted by applicable law, including, by way of example but not by way of limitation, when the discussion at a meeting is governed by attorney-client privilege. If a meeting is open, unless a Member serves as a Director or unless he or she has been specifically invited by the Directors to participate in the meeting, no Member shall be entitled to participate in the meeting, but shall only be entitled to act as an observer. In the event a Member not serving as a Director or not otherwise invited by the Directors to participate in a meeting attempts to become more than a mere observer at the meeting or conducts himself or herself in a manner detrimental to the carrying on of the meeting, then any Director may expel said Member from the meeting by any reasonable means which may be necessary to accomplish said Member's expulsion. Also, any Director shall have the right to exclude from any meeting of the Board any person who is not able to provide sufficient proof that he or she is a Member or a duly authorized representative, agent or proxy holder of a Member, unless said person has been specifically invited by any of the Directors to participate in such meeting.

4.13. Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, specifically setting forth the action to be taken, shall be signed by all the Directors and such consent shall have the same force and effect as a unanimous vote of the Directors, provided, however, whenever assessments are to be considered, they may be considered only at a meeting of the Directors properly noticed in accordance with Section 617.303(2) of the Florida Statutes.

Section 5. Powers and Duties of the Board

5.1. All of the powers and duties of the Association shall be exercised by the Board. Such powers and duties of the Board shall include, but not be limited to, all powers and duties set forth in the Podium Documents, as well as all of the powers and duties of a director of a corporation not for profit not inconsistent therewith.

5.2. The Association may employ a manager to perform any of the duties, powers or functions of the Association. Notwithstanding the foregoing, the Association may not delegate to the manager the power to conclusively determine whether the Association should make expenditures for capital additions or improvements chargeable against the Association funds. The members of the Board shall not be personally liable for any omission or improper exercise by the manager of any duty, power or function delegated to the manager by the Association.

Section 6. Late Fees

An Owner who fails to timely pay any Assessment shall be charged a late charge in an amount equal to that as set forth in the Declaration. Owners shall be responsible to pay all legal fees (including, but not limited to, attorney and paralegal fees and court costs) incurred in connection with the collection of late Assessments whether or not an action at law to collect said Assessments and foreclose the Association's lien has been commenced. The Board has authorized the following initial schedule of fees for such circumstances:

(a) Five Hundred Dollars ($500) for a Claim of Lien plus recording costs and sending of Notice of Intention to Foreclose;

(b) Two Hundred Fifty Dollars ($250) for a Satisfaction of Lien plus recording costs; and

(c) Any further action would require an hourly computation of attorney and/or paralegal time spent pursuing collection of such unpaid Assessments. The Board may adjust the fee schedule by a majority vote of the entire Board.

Section 7. Officers of the Association

7.1. Executive officers of the Association shall be the President, who shall be a Director, one or more Vice Presidents, a Treasurer and a Secretary, all of whom shall be elected annually by the Board. Any officer may be removed without cause from office by vote of the Directors at any meeting of the Board. The Board may, from time to time, elect such other officers and assistant officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. One person may hold any two offices simultaneously, except when the functions of such offices are incompatible, but no person shall hold the office of President and any of the following offices simultaneously: Vice President, Secretary or Assistant Secretary.

7.2. The President shall be the chief executive officer of the Association. He or she shall have all of the powers and duties which are usually vested in the office of the President of an association or a corporation not for profit, including, but not limited to, the power to appoint such committees from among the Members at such times as he or she may, in his or her discretion,

determine appropriate to assist in the conduct of the affairs of the Association. If in attendance, the President ("**Chair**") shall preside at all meetings of the Board and at all meetings of the Members; provided, however, that the President may appoint a substitute.

7.3. In the absence or disability of the President, a Vice President shall exercise the powers and perform the duties of the President. If there is more than one (1) Vice President, the Board shall designate which Vice President is to perform which duties. The Vice President(s) shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board. In the event there shall be more than one Vice President elected by the Board, then they shall be designated "First," "Second," etc., and shall exercise the powers and perform the duties of the presidency in such order.

7.4. The Secretary shall keep the minutes of all meetings of the Board and the Members, which minutes shall be kept in a businesslike manner and be available for inspection by Members and Directors at all reasonable times. The Secretary shall have custody of the seal of the Association and affix the same to instruments requiring such seal when duly authorized and directed to do so. The Secretary shall be custodian for the corporate records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent and shall assist the Secretary under the supervision of the Secretary.

7.5. The Treasurer shall have custody of all of the monies of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep the assessment rolls and accounts of the Members and shall keep the books of the Association in accordance with good accounting practices and he shall perform all of the duties incident to the office of the Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer when the Treasurer is absent and shall assist the Treasurer under the supervision of the Treasurer.

7.6. The compensation, if any, of the officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from hiring a Director as an employee of the Association or preclude contracting with a Director or a party affiliated with a Director for the management or performance of contract services for all or any part of the Buildings.

Section 8. Resignations

Any Director or officer may resign his or her post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective.

Section 9. Accounting Records; Fiscal Management

9.1. The Association shall use the cash basis method of accounting and shall maintain accounting records in accordance with good accounting practices, which shall be open to

inspection by Members and Mortgagees or their respective authorized representatives at reasonable times. Such authorization as a representative of a Member must be in writing and signed by the person giving the authorization and dated within sixty (60) days of the date of the inspection. Such records shall include, but not be limited to: (i) a record of all receipts and expenditures; (ii) an account for each Parcel within the Buildings which shall designate the name and address of the Owner thereof, the amount of Assessments charged to the Parcel, the amounts and due dates for payment of same, the amounts paid upon the account and the dates paid, and the balance due; (iii) any tax returns, financial statements and financial reports of the Association; and (iv) any other records that identify, measure, record or communicate financial information.

9.2. The Board shall adopt a Budget (as defined and provided for in the Declaration) of the anticipated Shared Expenses for each forthcoming calendar year (the fiscal year of the Association being the calendar year) at a special meeting of the Board ("Budget Meeting") called for that purpose to be held during the month of November of the year preceding the year to which the Budget applies. Prior to the Budget Meeting, a proposed Budget for the Shared Expenses shall be prepared by or on behalf of the Board. Within thirty (30) days after adoption of the Budget, a copy thereof shall be furnished to each Member, upon request, and each Owner shall be given notice of the Assessment applicable to his or her Parcel. The copy of the Budget, if requested, shall be deemed furnished and the notice of the Assessment shall be deemed given upon its delivery or upon its being mailed to the Owner shown on the records of the Association at his or her last known address as shown on the records of the Association.

9.3. In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any monies received by the Association in any calendar year may be used by the Association to pay expenses incurred in the same calendar year; (iii) there shall be apportioned between calendar years on a pro rata basis any expenses which are prepaid in any one calendar year for Shared Expenses and/or Shared Amenities Costs, as applicable, which cover more than such calendar year; (iv) Assessments shall be made quarterly in amounts no less than are required to provide funds in advance for payment of all of the anticipated current Shared Expenses and/or Shared Amenities Costs, as applicable, and for all unpaid Shared Expenses and/or Shared Amenities Costs, as applicable, previously incurred; and (v) items of Shared Expenses and/or Shared Amenities Costs, as applicable, incurred in a calendar year shall be charged against income for the same calendar year regardless of when the bill for such expenses is received. Notwithstanding the foregoing, the Assessments for Shared Expenses and/or Shared Amenities Costs, as applicable, and any periodic installments thereof shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting.

9.4. Assessments shall be payable as provided in the Declaration.

9.5. No Board shall be required to anticipate revenue from Assessments or expend funds to pay for Shared Expenses and/or Shared Amenities Costs, as applicable, not budgeted or which shall exceed budgeted items, and no Board is required to engage in deficit spending. Should there exist any deficiency which results from there being greater Shared Expenses and/or Shared Amenities Costs, as applicable, than monies from Assessments, then such deficits shall be carried

into the next succeeding year's Budget as a deficiency or shall be the subject of a Special Assessment or an upward adjustment to the Assessment.

9.6. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Board.

9.7. A report of the accounts of the Association shall be made annually by an accountant and a copy of the report shall be furnished to each Member who requests same in writing no later than the first day of April of the year following the year for which the report is made. The report shall be deemed to be furnished to the Member upon its delivery or mailing to the Member at his last known address shown on the records of the Association.

Section 10. Rules and Regulations

The Board may at any meeting of the Board adopt rules and regulations or amend, modify or rescind then existing rules and regulations for the operation of the Buildings; provided, however, that such rules and regulations are not inconsistent with the terms or provisions of the Podium Documents. Copies of any rules and regulations promulgated, amended or rescinded shall be mailed or delivered to all Members at the last known address for such Members as shown on the records of the Association at the time of such delivery or mailing and shall not take effect until forty eight (48) hours after such delivery or mailing, or, in the event both forms of notification are used, whichever is later. Notwithstanding the foregoing, when rules and regulations are to regulate the use of a specific portion of a Building, same shall be conspicuously posted at such facility and such rules and regulations shall be effective immediately upon such posting. Care shall be taken to insure that posted rules and regulations are conspicuously displayed and easily readable and that posted signs or announcements are designed with a view toward protection from weather and the elements. Posted rules and regulations which are torn down or lost shall be promptly replaced.

Section 11. Parliamentary Rules

The then latest edition of Robert's Rules of Order shall govern the conduct of all meetings of the Members and the Board; provided, however, if such rules of order are in conflict with any of the Podium Documents, Robert's Rules of Order shall yield to the provisions of such instrument.

Section 12. Roster of Owners

Each Owner shall file with the Association a copy of the deed or other document showing his or her ownership in accordance with the provisions set forth in the Declaration and Rahn shall file with the Association a copy of its written assignment of its rights to be an Owner to such assignee (and the assumption of its obligations by such assignee). The Association shall maintain such information. The Association may rely on the accuracy of such information for all purposes until notified in writing of changes therein.

Section 13. Amendment of the Bylaws

13.1. These Bylaws may be amended as hereinafter set forth in this Section 13.

13.2. Any Bylaw of the Association may be amended or repealed, and any new Bylaw of the Association may be adopted by either:

(a) two-thirds (2/3) vote of the Voting Interests of all the Members at any Annual Members' Meeting or any special meeting of the Members called for that purpose or by two-thirds (2/3) of the Voting Interests of the Members who have acted by written response in lieu of a Meeting as permitted by these Bylaws; provided, however, wherever in the Declaration there is a higher percentage vote of the Members required in connection with such matter, then as to such matter, the required vote of the Members set forth in the Declaration to address such matter may only be amended with such required percentage vote of the Members with respect to such matter (by way of example, if any proposed amendment shall address revising the Podium Standard of the Association performing repairs and/or maintenance requiring a vote of seventy-five percent (75%) of the Members, then any amendment to these Bylaws pertaining to such amendment would require the written approval of seventy-five percent (75%) of the Members.

(b) by the affirmative vote of two-thirds (2/3) of the Directors then in office at any regular meeting of the Board or at any special meeting of the Board called for that purpose or by written instrument signed by two-thirds (2/3) of the Directors as is permitted by these Bylaws, provided, however, wherever in the Declaration there is a higher percentage vote required in connection with such matter, then, as to such matter, in addition to the two-third vote of the Directors pursuant to this Subsection 13.2(b), the required vote of the Members as contemplated in Section 13.2(a) would also be required.

13.3. Notwithstanding the foregoing provisions of this Section 13, there shall be no amendment to these Bylaws which shall abridge, amend or alter the rights of: (i) such Declarant without the prior written consent thereto by such Declarant for so long as such Declarant holds title to at least one (1) Parcel or any portion thereof; or (ii) any Mortgagee without the prior written consent of such Mortgagee.

13.4. Any instrument amending, modifying, repealing or adding Bylaws shall identify the particular section or sections affected and give the exact language of such modification, amendment or addition or of the provisions repealed. A copy of each such amendment, modification, repeal or addition attested to by the Secretary or Assistant Secretary of the Association shall be recorded amongst the Public Records of the County.

Section 14. Interpretation

In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the event of any conflict between the Articles and the Declaration, the Declaration shall control.

BM PODIUM ASSOCIATION, INC., a Florida not for profit corporation

RESOLUTION NO. 27-01

A RESOLUTION OF THE BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT APPROVING THE CONVEYANCE OF ADDITIONAL SURPLUS AIR RIGHTS PARCEL TO RAHN BAHIA MAR, L.L.C.; AUTHORIZING THE PROPER DISTRICT OFFICIALS TO EXECUTE THE CONVEYANCE INSTRUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Bahia Mar Community Development District (the "District") is a local unit of special-purpose government created and existing pursuant to Chapter 190, Florida Statutes; and

**WHEREAS**, the City of Fort Lauderdale (the "City") received a deed on August 27, 1947 from the United States of America for certain property generally located at 801 Seabreeze Boulevard in the City, which property is commonly known as "Bahia Mar"; and

**WHEREAS**, the City leased Bahia Mar to Rahn Bahia Mar, L.L.C ("Rahn") pursuant to a Master Lease Agreement with an effective date of April 13, 2022, as amended by Amendment No. 1 to Master Lease Agreement, dated October 31, 2022, and as further amended by Amendment No. 2 to Master Lease Agreement, dated January 29, 2024, (collectively, the "Master Lease"); and

**WHEREAS**, the Master Lease provided for an initial term of 50 years, as extended for an additional 50 years, for a total of 100 years for Bahia Mar to be leased by the City to Rahn; and

**WHEREAS**, the District was established by the City, pursuant to Ordinance No. C- 23-44, adopted by the City Commission on December 5, 2023; and

**WHEREAS**, the boundaries of the District are within Bahia Mar; and

**WHEREAS**, the proposed District public improvements, include public parking spaces and related public access, within the District boundaries ("CDD public improvements"); and

**WHEREAS**, on January 15, 2024, at a duly advertised meeting of the Board of Supervisors of the District (the "Board"), the Board approved the Interlocal Agreement between the District and the City of Fort Lauderdale, the Amended and Restated Declaration of Covenants & Restrictions of Bahia Mar Master Association, Inc. and the Declaration of Restrictive Covenants, which documents were required by the City, as a condition precedent to the conveyance of certain air rights over a portion of Bahia Mar (the "Air Rights Parcel") by the City to the District; and

**WHEREAS**, on January 15, 2024, the Board authorized the retention of Robert Miller, a certified appraiser with The Urban Group, to perform an appraisal of the Air Rights Parcel; and

**WHEREAS**, on January 29, 2024, the City conveyed to the District by Quitclaim Deed the Air Rights Parcel, which was recorded in the Official Records of Broward County on January 31, 2024, Instrument #119365858; and

**WHEREAS**, on February 5, 2024, at a duly advertised meeting of the Board, the Board accepted the Quitclaim Deed of the Air Rights Parcel from the City; and

**WHEREAS**, on February 5, 2024, the Board received and accepted the Appraisal Report of the Present Value of Future Air Rights Above the Podium Site of the Proposed Bahia Mar Development located at 801 Seabreeze Boulevard, dated as of January 26, 2024, prepared by Robert D. Miller, ASA, The Urban Group; and

**WHEREAS**, on February 5, 2024, the Board received and accepted the Report of District Engineer to the Board of Supervisor Determining CDD Air Rights Parcel and Surplus Air Rights Parcel prepared by Alvarez Engineers, Inc. (the "Engineer's Surplus Report"); and

**WHEREAS**, on February 5, 2024, the Board declared as surplus, certain air rights as set forth in the Engineer's Surplus Report, declaring 22.5 feet and higher in elevation air rights as surplus air rights and not needed for the CDD public improvements ("First Phase Surplus Air Rights Parcel"); and

**WHEREAS**, the Board received and accepted a revised Engineer's Surplus Report, dated February 19, 2024, providing for additional surplus air rights upon the completion of the plans for the public portion of the parking garage and other portions of the public improvements as contemplated by the District's public improvements project within the Air Rights Parcel; and

**WHEREAS**, on February 19, 2024, at a duly advertised meeting of the Board, the Board passed and adopted Resolution No. 24-13 approving the Agreement of Purchase and Sale (First Phase Surplus Air Rights) between the District and Rahn; and

**WHEREAS**, on February 29, 2024, the District conveyed to Rahn by Quitclaim Deed the First Phase Surplus Air Rights Parcel, which was recorded in the Official Records of Broward County on March 1, 2024, Instrument #119425082; and

**WHEREAS**, after discovery of a scrivener's error in the legal description in the Quitclaim Deed from the City to the District, a corrective Quitclaim Deed was executed by the City and recorded in the Official Records of Broward County on January 31, 2024, Instrument #119949230; and

**WHEREAS**, after recording of the corrective Quitclaim Deed from the City to the CDD, a corrective Quitclaim Deed was executed by District to Rahn which was recorded in the Official Records of Broward County on December 31, 2024, Instrument #119978353; and

**WHEREAS**, the Board received and accepted a supplemental Engineer's Surplus Report, dated October 19, 2026, providing for the additional surplus air rights based upon the plans for the public portion of the parking garage to be owned by the District within the remaining Air Rights owned by the District ("Second Phase Air Rights Parcel"); and

**WHEREAS**, the Board has determined that the Second Phase Air Rights Parcel may be conveyed by Quitclaim Deed to Rahn for the appraised value as set forth in the Appraisal Report; and

**WHEREAS**, the Board has considered the Amended and Restated Agreement of Purchase and Sale between the District, Rahn and PRH/TRR Bahia Mar Holdings, LLC ("PRH/TRR") providing for the acknowledgement of the Quitclaim Deed and Corrective Quitclaim Deed and the Second Phase Air Rights Parcel for the appraised value as set forth in the Appraisal Report to be conveyed to Rahn.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. That the Recitals set forth above are true and correct and incorporated herein by this reference.

SECTION 2. That the Board hereby ratifies and confirms all actions heretofore taken by the Board declaring the surplus air rights and valuation of the surplus air rights in accordance with the Appraisal Report.

SECTION 3. That the Board hereby approves the Amended and Restated Agreement of Purchase and Sale between the District, Rahn and PRH/TRR and authorizes the Chair, Vice Chair, or in the absence of either, any member of the Board to execute any and all documents to effectuate the conveyance of the Surplus Air Rights Parcels.

SECTION 4. That the effective date of this Resolution is the date of adoption.

PASSED AND ADOPTED at a meeting of the District Board of Supervisors, this ____ day of _____, 2026.

ATTEST:

_____
Print Name: _____
Title: _____

BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT

_____
Print Name: _____
Title: _____

# Bahia Mar

## Community Development District

**Funding Request #22**
**September 30, 2026**

| | PAYEE | | GENERAL FUND |
|---|---|---|---|
| **1** | **Billing, Cochran, Lyles, Mauro & Ramsey, PA** | | |
| | Inv# 200322 - General Counsel (Aug 2026) | $ | 715.00 |
| | Inv# 200902 - General Counsel (Sep 2026) | $ | 8,105.50 |
| **2** | **GMS-SF, LLC** | | |
| | Inv# 36 - Mgmt Fees & Expenses (Sep 2026) | $ | 3,416.67 |
| | **TOTAL** | **$** | **12,237.17** |

Please make check payable to:

**Bahia Mar Community Development District**
5385 N Nob Hill Road
Sunrise, FL 33351

# Bahia Mar

## Community Development District

**Funding Request #23**
**October 8, 2026**

| | PAYEE | | GENERAL FUND |
|---|---|---|---|
| 1 | **Egis Insurance Advisors** | | |
| | Inv# 34344 - Insurance FY2027 | $ | 5,375.00 |
| 2 | **GMS-SF, LLC** | | |
| | Inv# 37 - Mgmt Fees & Expenses (Oct 2026) | $ | 3,587.50 |
| | **TOTAL** | **$** | **8,962.50** |

Please make check payable to:

**Bahia Mar Community Development District**
5385 N Nob Hill Road
Sunrise, FL 33351

# *Bahia Mar*

## *Community Development District*

### *Unaudited Financial Reporting*

*September 30, 2026*

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# Bahia Mar

## Community Development District

### Combined Balance Sheet

### September 30, 2026

| | *General Fund* | *Capital Project Fund* | *Totals Governmental Funds* |
|---|---|---|---|
| **Assets:** | | | |
| Cash: | | | |
| Operating Account | $ 3,269 | $ - | $ 3,269 |
| Due from Developer | 12,237 | - | 12,237 |
| **Total Assets** | **$ 15,506** | **$ -** | **$ 15,506** |
| **Liabilities:** | | | |
| Accounts Payable | $ 12,237 | $ - | $ 12,237 |
| Due to Developer | 7,560 | - | 7,560 |
| Due to General Fund | | $ 7,560 | 7,560 |
| **Total Liabilites** | **$ 19,797** | **$ 7,560** | **$ 27,357** |
| **Fund Balance:** | | | |
| Restricted for: | | | |
| Capital Project | | $ (7,560) | $ (7,560) |
| Unassigned | (4,291) | - | (4,291) |
| **Total Fund Balances** | **$ (4,291)** | **$ (7,560)** | **$ (11,851)** |
| Total Liabilities & Fund Balance | $ 15,506 | $ - | $ 15,506 |

# Bahia Mar

## Community Development District

### General Fund

### Statement of Revenues, Expenditures, and Changes in Fund Balance

For The Period Ending September 30, 2026

| | Amended Budget | Prorated Budget Thru 09/30/26 | Actual Thru 09/30/26 | Variance |
|---|---|---|---|---|
| **Revenues:** | | | | |
| Developer Contributions | $ 93,000 | $ 93,000 | $ 61,278 | $ (31,722) |
| **Total Revenues** | **$ 93,000** | **$ 93,000** | **$ 61,278** | **$ (31,722)** |
| **Expenditures:** | | | | |
| ***General & Administrative:*** | | | | |
| Engineering | $ 10,000 | $ 10,000 | $ 56 | $ 9,944 |
| Attorney | 15,000 | 15,000 | 18,948 | (3,948) |
| Annual Audit | 3,500 | 3,500 | 3,500 | - |
| Assessment Administration | 5,000 | 5,000 | - | 5,000 |
| Arbitrage Rebate | 600 | 600 | - | 600 |
| Dissemination Agent | 2,500 | 2,500 | - | 2,500 |
| Trustee Fees | 4,200 | 4,200 | - | 4,200 |
| Management Fees | 39,000 | 39,000 | 39,000 | - |
| Information Technology/Website Admin | 2,000 | 2,000 | 2,000 | (0) |
| Telephone | 100 | 100 | - | 100 |
| Postage & Delivery | 500 | 500 | 3 | 497 |
| Insurance General Liability | 5,500 | 5,500 | 5,000 | 500 |
| Printing & Binding | 500 | 500 | 2 | 498 |
| Legal Advertising | 3,000 | 3,000 | 154 | 2,846 |
| Other Current Charges | 1,425 | 1,425 | 707 | 718 |
| Dues, Licenses & Subscriptions | 175 | 175 | 175 | - |
| **Total Expenditures** | **$ 93,000** | **$ 93,000** | **$ 69,545** | **$ 23,455** |
| **Excess (Deficiency) of Revenues over Expendit** | $ - | $ - | $ (8,267) | $ (8,267) |
| **Net Change in Fund Balance** | **$ -** | **$ -** | **$ (8,267)** | **$ (8,267)** |
| **Fund Balance - Beginning** | $ - | | $ 3,976 | |
| **Fund Balance - Ending** | $ - | | $ (4,291) | |

# Bahia Mar

## Community Development District

### Capital Projects Fund

### Statement of Revenues, Expenditures, and Changes in Fund Balance

**For The Period Ending September 30, 2026**

| | Adopted Budget | Prorated Budget Thru 09/30/26 | Actual Thru 09/30/26 | Variance |
|---|---|---|---|---|
| **Revenues** | | | | |
| Developer Contributions | $ - | $ - | $ - | $ - |
| Interest Income | - | - | - | - |
| **Total Revenues** | **$ -** | **$ -** | **$ -** | **$ -** |
| **Expenditures:** | | | | |
| Capital Outlay | $ - | $ - | $ - | $ - |
| **Total Expenditures** | **$ -** | **$ -** | **$ -** | **$ -** |
| **Excess (Deficiency) of Revenues over Expen** | **$ -** | **$ -** | **$ -** | **$ -** |
| **Other Financing Sources/(Uses)** | | | | |
| Transfer In/(Out) | $ - | $ - | $ - | $ - |
| **Total Other Financing Sources (Uses)** | **$ -** | **$ -** | **$ -** | **$ -** |
| **Net Change in Fund Balance** | **$ -** | **$ -** | **$ -** | **$ -** |
| **Fund Balance - Beginning** | $ - | | $ (7,560) | |
| **Fund Balance - Ending** | $ - | | $ (7,560) | |

# Bahia Mar

## Community Development District

### Month to Month

| | Oct | Nov | Dec | Jan | Feb | March | April | May | June | July | Aug | Sept | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Revenues:** | | | | | | | | | | | | | |
| Developer Contributions | $ - | $ 8,411 | $ - | $ - | $ - | $ 12,087 | $ - | $ 7,613 | $ - | $ - | $ - | $ 33,166 | $ 61,278 |
| **Total Revenues** | **$ -** | **$ 8,411** | **$ -** | **$ -** | **$ -** | **$ 12,087** | **$ -** | **$ 7,613** | **$ -** | **$ -** | **$ -** | **$ 33,166** | **$ 61,278** |
| **Expenditures:** | | | | | | | | | | | | | |
| ***General & Administrative:*** | | | | | | | | | | | | | |
| Engineering | - | - | - | 56 | - | - | - | - | - | - | - | - | 56 |
| Attorney | 500 | 585 | 500 | 500 | 780 | 500 | 2,633 | 2,590 | 1,040 | 500 | 715 | 8,106 | 18,948 |
| Annual Audit | - | - | 3,500 | - | - | - | - | - | - | - | - | - | 3,500 |
| Assessment Administration | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Arbitrage Rebate | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Dissemination Agent | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Trustee Fees | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Management Fees | 3,250 | 3,250 | 3,250 | 3,250 | 3,250 | 3,250 | 3,250 | 3,250 | 3,250 | 3,250 | 3,250 | 3,250 | 39,000 |
| Information Technology/Website Admin | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 167 | 2,000 |
| Postage & Delivery | - | 2 | 1 | - | - | - | - | - | - | - | - | - | 3 |
| Insurance General Liability | - | 5,000 | - | - | - | - | - | - | - | - | - | - | 5,000 |
| Printing & Binding | - | 2 | 1 | - | - | - | - | - | - | - | - | - | 2 |
| Legal Advertising | 154 | - | - | - | - | - | - | - | - | - | - | - | 154 |
| Other Current Charges | 57 | 57 | 59 | 58 | 58 | 59 | 57 | 62 | 60 | 60 | 60 | 60 | 707 |
| Office Supplies | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Dues, Licenses & Subscriptions | 175 | - | - | - | - | - | - | - | - | - | - | - | 175 |
| **Total Expenditures** | **$ 4,303** | **$ 9,062** | **$ 7,477** | **$ 4,031** | **$ 4,255** | **$ 3,975** | **$ 6,106** | **$ 6,069** | **$ 4,516** | **$ 3,977** | **$ 4,192** | **$ 11,582** | **$ 69,545** |
| **Excess (Deficiency) of Revenues over Ex** | $ (4,303) | $ (651) | $ (7,477) | $ (4,031) | $ (4,255) | $ 8,112 | $ (6,106) | $ 1,545 | $ (4,516) | $ (3,977) | $ (4,192) | $ 21,584 | $ (8,267) |
| **Other Financing Sources/Uses:** | | | | | | | | | | | | | |
| Transfer In/(Out) | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| **Total Other Financing Sources/Uses** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** |
| **Net Change in Fund Balance** | **$ (4,303)** | **$ (651)** | **$ (7,477)** | **$ (4,031)** | **$ (4,255)** | **$ 8,112** | **$ (6,106)** | **$ 1,545** | **$ (4,516)** | **$ (3,977)** | **$ (4,192)** | **$ 21,584** | **$ (8,267)** |