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**NINTH AMENDMENT TO BANYAN BAY**  
**PLANNED UNIT DEVELOPMENT ZONING AGREEMENT**

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020,  
by and between **BANYAN BAY MACKS, LLC**, a Delaware limited liability company,  
hereinafter referred to as **OWNER**, and **MARTIN COUNTY**, a political subdivision of the  
State of Florida, hereinafter referred to as **COUNTY**.

**WITNESSETH:**

**WHEREAS**, after appropriate notice, public hearing and approval, Banyan Bay Development Corporation, a Florida corporation, and COUNTY on or about the 9th day of November 2004, entered into a Planned Unit Development Zoning Agreement for the development of a project in Martin County, Florida, known as “Banyan Bay” (“**Project**”), which Planned Unit Development Zoning Agreement (“**Original Agreement**”) is recorded in Official Records Book 1979, beginning at Page 2199 of the Public Records of Martin County, Florida (“**Public Records**”) which has been amended through and including that certain Eighth Amendment to Banyan Bay Planned Unit Development Zoning Agreement, dated November 30, 2018, (“**Eighth Amendment**,” and collectively with the Original Agreement and all amendments thereto being referred to in this Amendment as the “**PUD Agreement**”); and

**WHEREAS**, OWNER, acquired all right, title and interest to the property subject to the PUD Agreement, as reflected in the Special Warranty Deed between Banyan Bay Venture I,

LLC, Banyan Bay Venture II, LLC and OWNER, as recorded in Official Records Book 2898, Page 2065 of the Public Records; and

**WHEREAS**, OWNER desires to amend the PUD Agreement for purposes of revising, **Revised Exhibit “D”**, Revised Master Plan, **Exhibit “D-1”**, Revised Phasing Plan, and **Exhibit “E”**, Revised Timetable of Development.

**NOW, THEREFORE**, the parties do hereby agree as follows:

1. The above recitations are true and correct and incorporated herein by reference.
2. The previously approved Revised Master Site Plan, and the previously approved Revised Phasing Plan, are hereby amended and replaced by **Revised Exhibit “D”**, Revised Master Plan, and **Revised Exhibit “D-1”**, Revised Phasing Plan, which are attached hereto and made a part hereof.
3. The previously approved **Revised Exhibit “D”** and **Revised Exhibit “D-1”** have been amended to reduce the density and change the product type in Phase 2C from 48 duplex units to 36 single family units, thereby reducing the overall units in the Banyan Bay PUD from 305 units to 293 units.
4. The Timetable of Development, originally attached as **Exhibit “E”** is hereby replaced by **Revised Exhibit “E”**, Revised Timetable of Development, and attached hereto and made a part hereof, to reflect the extension of time to obtain final site plan approvals for Phases 2C and 3, based on the extensions exercised by OWNER and its predecessor in interest as to the Project, by notification to the COUNTY pursuant to Section 252.636, Florida Statutes, of the Governor’s various declarations of emergencies.
5. All of the terms and conditions of the PUD Agreement which are not specifically amended or revised by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this PUD Agreement to be made and entered into the day and year first written. The date of this PUD Agreement shall be the date on which this PUD Agreement was approved by the Board of County Commissioners.

**\*\*\* NO FURTHER TEXT ON THIS PAGE\*\*\***

**OWNER**

WITNESSES:

**BANYAN BAY MACKS, LLC,**  
a Delaware limited liability company

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

By: \_\_\_\_\_  
Jonathan C. Mayers, Manager

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

STATE OF \_\_\_\_\_

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, by means of ☒ physical presence or ☐ online notarization on \_\_\_\_\_, 2020, by Jonathan C. Mayers, Manager of Banyan Bay Macks, LLC, a Delaware limited liability company, on behalf of the company, who ☐ is personally known to me or ☐ has proved to me on the basis of a driver's license or other satisfactory evidence consisting of \_\_\_\_\_, to be the person whose name is subscribed to the foregoing instrument, and acknowledged before me that he executed same.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

(NOTARIAL STAMP)

\_\_\_\_\_  
Notary Public

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

My commission expires: \_\_\_\_\_

Affix official seal below: \_\_\_\_\_

**COUNTY**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

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Carolyn Timmann  
Clerk of the Circuit Court and Comptroller

By: \_\_\_\_\_  
Harold E. Jenkins II, Chairman

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

(COMMISSION SEAL)

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Krista A. Storey  
Senior Assistant County Attorney

*Pursuant to Sec. 695.26, F.S.*  
Prepared by:  
Robert S. Raynes, Jr., Esquire  
Gunster, Yoakley & Stewart, P.A.  
800 SE Monterey Commons Blvd., Suite 200  
Stuart, Florida 34996

**REVISED EXHIBIT D**  
**BANYAN BAY – REVISED MASTER PLAN**

**REVISED EXHIBIT D-1**  
**BANYAN BAY – REVISED PHASING PLAN**

**REVISED EXHIBIT E**  
**REVISED TIMETABLE FOR DEVELOPMENT**

- A. This development shall be constructed in phases in accordance with this timetable of development and the master site plan and phasing plan.
- B. Construction must commence within one (1) year of each final site plan approval.
- C. All infrastructure improvements for the Banyan Bay development shall be completed by November 17, 2023 (Executive Order 16-230), as set forth below.
- D. Infrastructure improvements for the applicable phase must be substantially completed before issuance of building permits. All required infrastructure improvements identified on the final site plan for the applicable phase, must be completed prior to the issuance of any certificate of occupancy.
- E. The recreation area shown on the master site plan at the project's entrance, including supporting infrastructure improvements, must be permitted with the building permit for the first unit in Phase 1 and completed within twelve (12) months of the issuance of the first certificate of occupancy for a unit in Phase 1.

The phases to be constructed and the time period within which final site plan and plat approval (plat approval is not required for multi-family phases) of each phase must be obtained are as follows:

<b>Final Site Plan and/or Plat Approval (on or before)</b>	<b>Completion (on or before)</b>	<b>Elements of Phases to be constructed</b>
Phase 1	Completed	74 single family lots including 8 model units (Lots 1–8), main project entrance, entrance lakes, recreation area at project's entrance, reduction of temporary stockpile areas and supporting infrastructure (substantially completed pursuant to the Third Amendment to the Commitment to Complete and Maintain the Required Improvements and Infrastructure for Banyan Bay PUD – Phase 1.
Obtained Final Site Plan Approval 09/06/05		
Obtained Revised Final Site Plan Approval 08/25/06		
Obtained Plat Approval 05/20/08		
Obtained Revised Final Site Plan Approval 05/10/16		
		Clearing of native vegetation in accordance with Special Condition 13 of Exhibit F (completed).
		Construct one through lane



		and left and right turn lanes and modify traffic signal at the entrance of the project in accordance with Special Condition 20A of Exhibit F (completed).
<b>Final Site Plan and/or Plat Approval (on or before)</b>	<b>Completion (on or before)</b>	<b>Elements of Phases to be constructed</b>

Final Site Plan and Plat Approval

**Phase 1 (cont.)**

Phase to be Constructed

Payment of \$100,000.00 to Martin County for new fire station in accordance with Special Condition 7B of Exhibit F (completed).

Payment of \$25,000.00 to Martin County for new community swimming pool in accordance with Special Condition 2 of Exhibit F (completed).

<b>Final Site Plan and/or Plat Approval (on or before)</b>	<b>Completion (on or before)</b>	<b>Elements of Phases to be constructed</b>
Phase 2A Completed	August 14, 2027	111 single family lots and supporting infrastructure.  Design traffic signal at Willoughby Boulevard and Market Place and donate \$30,000.00 towards signal in accordance with Special Condition 20B of Exhibit F (completed).  Extend water and force mains along Kanner Highway to the southernmost property boundary

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in accordance with Special Condition 23B of Exhibit F.

Install Phase 3 landscape buffer – except for the entrance drive and line of sight, existing vegetation along SR 76 will be retained and supplemented as necessary to provide a 100% opaque screen a minimum of six feet in height.

<b>Final Site Plan and/or Plat Approval (on or before)</b>	<b>Completion (on or before)</b>	<b>Elements of Phases to be constructed</b>
Phase 2B Completed	August 14, 2027	Waterfront recreation area including gazebo, boat ramp, slips (maximum 6 wet slips), parking and supporting infrastructure.

<b>Final Site Plan and/or Plat Approval (on or before)</b>	<b>Completion (on or before)</b>	<b>Elements of Phases to be constructed</b>
Phase 2C June 5, 2028	June 4, 2030	24 duplex buildings for a total of 48 units and supporting infrastructure including native landscape buffer along SR 76 and FDOT Pond; and two (2.00) acres of pervious pavers or an equivalent water quality treatment volume; or an updated drainage basin analysis showing Martin County's water quality requirements have been met for Basin "A".

<b>Final Site Plan and/or Plat Approval (on or before)</b>	<b>Completion (on or before)</b>	<b>Elements of Phases to be constructed</b>
Phase 3 June 5, 2028	June 4, 2030	72 multi-family units, recreation area and supporting infrastructure, and landscape buffer along SR 76 to be installed with Phase 2A infrastructure.

Note: The following is provided as a non-binding timetable for vertical construction of the single-family units within Banyan Bay for purposes of ARDP:

62 units 2017

62 units 2018

62 units 2019

47 units 2020