

**TERMINATION AND RELEASE OF A HOTEL DENSITY RESERVE
DEVELOPMENT AGREEMENT**

THIS TERMINATION AND RELEASE OF A DEVELOPMENT AGREEMENT (the "Termination"), between Bayway Hotel Holdings, LLC. (the Property Owner) and the CITY OF CLEARWATER, FLORIDA, a municipal corporation of the State of Florida acting through its City Council, the governing body thereof (the "City") is dated the _____ day of _____, 201__.

RECITALS:

WHEREAS, the City of Clearwater entered into a Development Agreement (the "Agreement") with the "Property Owner," for the allocation of up to 15 units from the Hotel Density Reserve, under *Beach by Design*, for the Property at 706 Bayway Boulevard, Clearwater, FL 33767 (the "Property"); and

WHEREAS, the Agreement was adopted by the City Council on December 2, 2014, via Resolution No. 14-35; and

WHEREAS, as a condition of approval for the allocation of up to 15 units from the Hotel Density Reserve under *Beach by Design*, Section 6.1.3.1 required the Property Owner to develop the Property in substantial conformance with the conceptual site plan attached to the Agreement; and

WHEREAS, the City has determined that the Property Owner has abandoned development of the Property consistent with conceptual site plans that were part of the Agreement, and the Property Owner sought approval for entirely new site plans, which were approved by the Community Development Board on March 21, 2017 as part of a Level II Flexible Development application (FLD2016-12039) for Resort Attached Dwellings; and

WHEREAS, the City has conducted such public hearings as are required by and in accordance with Florida Statutes Section 163.3225, Code Sections 4-206 and 4-606, and any other applicable law; and

WHEREAS, the City desires to terminate said Development Agreement due to the Property Owner's failure to comply with the terms of the Development Agreement; and

WHEREAS, at a duly noticed and convened public meeting on _____, 201__, the City Council thereby passed Resolution 17-09 consenting to the termination and release of the Development Agreement; and

WHEREAS, termination of this Agreement is in the interests of the City in furtherance of the City's goals of enhancing the viability of the resort community and in furtherance of the objectives of *Beach by Design*; and

NOW, THEREFORE, in consideration of the recitals set forth above, which are incorporated herein by this reference, Ten Dollars (\$10.00) in hand paid, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City terminates the Agreement and hereby releases the Property from all terms, conditions, agreements, grant of rights, and covenants contained in the Agreement, including, without limitation, the allocation of up to 15 units from the Hotel Density Reserve. The City hereby affirms that: (a) no provision, term, covenant or condition in said Agreement remains in effect as of the date hereof; and (b) the Property retains no right, title or interest of any kind or nature in said Hotel Density Reserve units.

THIS TERMINATION AND RELEASE has been executed as of the above-written date by the City.

CITY OF CLEARWATER, FLORIDA

By: _____
William B. Horne II
City Manager

Attest:

Rosemarie Call, City Clerk

Countersigned:

George N. Cretekos, Mayor

Approved as to Form:

Camilo A. Soto,
Assistant City Attorney

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of _____, 201__, by GEORGE N. CRETEKOS, as Mayor of the City of Clearwater, Florida, who is [] personally known to me or has [] produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this _____ day of _____, 201__, by WILLIAM B. HORNE, II, as City Manager of the City of Clearwater, Florida, who is [] personally known to me or who has [] produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires _____