

Return to:
City Attorney's Office
City of Clearwater
P.O. Box 4748
Clearwater, FL 33758

Amendment to Development Agreement

THIS AMENDMENT to DEVELOPMENT AGREEMENT ("Amendment") is dated the ____ day of _____, 2022 and entered into between Beachrock Lodging LLLP, a Florida limited partnership ("Developer"), its successors and assigns, and the CITY OF CLEARWATER, FLORIDA, a municipality of the State of Florida acting through its City Council, the governing body thereof ("City").

Recitals:

WHEREAS, Sections 163.3220 - 163.3243, Florida Statutes, which set forth the Florida Local Government Development Agreement Act ("Act"), authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property located within the corporate limits of the City; and

WHEREAS, under Section 163.3223 of the Act, the City has adopted Section 4-606 of the City of Clearwater Community Development Code ("Code"), establishing procedures and requirements to consider and enter into development agreements; and

WHEREAS, the City and Mainstream Partners VIII, LTD, ("Original Developer") entered into a Hotel Density Reserve Development Agreement (HDA2013-08004, Resolution 14-11) dated May 28, 2014 and recorded at Official Records Book 18431, Page 535 in the public records of Pinellas County ("Development Agreement"); and

WHEREAS, the Original Developer's interest in the Development Agreement was assigned to Ker Holdings Beachview, LLC, and subsequently assigned to Developer (Beachrock Lodging LLLP), as consented to by the City by execution of a Joinder of the Assignment dated July 28, 2021; and

WHEREAS, *Beach by Design* proposed additional hotel units to equalize development opportunities on the beach and ensure Clearwater Beach remains a quality, family resort community by further providing for a limited pool of additional hotel units ("Hotel Density Reserve") to be made available for mid-sized hotel projects; and

WHEREAS, the Development Agreement provided one hundred (100) units from the Hotel Density Reserve to the Developer to be utilized on 1.6 acres of real property (as described in the Development Agreement as “Property”); and

WHEREAS, maximum density permitted on the Property, pursuant to Beach by Design, is 150 units per acre; and the Development Agreement provided for a density of 113 hotel units per acre; and

WHEREAS, the Developer desires to modify the Project design as provided for herein and in Exhibit A, attached hereto and made part hereof; and

WHEREAS, upon completion of the Project contemplated in the Amended Agreement, the Project will contain a total of one hundred eighty (180) overnight accommodation units (113 units per acre), which includes one hundred (100) units originally granted from the available *Beach by Design* Hotel Density Reserve (“Amended Project”); and

WHEREAS, the City has conducted such hearings as are required by and in accordance with Chapter 163.3220 Fla. Stat. (2019) and any other applicable law; and

WHEREAS, the City has determined that, as of the Effective Date of this Amendment, the proposed project is consistent with the City’s Comprehensive Plan and Land Development Regulations; and

WHEREAS, the City has conducted public hearings as required §§ 4-206 and 4-606 of the Community Development Code (“Code”); and

WHEREAS, at a duly called public meeting on _____, the City Council approved this Amendment and authorized and directed its execution by the appropriate officials of the City; and

WHEREAS, the upon approval by the City Council, the Developer will seek to amend the site plan approved pursuant to FLD2014-12034 pursuant to the Code (“Site Plan”) which has been extended pursuant to state and local law; and

WHEREAS, the City and the Developer desire to amend certain terms and provisions of the Agreement as more fully set forth herein below.

STATEMENT OF AGREEMENT

NOW THEREFORE, in consideration of and in reliance upon the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound and in accordance with the Act, agree as follows:

SECTION 1. Recitals. The above recitals are true and correct and are a part of this Agreement.

SECTION 2. Incorporation of the Act. This Agreement is entered into in compliance with and under the authority of the Code and the Act, the terms of which as of the date of this Agreement are incorporated herein by this reference and made a part of this Agreement. Words used in this Agreement without definition that are defined in the Act shall have the same meaning in this Agreement as in the Act.

SECTION 3. Scope of Project. Notwithstanding anything contained in the Development Agreement to the contrary, section 4 and all other references in the Agreement and Exhibits regarding the Scope of the Project shall be consistent with the following:

(a) Section 4.4 is amended to read: The density of the Project shall be 113 units/acre. In no instance shall the density of a parcel of land exceed 150 units per acre. The height of the Project is proposed to be 99 feet 0 inches (99'0") but shall not exceed 100 feet as measured from the point at which minimum floor elevations have been established by law, as defined in the City's Community Development Code. The maximum building heights of the various character districts cannot be increased to accommodate hotel rooms allocated from the Hotel Density Reserve.

(b) The Project shall substantially conform with the plans included in Exhibit B attached hereto and made part hereof, which is consistent with Beach by Design.

SECTION 4. Expiration Date. The Agreement, as amended, shall expire ten (10) years after the adoption of this Amendment.

SECTION 5. Ratification. Except as specifically modified herein, all terms, conditions and obligations contained in the Development Agreement shall retain in full force and effect and are reaffirmed by the parties hereto.

**Signature Page to Amendment
to Development Agreement HDA2013-08004A**

In the Presence of:

Beachrock Lodging, LLLP, a Florida
limited partnership

Print Name: _____

_____, as _____

Print Name: _____

As to "Developer"

CITY OF CLEARWATER, FLORIDA

Print Name: _____

By: _____
Jon Jennings, City Manager

Print Name: _____

As to "City"

Attest:

Rosemarie Call, City Clerk

Countersigned:

Frank Hibbard, Mayor

Approved as to Form:

Assistant City Attorney

**Signature Page to Amendment
to Development Agreement HDA2013-08004A**

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence
of ☐ online notarization this _____ day of _____, 2022 by by
_____, as _____ of Beachrock Lodging, LLLP a Florida limited
partnership. He is ☐ personally known to me or ☐ has produced a valid driver's license as
identification.

Notary Public
Print Name: _____
My Commission Expires: _____