

## **LETTER OF INTENT GULFSTREAM REDEVELOPMENT**

This Letter of Intent (the “**LOI**”) is entered into as of May 25, 2021 (the “**Effective Date**”), between the **City of Lake Worth Beach**, Florida, a Florida municipal corporation, having offices at 7 North Dixie Highway, Lake Worth Beach, Florida 33460 (“**City**”), and **Restoration St. Louis, Inc.**, a Missouri corporation, having offices at 4240 Manchester Avenue, St. Louis MO 63110 (“**Developer**”). City and Developer are collectively referred to as the “**Parties**” and individually as a “**Party**”.

The purpose of this LOI is to set forth certain binding and nonbinding provisions pertaining to the redevelopment of the Gulfstream Hotel and the adjoining vacant parcels in downtown Lake Worth Beach (“**Development Property**”) by Developer and its affiliated entities (“**Project**”).

### **PART I**

The following Paragraphs, A through C (inclusive of all sub-paragraphs), reflect the Parties’ current understanding of the efforts described, but are not legally binding and do not impose an enforceable obligation on either Party except as provided in Part II hereof.

A. **Urban Planned Development.** The City and Developer are coordinating on an entitlement process for an urban planned development and historic restoration as outlined by Chapter 23 of the City’s Code of Ordinances including review by Historic Resources Preservation Board (HRPB) and the Lake Worth Beach City Commission as appropriate, and release the existing recorded Unity of Title and other restrictions simultaneously with approval of new entitlements for the Development Property for the Project. This process also includes the Parties’ current efforts to:

1. Coordinate on a Transfer of Development Rights (incl. 10 additional units per acre) through review and approval before the HRPB, and the Lake Worth Beach City Commission, and waive all fees associated with Transfer of Development Rights; and,
2. Coordinate on a Sustainable Bonus Incentive (incl. additional FAR) through review and approval before the HRPB, and the Lake Worth Beach City Commission, and waive any associated fees.

B. **Economic Investment Incentive.** The City and Developer are preparing an Economic Investment Incentive package as authorized by the City’s Code of Ordinances for new revenue streams to the electrical, water, sewer and stormwater utilities based on the estimated for the Project as follows:

1. Electric -\$0.55 per sq ft of conditioned space;
2. Water/Sewer - \$0.12 per sq ft of conditioned space;

3. Stormwater - \$0.03 per sq ft of conditioned space; and,
4. An Economic Investment Infrastructure Incentive of reimbursement of costs for necessary infrastructure improvements adjacent to the Project on behalf of the Electric Utility, Water Utility and/or Public Services Department that are included in the City's Five Year Capital Improvement Plan (CIP) of not less than \$1,000,000.

C. **Miscellaneous Efforts.** The following efforts are being coordinated and evaluated by the Parties and, if practicable or applicable, the resulting obligations of the Parties shall be ready for City Manager, HRPB, and/or Lake Worth Beach City Commission review no later than \_\_\_\_\_.

1. To evaluate the feasibility and the design of providing for 2-way traffic along South Lakeside Drive between Lake Avenue and 1st Avenue South.
2. To support a valet lane on Lake Avenue in front of the Development Property and assist with coordination with the Florida Department of Transportation (FDOT) as necessary (construction to be at the cost of the Developer, not the City, except for any improvements related to the Economic Investment Infrastructure Incentive (above)).
3. To evaluate parking options as follows:
  - a. Non-exclusive free hotel/restaurant use of existing street parking on Golfview Drive;
  - b. Exploration of a joint option of providing overflow parking for staff and guests;
  - c. Consider alterations in meter and parking restrictions surrounding the Development Property; and,
  - d. Negotiate a purchase or rental rate for public parking in the Development Property if the Developer makes provision for public parking.
4. To evaluate the building permit fee and entitlements application fee parameters for developments over \$30M.
5. To support and coordinate a 10-year ad valorem tax abatement on the historic portion of the Project through review and approval before the HRPB, the Lake Worth Beach City Commission and the Palm Beach County Board of County Commissioners.
6. To the extent possible, collaborate on streetscape improvements and the effect of the newly adopted Lake Worth Beach Major Thoroughfare Design Guidelines.
7. To develop a formal golf course package at the City's Municipal Golf Course to facilitate access for hotel guests and condominium owners.
8. To collaborate and identify appropriate safety and facility improvements for Bryant Park that can be funded and implemented prior to the opening of the Project.
9. To negotiate towards a mutually agreeable mechanism to enable the Gulfstream Hotel to provide its guests with an appropriate hotel experience at the Lake Worth Beach municipal beach property, including branded towel service, chair and cabana rental;

refreshments; beach games/equipment; other similar hotel amenities; and, with an ability for hotel guests to sign charges to their hotel room. The Parties will coordinate with the City's current municipal beach chair vendor and potentially municipal beach restaurant operator(s) ("City's Current Vendors") to implement such services. If such services are available from the City's Current Vendors at an appropriate level and commercially reasonable cost, the Developer and/or City will enter the appropriate agreements with the City's Current Vendors to set forth the terms and conditions for the services. If such agreements terminate or otherwise expire, the Parties will work together in good faith to obtain replacement services. If such services are not reasonably available from the City's Current Vendors, or no other replacement services are reasonably acceptable to the Parties, the City will allow the Developer to operate reasonably near the municipal beach to provide such services directly to hotel guests.

10. To relocate utilities from the abandoned alleyway section bisecting the Development Property and release of City held easements within such alleyway.
11. During the construction period, to temporarily close or restrict access to lanes, streets, alleys, or other public areas in the area of the Development Property as requested by Developer for staging, parking, equipment etc., including without limitation temporary closing of South Lakeview and reduction in lanes on First Ave to permit construction cranes, construction trailers, construction parking, and other construction facilitation. The City may require that any such closure or restriction be for the minimum time reasonably necessary to accommodate construction.
12. To assist with an application for a HUD Section 108 Loan Community Development Block Grant in the amount of Six million dollars (\$6,000,000) to assist with the cost of Project costs permitted by the loan program.
13. To support and assist the Developer in obtaining from the Lake Worth Beach Community Redevelopment Agency: a ten-year TIF on new construction portion of project; a façade and interiors renovation program incentive; and, an infrastructure improvement program incentive.
14. To support and assist the Developer in obtaining from the Palm Beach County: an abatement or significant reduction in impact fees (currently estimated at \$500,000); a Hotel/Motel Sales Tax Rebate; and, Tourism program incentive funding.
15. To support and assist the Developer in obtaining from the State of Florida and/or Federal Government: Development Incentives, Grant Funding, and Development Loans.

The Parties understand that additional discussions and negotiations with respect to Paragraphs A, B and C (inclusive of all sub-paragraphs), above, will be required, and that no Party will be bound to any of the efforts in Paragraphs A, B and C (inclusive of all sub-paragraphs), above, unless and until the City and Developer negotiate, approve and execute acceptable definitive agreements and related documentation (including, without limitation, approvals of the Developer, City's City Manager, HRPB, and/or Lake Worth Beach City Commission) as necessary to achieve binding obligations as to the efforts in Paragraphs A, B and C (inclusive of all sub-paragraphs) above (the "**Definitive Agreements**").

It is anticipated by the Parties that the Definitive Agreements regarding the efforts in Paragraph A (inclusive of all sub-paragraphs), above, will be fully negotiated and ready in ordinance form for HRPB review no later than November 1, 2021 and Lake Worth Beach City Commission review no later than December 1, 2021. Review by the Lake Worth Beach City Commission will require two (2) meetings per section 166.041, Florida Statutes.

It is anticipated by the Parties that the Definitive Agreement(s) (i.e., Economic Investment Incentive Program Agreement) regarding the efforts in Paragraph B (inclusive of all sub-paragraphs), above, will be fully negotiated and ready for review by the Lake Worth Beach City Commission no later than November 1, 2021.

It is anticipated by the Parties that the Definitive Agreements regarding the efforts in Paragraph C (inclusive of all sub-paragraphs), above, will be ready for review by the City Manager, HRPB, and/or, Lake Worth Beach City Commission (as applicable) no later than October 1, 2021; however, the Parties recognize that some of the efforts set forth in Paragraph C (inclusive of all sub-paragraphs), above, may be of a continuing nature during the course of the Project and further Definitive Agreements may be necessary.

## **PART II**

### **ARTICLE 1. GOOD FAITH NEGOTIATIONS**

**Section 1.1** Good Faith Negotiations. Subject to the conditions set forth in this LOI and applicable federal, state and local laws, the Parties agree to use reasonable best efforts and negotiate in good faith to achieve the completion, execution, and delivery of the Definitive Agreements as set forth in Part I above, unless this LOI is earlier terminated pursuant to Part II, Article 2, below, or as may be set forth in the Definitive Agreements. The Parties intend this Part II, Section 1.1, commitment to be legally binding, and each of the Parties represent that this LOI and the commitment made in this Part II, Section 1.1, has the full support of the Parties' necessary approving authorities.

### **ARTICLE 2. TERMINATION**

**Section 2.1** Termination. Unless the negotiations set forth in Part I are extended by mutual agreement of the Parties, this LOI shall terminate on the earlier of: (i) execution of all reasonably necessary Definitive Agreements; (ii) the expiration of the negotiation timeframes set forth in Part I, above; or, (iii) as to either or both of the Parties, termination by written notice or mutual agreement.

**Section 2.2** Upon the any termination of this LOI, the Parties shall have no further obligation hereunder; provided, however, that the terms and provisions set forth in Articles 3 through 10 shall survive the termination of this LOI.

### **ARTICLE 3. EFFECT OF THIS LOI**

**Section 3.1** This LOI is fully supported by the approving authorities of the each of the

Parties; but does not contain all of the material terms necessary for the Definitive Agreements. Rather, the Parties hereby agree that this LOI is intended as a statement of the Parties' good faith, mutual intent and understanding as of the date hereof to proceed with the negotiation of the terms necessary or appropriate Definitive Agreements, subject to the Commitment made in Section 1.1.

Any transaction which might arise from the activities of the Parties as contemplated by this LOI shall be contingent upon the due authorization, execution and delivery by the Parties of the Definitive Agreements, including without limitation the obtaining by each Party of all approvals and all other authorizing actions required to be taken by each Party under its organizational documents.

#### **ARTICLE 4. COSTS AND EXPENSES**

**Section 4.1** Each Party shall bear its own costs and expenses (including fees of counsel and outside advisors) in connection with the preparation, negotiation and execution of this LOI (whether or not any Definitive Agreements are consummated), in connection with the Project.

#### **ARTICLE 5. LIMITATION ON LIABILITY.**

**Section 5.1** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ITS REPRESENTATIVES FOR ANY SPECIAL, INDIRECT, NON-COMPENSATORY, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY TYPE OR ANY LOST PROFITS, LOSS OF BUSINESS OPPORTUNITY OR BUSINESS INTERRUPTIONS WHETHER ARISING IN CONTRACT OR TORT (INCLUDING NEGLIGENCE, WHETHER SOLE, JOINT OR CONCURRENT OR STRICT LIABILITY) OR OTHERWISE, ARISING OUT OF THIS LOI; PROVIDED, HOWEVER, THE PARTIES AGREE THAT ACTIONS SEEKING INJUNCTIVE OR OTHER EQUITABLE RELIEF MAY BE BROUGHT BY EITHER PARTY TO ENFORCE THE BINDING OBLIGATIONS SET FORTH HEREIN.

#### **ARTICLE 6. NO THIRD-PARTY BENEFICIARIES**

**Section 6.1** This LOI is intended for the benefit of the Parties hereto and is not intended to and does not confer any benefit on third parties.

#### **ARTICLE 7. CHOICE OF LAW**

**Section 7.1** This LOI shall be governed by the laws of the State of Florida without regard to its conflicts of laws principles. Any disputes resulting in litigation between the Parties shall be conducted in the state or federal courts of the State of Florida located in West Palm Beach, Florida.

**Section 7.2** IN ANY LITIGATION ARISING FROM OR RELATED TO THIS LOI, THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LOI, OR ANY COURSE OF CONDUCT, COURSE OF

DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY TO THIS LOI. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS LOI.

## **ARTICLE 8. ASSIGNMENT**

**Section 8.1** No assignment or transfer hereunder shall be made by either Party without the prior written consent of the other Party.

## **ARTICLE 9. COUNTERPARTS**

**Section 9.1** This LOI may be executed in counterparts, each of which shall have the effect of and be considered as an original of this LOI.

## **ARTICLE 10. MISCELLANEOUS**

**Section 10.1** As of the date hereof, this LOI constitutes the entire agreement between the Parties with respect to the subject matter hereof. There are no other oral understandings, terms or conditions with respect to the subject matter of this LOI, and neither Party has relied upon any representation, express or implied, not contained in this LOI.

**Section 10.2** If any one or more of the provisions of this LOI should be ruled illegal, wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction under present or future laws, then: (i) the validity and enforceability of all provisions of this LOI not ruled to be invalid or unenforceable shall be unaffected and remain in full force and effect; (ii) the effect of the ruling shall be limited to the jurisdiction of the court or other government body making the ruling; (iii) the provision(s) held illegal, wholly or partly invalid or unenforceable shall be deemed amended, and the court or other government body is authorized to reform the provision(s), to the minimum extent necessary to render them valid and enforceable in conformity with the Parties' intent as manifested herein.

**Section 10.3** Each Party acknowledges that it has actively participated in the negotiation and preparation of this LOI, and that accordingly this LOI and any uncertainty or ambiguity contained herein shall not be construed against any one Party as drafter. The descriptive headings of this LOI are inserted for convenience only and do not constitute a substantive part of this LOI.

**Section 10.4** The obligations of the Parties hereunder which by their nature survive the termination of the LOI, shall survive and inure to the benefit of the Parties. Those provisions of the LOI which provide for the limitation of or protection against liability shall apply to the full extent permitted by law and shall survive termination of the LOI.

**Section 10.5** This LOI may be amended only by a writing signed by each Party hereto. The failure of a Party to enforce, insist upon, or comply with any of the terms, conditions or covenants of this LOI, or a Party's waiver of the same in any instance or instances shall not be construed as a general waiver or relinquishment of any such terms, conditions or covenants, but the same shall be and remain at all times in full force and effect.

**Section 10.6** This LOI sets forth the mutual understandings and intentions relating to the

Project as set forth herein and shall not become effective until reviewed and approved by the Lake Worth Beach City Commission.

IN WITNESS WHEREOF, the parties hereto have made and executed this Letter of Intent (Gulfstream Redevelopment) as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST

By: \_\_\_\_\_  
Deborah M. Andrea, CMC, City Clerk

APPROVED AS TO FORM AND APPROVED FOR FINANCIAL  
LEGAL SUFFICIENCY SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

**DEVELOPER: Restoration St. Louis, Inc.**

By: \_\_\_\_\_

[Corporate Seal]

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

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this \_\_\_\_ day of \_\_\_\_\_ 2021, by \_\_\_\_\_, as the \_\_\_\_\_ [title] of **Restoration St. Louis, Inc.**, a \_\_\_\_\_ corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the Developer to the same.

\_\_\_\_\_  
Notary Public Signature  
Notary Seal: